

Statutory Document No. 2021/0252

*Taxation (Cross-border Trade) Act 2018*

VALUE ADDED TAX (MISCELLANEOUS AMENDMENTS) REGULATIONS 2021

*Laid before Tynwald:**Coming into Operation:**1 August 2021*

The Treasury makes the following Regulations under section 51(1)(a) and (3)(a) of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island¹.

1 Title

These Regulations are the Value Added Tax (Miscellaneous Amendments) Regulations 2021.

2 Commencement

These Regulations come into operation on 1 August 2021².

3 Interpretation

In these Regulations, “the Act” means the Value Added Tax Act 1996.

4 Omission of section 16A of the Act

Section 16A (postal packets)³ of the Act is omitted.

5 Amendment of section 77A

In section 77A(14) (mutual assistance)⁴ of the Act, for the definition of “member State”, substitute —

“member State” means a member State of the European Union;

¹ The Taxation (cross-border Trade) Act 2018 was applied to the Island by SD 2019/0080. Section 51 of that Act was applied to the Island by SD 2021/0172.

² Tynwald procedure - negative under section 51(1) of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island.

³ Section 16A of the Act was inserted by SD 2019/0082.

⁴ Section 77A of the Act was inserted by SD 182/98.

6 Amendment of Schedule 9 to the Act

- (1) Group 8 of Schedule 9 to the Act (zero rating: transport) is amended as follows.
- (2) For Item 5, substitute —
 5. The transport of goods —
 - (a) in the course of an importation from a place outside to a place within the Island and the United Kingdom; or
 - (b) in the course of an exportation from a place within to a place outside the Island and the United Kingdom. 52.
- (3) In Item 11, in paragraph (a) —
 - (a) in subparagraph (i)(a), after “exported”, insert 53 to a place outside the Island and the United Kingdom 52;
 - (b) in subparagraph (i)(b), after “imported”, insert 53 from a place outside the Island and the United Kingdom 52; and
 - (c) in subparagraph (ii), for “that place”, substitute 53 the place from which the goods are to be so exported, or the place to which they have been so imported 52.

7 Amendment of Schedule 9ZA to the Act

- (1) Schedule 9ZA (goods removed to or from Northern Ireland and supply rules)⁵ to the Act is amended as follows.
- (2) In paragraph 2 (liability for VAT on movements between the Island and Northern Ireland) —
 - (a) after subparagraph (3), insert —
 - 54(3A) Where the removal is a removal to which paragraph 4(3A) (certain supplies from a member State to the Island via Northern Ireland) applies, the person who supplies the goods is the person who is treated as having imported the goods. 52; and
 - (b) after subparagraph (11), insert —
 - 54(12) Subparagraphs (3), (3A) and (5) are subject to paragraph 1(5) of Schedule 9ZB. 52.
- (3) In paragraph 4 (relief for qualifying Northern Ireland goods) —
 - (a) in subparagraph (2) —
 - (i) at the end of subhead (a), omit “or”;
 - (ii) at the end of subhead (b), insert —
 - 54; and
 - (c) subparagraph (3A) applies to the removal 52; and

⁵ Schedule 9ZA to the Act was inserted by SD 2021/0150.

(b) after subparagraph (3), insert —

☐(3A) This paragraph applies to a removal if —

- (a) the removal is in the course of a supply; and
- (b) the goods are qualifying Northern Ireland goods as a result of having been removed from a member State to Northern Ireland in the course of that supply. ☐.

(4) After paragraph 6 (movement of goods by charities), insert —

☐ 6A Zero-rating regulations

Section 30(8) (power to zero-rate supplies where goods have been or are to be exported) has effect as if reference to the export of goods included the removal of goods from the Island to Northern Ireland. ☐.

(5) In paragraph 7 (relief from VAT on importation of goods), for “3(3)”, substitute ☐ 1(3) ☐.

(6) After paragraph 8 (Schedule 9: modifications to Group 15), insert —

☐ PART 3

WAREHOUSES

9 Modification of section 18

(1) Section 18 (place and time of supply) has effect as if —

- (a) references to the United Kingdom were to Great Britain, other than the references —
 - (i) in the phrases “taking place outside the Island or United Kingdom” and “taking place in the Island or United Kingdom”; and
 - (ii) in subsection (6), in the definition of “warehouse”;
- (b) in subsection (6) —
 - (i) in the definition of “the duty point”, in paragraph (b), after “import duty” there were inserted ☐ or duty under section 30C of TCTA 2018 ☐; and
 - (ii) in the definition of “warehouse”, in paragraph (a), after “import duty” there were inserted ☐ or duty under section 30C of TCTA 2018 ☐.

PART 4

RULES RELATING TO PARTICULAR SUPPLIES

10 Supplies of gas, electricity or heat

- (1) Paragraph 1(1) (zero-rating of supplies involving removal of goods from the Island to Northern Ireland) does not apply to a supply of relevant goods.
- (2) In this paragraph “relevant goods” has the meaning given in section 9A (reverse charge on gas, electricity, heat or cooling).

11 Application of section 43 (groups of companies) to goods in Northern Ireland

Section 43(1)(a) (disregard of supplies between members of groups) does not apply to a supply of goods if the goods are in Northern Ireland at the time they are supplied unless the supplier and the recipient each has a business establishment, or some other fixed establishment, in Northern Ireland.

12 Partially exempt supplies

- (1) A removal of goods from the Island to Northern Ireland to which this subparagraph applies is to be treated as a taxable supply of goods made in the course or furtherance of a business carried on by the person who removes the goods.
- (2) Subparagraph (1) applies to a removal of goods if —
 - (a) the removal is not (ignoring subparagraph (1)) made in the course of a taxable supply;
 - (b) before the removal the goods were supplied to, or were imported by, the person who removed them (“P”);
 - (c) P is, at the time of that supply or importation and at the time of the removal, a taxable person;
 - (d) P has incurred VAT on that supply or importation;
 - (e) the removal takes place within 12 months of P becoming liable to that VAT;
 - (f) some, or all, of the VAT incurred on the supply or importation has not been credited as input tax in relation to P because it has, before the removal, been attributed to —
 - (i) both taxable and exempt supplies; or
 - (ii) exempt supplies; and
 - (g) either —

- (i) P has not used the goods before their removal; or
 - (ii) P meets the condition in subparagraph (3).
- (3) That condition is that P uses the goods, after their removal, exclusively for the purpose of making —
- (a) in a case falling within subparagraph (2)(f)(i), both taxable and exempt supplies; or
 - (b) in a case falling within subparagraph (2)(f)(ii), exempt supplies.
- (4) A supply of goods which is treated as arising under subparagraph (1) is zero-rated.
- (5) VAT incurred by P on the removal of the goods from the Island to Northern Ireland is not to be treated as attributable (for the purposes of section 26) to the supply treated as arising under subparagraph (1).

13 **Movement of own goods from the Island to Northern Ireland for non-business purposes**


- (1) A removal of goods from the Island to Northern Ireland to which this subparagraph applies is to be treated as a taxable supply of goods made in the course or furtherance of a business carried on by the person who removes the goods.
- (2) Subject to subparagraph (4), subparagraph (1) applies to a removal of goods if —
- (a) the removal is not (ignoring subparagraph (1)) made in the course or furtherance of a business;
 - (b) before the removal the goods were supplied to, or were imported by, the person who removed them (“P”);
 - (c) P is, at the time of that supply or importation and at the time of the removal, a taxable person;
 - (d) P has incurred VAT on that supply or importation;
 - (e) the removal takes place within 12 months of P becoming liable to that VAT;
 - (f) some, or all, of the VAT incurred on the supply or importation has not been credited as input tax in relation to P because it has, before the removal, been attributed to —
 - (i) both business and non-business VAT; or
 - (ii) non-business VAT; and
 - (g) P meets the condition in subparagraph (3).

- (3) That condition is that P uses the goods, after their removal, exclusively for —
 - (a) in a case falling within subparagraph (2)(f)(i), both business and non-business purposes; or
 - (b) in a case falling within subparagraph (2)(f)(ii), non-business purposes.
- (4) Subparagraph (1) does not apply in relation to —
 - (a) a removal of goods to which paragraph 12 of this Schedule applies; or
 - (b) an export by a charity to which section 30(5) (as applied by paragraph 6 of this Schedule) applies.
- (5) A supply of goods which is treated as arising under subparagraph (1) is zero-rated.
- (6) VAT incurred by P on the removal of the goods from the Island to Northern Ireland under paragraph 3(4) of Schedule 9ZB to the UK Act is not to be treated as attributable (for the purposes of section 26) to the supply treated as arising under subparagraph (1).

PART 5

SUPPLIES FROM A MEMBER STATE TO THE ISLAND VIA NORTHERN IRELAND: REGISTRATION

14 Application of Part 2 of Schedule 9ZB to the Act

- (1) Part 2 of Schedule 9ZB (liability to be registered of persons treated as having imported goods under Part 1 of that Schedule) applies in relation to a person treated as having imported goods under paragraph 2(3A) of this Schedule as it applies to a person treated as having imported goods under Part 1 of that Schedule.
- (2) But subparagraph (1) does not apply in relation to a person who is treated as having imported goods under Part 1 of Schedule 9ZB.
- (3) For the purposes of subparagraph (1), Schedule 9ZB has effect as if —
 - (a) in paragraph 9 (meaning of relevant supply) the reference to Part 1 of that Schedule were to paragraph 2(3A) of this Schedule; and
 - (b) references to facilitating a relevant supply were ignored. .

8 Amendment of Schedule 9ZB to the Act

- (1) Schedule 9ZB to the Act is amended as follows.

- (2) In paragraph 1(1) (modifications), for “References”, substitute “Except in relation to a removal to which paragraph 4(3A) of Schedule 9ZA (certain supplies from a member State to the Island via Northern Ireland) applies, references”.
- (3) In paragraph 1(5), after “(3)”, insert “, (3A)”.
- (4) For the heading “PART 3”, substitute “PART 2”.

MADE 28 JULY 2021

A L CANNAN
Minister for the Treasury

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations amend the Value Added Tax Act 1996 (“the Act”) in line with amendments made to VAT law by the United Kingdom, as required under the Customs and Excise Agreement 1979.

Regulation 4 omits section 16A of the Act which is no longer required following a change of policy in the United Kingdom in relation to the import of goods in a postal packet.

Regulation 5 amends section 77A(14) of the Act to update the definition of “member State”.

Regulation 6 amends Group 8 of Schedule 9 to the Act to correct an inadvertent extension of the zero-rate of VAT for transport services related to the import and export of goods. The amendment ensures that the zero-rate of VAT only applies, as intended, to goods entering or leaving the Island and the United Kingdom, and not to goods moving between the Island and Northern Ireland.

Regulation 7 amends Schedule 9ZA to the Act which concerns the movement of goods between the Island and Northern Ireland to ensure that the Protocol on Ireland/Northern Ireland is correctly implemented in the Island. The modifications clarify the VAT treatment of certain supplies of goods made between the Island and Northern Ireland.

Regulation 8 amends Schedule 9ZB to the Act. Part 1 of the Schedule makes particular provision for the treatment of low value imported goods (goods sent in consignments valued at £135 or less) sold by businesses to customers in the Island. That Part relieves the import VAT due on the removal of the goods to the Island and instead provides that the place of supply of those goods is the Island. It therefore creates a liability to account for VAT on that supply. These Regulations amend Part 1 so that references to goods being imported in the relevant provisions will include low value goods sold from the European Union to the Island that are transported via Northern Ireland. Regulation 8 also corrects a typographical error.