

Statutory Document No. 2021/0258



Taxation (Cross-border Trade) Act 2018

VALUE ADDED TAX (ACCOUNTING PROCEDURES FOR IMPORT VAT FOR VAT REGISTERED PERSONS) REGULATIONS 2021

Laid before Tynwald:

Coming into operation in accordance with regulation 2

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

PART 1 - INTRODUCTION

1 Title

These Regulations are the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons) Regulations 2021.

2 Commencement

- (1) These Regulations come into operation on the day after they are made².
- (2) However, when they are made, these Regulations shall be deemed to have come into operation on IP Completion day³.

¹ The Taxation (Cross-border Trade) Act 2018 was applied to the Island by SD 2019/0080 as amended 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 51(3) of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island, provides that regulations under subsection (1) may be made to have retrospective effect and be deemed to have come into operation from such day or days as may be specified in the order, not being earlier than the date on which the corresponding provision had effect in the United Kingdom. **The corresponding provisions of Part 2 are contained in SI 2019/51 and the corresponding provisions in Part 3 are contained in SI 2020/1451, as amended by SI 2021/697.**

PART 2 - ACCOUNTING PROCEDURES FOR IMPORT VAT FOR VAT REGISTERED PERSONS

3 Interpretation

In these Regulations –

“**the Act**” means the Value Added Tax Act 1996;

“**import VAT**” means value added tax chargeable by virtue of section 1(1)(c)⁴ (value added tax) of the Act but not pursuant to any other provision by or under that Act;

“**prescribed accounting period**” has the meaning given by section 25(1)⁵ (payment by reference to accounting periods and credit for input tax against output tax) of the Act;

“**registered for VAT**” refers to registration under Schedule 2 (registration in respect of taxable supplies: island-establishment), 2a (registration in respect of taxable supplies by non-island establishment) or 3a (registration in respect of disposals of assets for which a vat repayment is claimed)_to the Act;

“**registered person**” means a person registered under Schedule 2 (registration in respect of taxable supplies: island-establishment), 2a (registration in respect of taxable supplies by non-island establishment) or 3a (registration in respect of disposals of assets for which a vat repayment is claimed)to the Act⁶;

“**relevant goods**” means, subject to Part 3, goods imported into the Island and the United Kingdom by a registered person which are used or to be used for the purposes of any business carried on by the registered person, but does not include goods which are the subject of a declaration by a qualifying traveller within the meaning of regulation 45 (voluntary advance electronic declarations by qualifying travellers: other chargeable goods) of the Customs (Import Duty) Regulations 2019⁷;

“**relevant importation**” has the meaning given by regulation 12;

“**return**” means a return which is required to be made in accordance with regulation 25 (making of returns) of the Value Added Tax Regulations 1996⁸;

⁴ Section 1(1)(c) was substituted by SD 2019/0082.

⁵ Section 25(1) was amended by SD 2019/0082.

⁶ Schedule 2A was inserted by SD 0588/12. Schedule 3A was inserted by SD 168/00.

⁷ SD 2019/0152, as amended by SD 2020/0403 and SD 2021/0033.

⁸ SD 194/96. Relevant amendments were made by SD 420/00, SD 147/07, SD 0589/12 and SD 2017/0256.

“**TCTA 2018**” means the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island⁹;

“**transitional EIDR procedure**” has the meaning given by regulation 32D¹⁰ (transitional EIDR procedure) of the Customs (Import Duty) Regulations 2019 and “**transitional simplified Customs declaration**” has the meaning given by regulation 15¹¹ (interpretation) of those Regulations;

“**tribunal**” has the meaning given by section 82 (appeals tribunal) of the Act;

“**Union customs legislation**” means provisions contained in “customs legislation” within the meaning of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code¹² (see Article 5(2) of that Regulation), so far as they have effect in the Island by virtue of section 7 of the European Union and Trade Act 2019; and

“**VAT registration number**” means the number allocated by the Treasury to a person for the purposes of registration under Schedule 2 (registration in respect of taxable supplies: island-establishment), 2a (registration in respect of taxable supplies by non-island establishment) or 3a (registration in respect of disposals of assets for which a vat repayment is claimed) of the Act.

4 Application of these Regulations

- (1) These Regulations apply to a registered person who is liable for import VAT on relevant goods.
- (2) These Regulations do not apply to a person who is treated as having imported goods for the purposes of paragraph 4(2) of Schedule 9ZC (online sales by overseas persons and low value importations: modifications relating to the Northern Ireland protocol) to the Value Added Tax Act 1994 (of Parliament).
- (3) A person to whom these Regulations apply (P) may have those relevant goods delivered or removed without payment of the VAT chargeable on the importation and may instead account for that VAT in accordance with these Regulations.
- (4) The effect of section 16(5) (application of customs enactments) of the Act is modified to the extent that these Regulations make different provision for accounting for import VAT on relevant goods.

⁹ The Taxation (Cross-border Trade) Act 2018 was applied to the Island by SD 2019/0080, as amended.

¹⁰ SD 2019/0152. Regulation 32D was inserted by SD 2021/0033.

¹¹ SD 2019/0152. Regulation 15 was amended by SD 2021/0033.

¹² OJ No. L269 of 10.10.2013.

5 Accounting for import VAT

- (1) Subject to regulation 8, P may account for import VAT on relevant goods on the return P is required to make for the prescribed accounting period in which the liability to the import VAT on those goods is incurred if the following conditions are met —
 - (a) where the relevant goods are declared for the free-circulation procedure for the purposes of Part 1 (import duty) of TCTA 2018, P's VAT registration number must be shown on that declaration;
 - (b) where the relevant goods are declared for a special customs procedure for the purposes of Part 1 (import duty) of TCTA 2018, P must in relation to those goods comply with any conditions imposed by or under that Part so far as relating to the special customs procedure for which those goods were declared;
 - (c) where the relevant goods are declared for the free circulation procedure for the purposes of Union customs legislation, P's VAT registration number must be shown on that declaration; and
 - (d) where the relevant goods are declared for a special procedure for the purposes of Union customs legislation P must, in relation to those goods, comply with any conditions imposed by or under the Union customs legislation so far as relating to the special procedure for which those goods are declared.
- (2) P is required, and is presumed to be so required, for the purposes of the Act, to account for import VAT on relevant goods in accordance with these Regulations if, by the last day on which P is required to furnish a return for a prescribed accounting period in which liability to import VAT on those goods is incurred, P has not otherwise accounted for the import VAT.

6 Estimation of import VAT

Regulation 28 (estimation of output tax) of the Value Added Tax Regulations 1996 applies for the purpose of these Regulations as if the reference to “output tax” in that regulation includes import VAT chargeable on the importation of relevant goods.

7 Correction of errors

Regulation 34 of the Value Added Tax Regulations 1996¹³ applies for the purposes of these Regulations as if the reference to “output tax” in that regulation include import VAT chargeable on the importation of relevant goods.

¹³ SD 1996/0194.

8 Interest in cases of official error

Section 78 (interest in certain cases of official error) of the Act applies for the purposes of these Regulations as if references to “output tax” in both subsections (1)(a) and (5)(a) include import VAT chargeable on the importation of relevant goods.

9 Withdrawal of the option of a registered person to account for and pay import VAT under these Regulations

- (1) The Treasury may direct that a registered person may not account for and pay import VAT as provided for in these Regulations where it considers it necessary to do so for the protection of the revenue.
- (2) A direction of the Treasury under this regulation must be given by notice in writing to the registered person and takes effect from a date not earlier than the date of the direction.

10 Appeals

- (1) An appeal lies to a tribunal in respect to any of the following —
 - (a) a decision as to any liability of the Treasury to pay interest under regulation 7 or the amount of interest so payable; or
 - (b) a direction of the Treasury under regulation 8.
- (2) Part V (reviews and appeals) of the Act, and any order or regulations made under that Part, have effect as if an appeal under this regulation were an appeal which lies to the tribunal under section 83(1) (appeals) of the Act (but not under any particular paragraph of that subsection).
- (3) Where an appeal is against a direction of the Treasury under regulation 8 the tribunal must not allow the appeal unless it considers that the Treasury could not reasonably have been satisfied that there were grounds for the direction.

PART 3 - PHASING IN OF BORDER CONTROLS: ACCOUNTING FOR IMPORT VAT

11 Application of this Part

This Part applies to a person who —

- (a) makes transitional simplified Customs declaration in accordance with regulation 32C¹⁴ (transitional EIDR simplified Customs declaration process) of the Customs (Import Duty) Regulations 2019, or makes a declaration that is treated as being made for the

¹⁴ Inserted by SD 2021/0033.

purposes of that regulation by regulation 40(1A)¹⁵ (persons authorised to use the EIDR procedure) of those Regulations, in respect of an importation of goods in the Island from the European Union; and

- (b) is registered, or required to be registered, for VAT at the time the person makes that declaration.

12 Obligation to account for and pay import VAT in accordance with this Part

- (1) A person to whom this Part applies (P) must account for and pay import VAT on goods which comprise a relevant importation in accordance with the provision made by this Part.
- (2) The effect of section 16(5) (application of customs enactments) of the Act is modified to the extent that this Part makes different provisions for accounting for import VAT, including the timing of such accounting, on a relevant importation.

13 Relevant importation

In this Part a “relevant importation” is an importation of goods into the Island from the European Union where the goods are —

- (a) chargeable with import VAT for which P is liable;
- (b) used or to be used by P for the purposes of a business P carries on;
- (c) required to be declared for the free circulation procedure under Part 1 (import duty) of the TCTA 2018 during the period beginning at IP completion day and ending on 31 December 2021; and
- (d) not of a description excluded from transitional EIDR procedure by virtue of regulation 32C(4) (transitional EIDR simplified Customs declaration process) of the Customs (Import Duty) Regulations 2019.

14 Obligation to account for import VAT on a VAT return

P must account for and pay the import VAT on goods which comprise a relevant importation on the return that P is required to make for the prescribed accounting period in which the liability for the import VAT is incurred.

15 Application with modifications of Part 2 of these Regulations

- (1) Regulation 7 (interest in cases of official error) applies to this Part as if the reference to the importation of relevant goods were a reference to a relevant importation;

¹⁵ Inserted by SD 2021/0033.

- (b) Regulation 9(1)(a) and (2) (appeals) applies to this Part.

16 Modification of the Value Added Tax Regulations 1996 where this Part applies

Where this Part applies the following provisions of the Value Added Tax Regulations 1996¹⁶ apply with the stated modifications —

- (a) regulation 28 (estimation of output tax) is to be read as if —
- (i) the reference to “output tax” includes import VAT chargeable on goods comprising a relevant importation; and
 - (ii) the words from “in the next prescribed accounting period” to the end were ~~“in the prescribed accounting period in which the Treasury makes available to the person details of the amount of import duty due from the person on goods comprising a relevant importation (and in this regulation “import duty” means import duty charged under section 1 (charge to import duty) of the TCTA 2018).”~~;
- (b) regulation 29(3) (claims for input tax) is to be read as if the words from “in the next prescribed accounting period” to the end read ~~“in the prescribed accounting period in which the Treasury makes available to the person details of the amount of import duty due from the person in that prescribed accounting period on goods comprising a relevant importation (and “import duty” in this regulation means import duty charged under section 1 (charge to import duty) of the TCTA 2018).”~~;
- (c) regulation 32(3)(baa) (the VAT account) and regulation 40(1)(ba)¹⁷ (VAT to be accounted for on returns and payment of VAT) are to be read as if after “2021” were added ~~“or Part 3 of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons) Regulations 2021”~~

17 Power to make provision by public notice for bringing into account import VAT

- (1) The Treasury may by public notice make such provision for, or in connection with, the bringing into account of import VAT as it considers appropriate in the circumstances specified in paragraph (2).
- (2) The circumstances referred to in paragraph (1) are that a person purports to make a transitional simplified Customs declaration in accordance with regulation 32C(1)(a) (transitional EIDR simplified Customs declaration process) of the Customs (Import Duty) Regulations 2019 in respect of an importation of goods into the Island from the European Union but —
- (a) the person is ineligible to do so;

¹⁶ SD 194/96, as amended.

¹⁷ Regulations 32(3)(baa) and 40(1)(ba) were inserted by SD 2021/0261.

- (b) the person purports to do so in respect of goods which are of a description not eligible for the transitional EIDR procedure; or
- (c) the declaration is incomplete.

MADE 4TH AUGUST 2021

A L CANNAN
Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to accounting for, and payment of, import VAT on the importation of goods by persons registered for VAT.

Under the terms of the Customs and Excise Agreement between the United Kingdom and the Isle of Man Governments, the Island is obliged to keep its VAT law correspondent with that of the United Kingdom.

These Regulations enables VAT registered businesses that import goods to declare and recover (subject to the normal rules on recovery of input tax), import VAT on their VAT returns. Currently, the requirement is to pay import VAT on or soon after the goods arrive at the border, and recover it on a subsequent VAT return. This will assist VAT registered businesses with cash-flow, and is commonly referred to as “postponed accounting”. This option of postponed accounting is available on all imports of goods apart from those sent by postal packet, for which there are separate regulations.

There is also provision for the payment of interest in cases of official error by the Treasury. There are specific rights of appeal in relation to regulations 7 and 8.