

**EXPLANATORY MEMORANDUM TO**  
**THE VALUE ADDED TAX (AMENDMENT) (No. X) REGULATIONS 2012**  
**2012 No. [XXXX]**

1. This explanatory memorandum has been prepared by HM Revenue and Customs (“HMRC”) and is laid before the House of Commons by Command of Her Majesty.

2. **Purpose of the instrument**

This instrument amends the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the Principal Regulations”) to: (1) enable businesses to make specified communications by means of an electronic communications system; (2) make provision in relation to a number of forms that are being removed from Schedule 1 to the Principal Regulations; and (3) make consequential changes following the insertion of new Schedule 1A into the Value Added Tax Act 1994 (“VATA”) by section X of the Finance Act 2012 relating to the VAT registration of non-established taxable persons.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

None.

4. **Legislative Context**

This instrument amends the Principal Regulations.

5. **Territorial Extent and Application**

This instrument applies to the whole of the United Kingdom.

6. **European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

- *What is being done and why*

7.1 New regulations 4A and 4B allow businesses to make various communications to HMRC using an electronic communications system. The purpose is to enhance and expand the range of electronic services that HMRC offer businesses in order to provide choice about the medium they use to comply with their VAT obligations.

7.2 In addition, the amendments reflect changes to VATA to allow the Commissioners to specify the form of a number of specific communications which were previously prescribed in Schedule 1 to the Principal Regulations (“prescribed VAT forms”) in tertiary law. These prescribed VAT forms are a small subset of the total number of VAT forms that HMRC make available to businesses to facilitate communications. The amendments will enable HMRC to update and revise the prescribed VAT forms without having to amend the Principal Regulations and therefore respond more quickly to business needs.

7.3 The amendments also ensure that the Principal Regulations include, where appropriate, references to businesses established outside the UK which are required under Schedule 1A to VATA to register for VAT if they make any taxable supplies in the UK regardless of value.

- ***Consolidation***

7.4 There are no projects presently on hand to consolidate the Principal Regulations.

## **8. Consultation outcome**

8.1 Consultation with business took place from 8 August 2011 to 31 October 2011. This sought to identify how HMRC could encourage businesses to use the online channel to register/ deregister for VAT and make changes to their details.

8.2 Although few comments were received, the majority related to concerns that a number of groups (which had previously been identified by HMRC) would find it difficult to go online if this was mandated.

8.3 As this instrument does not require online registration (or any other form of online communication) but merely permits it in specified cases, all VAT registered persons will have a choice as to whether they use an online electronic communications system or use a paper communications system for the communications specified in new regulation 4B.

8.4 The consultation also sought to identify any concerns businesses had with the proposal to remove the prescribed VAT forms from Schedule 1 to the Principal Regulations and the impact on businesses of removing the VAT registration threshold for businesses established outside the UK.

8.5 Few comments were received on removal of the prescribed VAT forms from the regulations, although several respondents requested that HMRC consult on any future changes to the forms. The majority of replies relating to the removal of the registration threshold for businesses established outside the UK accepted the need for the legislation to be changed in line with EU law.

8.6 The Consultation Responses document – ‘*Next steps for moving online*’ can be found at [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

## **9. Guidance**

Guidance on how businesses will access and make use of the online system and in relation to registration requirements for non established businesses and VAT forms will be published on the HMRC website ([www.hmrc.gov.uk](http://www.hmrc.gov.uk)) in 2012. Paper versions of the guidance will be available on request.

## **10. Impact**

10.1 No significant economic effects are expected from the changes relating to online notification or the changes to VAT forms.

10.2 The cost to HMRC of removing the VAT threshold for businesses established outside the UK is estimated to be negligible.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins/htm>

## **11. Regulating small business**

11.1 The legislation applies to small business

11.2 In relation to online communications, all businesses will have a choice as to whether to use an electronic communications system or a paper channel.

## **12. Monitoring & review**

12.1 After they have been removed from the Principal Regulations, HMRC will consult business (either generally or for particular sectors depending on the changes) to establish any impacts before any changes are made to the prescribed VAT forms.

12.2 The number of businesses signing up and making use of the online VAT Registration service will be monitored on a regular basis.

12.3 Successful implementation of the removal of the UK VAT threshold for none established businesses will be assured through data identifying any increase in registration of businesses established outside the UK whose annual turnover is below the UK registration threshold

## **13. Contact**

Gareth McDonnell at HMRC Tel: 0151 703 8656 or email: [gareth.mcdonnell@hmrc.gov.uk](mailto:gareth.mcdonnell@hmrc.gov.uk) can answer any queries regarding this instrument.