

2018 No. 0000

VALUE ADDED TAX

The Value Added Tax (Special Accounting Schemes) (Supplies of Electronic, Telecommunication and Broadcasting Services) Order 2018

Made - - - - *****
Laid before House of Commons 20th November 2018
Coming into force - - *1st January 2019*

The Treasury make the following Order in exercise of the power conferred by section 3A(2) of the Value Added Tax Act 1994(a).

Citation, commencement and effect

1.—(1) This Order may be cited as the Value Added Tax (Special Accounting Schemes) (Supplies of Electronic, Telecommunications and Broadcasting Services) Order 2018.

(2) This Order comes into force on 1st January 2019 and has effect in relation to supplies made on or after that date.

Amendments to Schedule 3B to the Value Added Tax Act 1994

2. Schedule 3B to the Value Added Tax Act 1994(b) (supplies of electronic, telecommunication and broadcasting services: non-union scheme) is amended as follows.

3. In Part 1 (registration)—

- (a) in paragraph 2 (persons who may be registered)—
 - (i) omit sub-paragraphs (4), (5) and (8),
 - (ii) in sub-paragraph (6) for “Condition 5” substitute “Condition 3”,
 - (iii) in sub-paragraph (7) after “Council Directive 2008/8/EC(c)” and before the final bracket insert “and Council Directive (EU) 2017/2455(d)”,
- (b) for paragraph 4(4) (registration request) substitute—

(a) 1994 c. 23; section 3A was inserted by paragraph 2 of Schedule 2 to the Finance Act 2003 (c. 14) and amended by paragraphs 2 and 12 of Schedule 22 to the Finance Act 2014 (c. 26: “the 2014 Act”).

(b) Schedule 3B was inserted by paragraph 4 of Schedule 2 to the Finance Act 2003. The following amendments were made to Schedule 3B; paragraphs 2 and 4 were amended by paragraph 6 of Schedule 22 to the 2014 Act, paragraph 17 and 18 were amended by paragraph 9 of Schedule 22 to the 2014 Act and paragraph 23 was amended by paragraph 10 of Schedule 22 to the 2014 Act. Paragraph 18 was also amended by paragraph 17 of Schedule 28 to the Finance Act 2012 (c. 14).

(c) OJ No L 44, 20.2.2008, p. 11-22.

(d) OJ No L348, 29.12.2017, p. 7-22.

“(4) A registration request must include a statement that the person making the request has no business establishment, and no fixed establishment, in the United Kingdom or in another member State.”.

4. In Part 4 (other provisions about special schemes)—

(a) after paragraph 17(3) (registration) insert—

“(4) References in this Schedule to a person being registered under this Act do not include a reference to that person being registered under this Schedule.”,

(b) in paragraph 18 (de-registration) after “Schedule 1 or 1A” insert “solely by virtue of the fact he makes or intends to make qualifying supplies”,

(c) after paragraph 18 insert—

“Scheme participants who are also registered under this Act

18ZA—(1) A person who—

(a) is a participant in a special scheme, and

(b) is also registered, or required to be registered, under this Act,

is not required to discharge any obligation placed on the person as a taxable person, so far as the obligation relates to relevant supplies unless the obligation is an input tax obligation.

(2) The reference in sub-paragraph (1) to an obligation placed on the person as a taxable person is to an obligation—

(a) to which the person is subject under or by virtue of this Act, and

(b) to which the person would not be subject if the person were neither registered nor required to be registered under this Act.

(3) A supply made by a participant in a special scheme is a “relevant supply” if—

(a) the value of the supply must be accounted for in a return required to be made by the participant under the special scheme, and

(b) the supply is treated as made in the United Kingdom.

(4) In section 25(2) (deduction of input tax from output tax by a taxable person) the reference to output tax that is due from the taxable person does not include any VAT that the taxable person is liable under a special scheme to pay to the tax authorities for the administering member State.

(5) In this paragraph, “input tax obligation” means an obligation imposed on a taxable person relating to a claim to deduct under section 25(2) or to the payment of a VAT credit.”

5. In Part 5 (supplementary), in paragraph 23(1) (interpretation), for paragraph (b) of the definition of “special scheme”, substitute—

“(b) any other scheme, under the law of another member State, implementing Section 2 of Chapter 6 of Title XII of the VAT Directive;”.

Date Name
Name
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 3B to the Value Added Tax Act 1994 (“the Act”) which provides for a special accounting scheme for persons who supply electronically supplied services, telecommunication services or broadcasting services in any member State, but who are not established in a member State. This Order has effect in relation to the supplies of such services made on or after 1st January 2019.

Article 3 amends paragraph 2 of Schedule 3B so that persons who are registered or required to be registered for VAT in the United Kingdom or identified for VAT purposes in accordance with the law of another member State can also be registered under this special accounting scheme. It also amends paragraph 4 so that a request for registration under the scheme includes a statement that the person who is making the request is not established in the United Kingdom or another member State.

Article 4 makes amendments to paragraph 18 to allow persons who are registered under Schedule 1 or 1A, solely by virtue of the fact the person makes or intends to make supplies in respect of which the special scheme applies, and intends to be registered under Schedule 3B or the equivalent provision in another member State, to request that the Commissioners cancel the registration under Schedule 1 or 1A. It also inserts paragraph 18AA which ensures that participants in the special scheme are not in addition required to discharge certain obligations under the Act in relation to supplies to which the special scheme applies.

Articles 4 and 5 also provide for consequential amendments.

The amendments made by article 3 are required to implement the amendments made to Articles 358a and 361(1) of Council Directive 2006/112/EC on the common system of value added tax^(a) by Council Directive 2017/2455/EU with effect from 1 January 2019. Articles 4 and 5 make amendments consequential on these changes. A Transposition Note explaining how Council Directive 2017/2455/EU is transposed into UK law is annexed to the Explanatory Memorandum which is available alongside this Order on the National Archives website <http://www.legislation.gov.uk>.

A Tax Information and Impact Note covering this instrument was published on 11th September 2018 alongside a draft of this Order and is available on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

(a) OJ No L 347, 11.12.2006, p. 1-118.