

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Sixth Delegated Legislation Committee

VALUE ADDED TAX (TOUR OPERATORS)  
(AMENDMENT) (EU EXIT) REGULATIONS 2019

*Thursday 9 May 2019*

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**The Committee consisted of the following Members:**

*Chair:* SIR HENRY BELLINGHAM

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|--|--|
| † Bruce, Fiona ( <i>Congleton</i> ) (Con)                  | Pearce, Teresa ( <i>Erith and Thamesmead</i> ) (Lab)         |
| Champion, Sarah ( <i>Rotherham</i> ) (Lab)                 | † Pursglove, Tom ( <i>Corby</i> ) (Con)                      |
| † Day, Martyn ( <i>Linlithgow and East Falkirk</i> ) (SNP) | † Sheerman, Mr Barry ( <i>Huddersfield</i> ) (Lab/Co-op)     |
| † Dodds, Anneliese ( <i>Oxford East</i> ) (Lab/Co-op)      | † Smith, Jeff ( <i>Manchester, Withington</i> ) (Lab)        |
| † Grogan, John ( <i>Keighley</i> ) (Lab)                   | † Stride, Mel ( <i>Financial Secretary to the Treasury</i> ) |
| † Hands, Greg ( <i>Chelsea and Fulham</i> ) (Con)          | † Warburton, David ( <i>Somerton and Frome</i> ) (Con)       |
| † Heaton-Harris, Chris ( <i>Daventry</i> ) (Con)           | Williams, Dr Paul ( <i>Stockton South</i> ) (Lab)            |
| † Lewer, Andrew ( <i>Northampton South</i> ) (Con)         | Kevin Candy, <i>Committee Clerk</i>                          |
| † Merriman, Huw ( <i>Bexhill and Battle</i> ) (Con)        |  |
| † Milling, Amanda ( <i>Cannock Chase</i> ) (Con)           | † <b>attended the Committee</b>                              |

## Sixth Delegated Legislation Committee

Thursday 9 May 2019

[SIR HENRY BELLINGHAM *in the Chair*]

### Value Added Tax (Tour Operators) (Amendment) (EU Exit) Regulations 2019

11.30 am

**The Financial Secretary to the Treasury (Mel Stride):** I beg to move,

That the Committee has considered the Value Added Tax (Tour Operators) (Amendment) (EU Exit) Regulations 2019 (S.I., 2019, No. 73).

It is nice to see that we are all here present and correct, Sir Henry, and under your chairmanship. The instrument allows changes to the VAT treatment of the suppliers of designated travel services made by UK tour operators that are enjoyed in an EU member state. By “designated travel services” we mean holidays in which, for example, hotel accommodation, car hire, flights and so forth are included.

The instrument will come into effect only after the laying of an appointed day order, which will occur only in the unlikely event that the UK leaves the EU without a deal. As the Committee will know, the Government remain focused on ensuring our smooth and orderly withdrawal from the EU with a deal as soon as possible. However, the current agreement with the EU is that the UK will leave no later than 31 October, and as a responsible Government we have been preparing for all potential outcomes, including the unlikely scenario in which no mutually satisfactory agreement can be reached.

The tour operators’ margin scheme, also known as TOMS, is an EU simplification scheme that treats a series of designated travel services—let us call them holidays—as a single supply, and determines that the place of supply is where the tour operator is established, not where the holidays are enjoyed. A benefit of TOMS is that tour operators need only account for VAT on the difference between the value of the sales and the costs for the services, which is commonly known as the margin. An additional benefit of the current system is that tour operators need to register an account for VAT only in the member state where they are established, regardless of where in the European Union the holidays take place.

In common with other areas of VAT, in the unlikely event of a no-deal exit from the EU, the Government are seeking to retain the VAT treatment of goods and services as close to the existing rules as possible. For UK tour operators, that means implementing a UK version of TOMS that retains some of the VAT benefits while treating holidays in the EU in the same way as those enjoyed in the rest of the world. That means that the VAT rate on EU holidays will be zero, rather than 20% as now. That requires an amendment to group 8 of schedule 8 of the Value Added Tax Act 1994, to extend the VAT rate of 0% to designated travel services enjoyed in EU member states, as well as to those in the rest of

the world. There would be no change to the VAT treatment of designated travel services currently enjoyed in the United Kingdom.

It is worth noting that UK tour operators may be required to register in each member state where they supply designated travel services that are to be enjoyed in the member state in question. However, Her Majesty’s Revenue and Customs is not aware of any member state that requires non-EU tour operators to register for VAT. While there is no reason to believe that this will change, in the event that the UK leaves without a deal, it cannot be guaranteed. The instrument therefore removes the risk of UK tour operators being subject to double taxation.

This instrument also makes changes to the Value Added Tax (Tour Operators) Order 1987, replacing references to “the EU” with “the UK”. That ensures that the place of supply of those services remains the United Kingdom, and that the place of establishment of the tour operator is in the UK.

In summary, in the unlikely event that the UK leaves the EU without a deal, these changes will keep the VAT processes as close as possible to the present regime, and ensure that UK tour operators will not be subject to double taxation. Those changes treat suppliers of designated travel services enjoyed in the EU in the same way as those enjoyed in the rest of the world, and maintains the present VAT treatment of designated travel services enjoyed in the UK. I commend the instrument to the Committee.

11.34 am

**Anneliese Dodds (Oxford East) (Lab/Co-op):** It is a pleasure to serve on this Committee with you in the Chair, Sir Henry, and I am grateful to the Minister for that explanation. Of course, this statutory instrument is one of a series that is intended to prepare the country for the event of a no-deal Brexit. The Committee will be aware that the Opposition have repeatedly voiced our concern about this process, in particular the fact that, in our opinion, very often the precise impacts of these measures have not been sufficiently spelled out. That is a point I will return to in a moment in relation to this SI. In addition, we are concerned that the process has not facilitated the accountability necessary for potentially significant changes to rules around tax and many other financial and economic issues.

Having said that, we agree with the premise of these specific regulations, which is to prevent the double taxation of travel companies or tour companies in the event of a no-deal Brexit—something that we have long argued the Government should have ruled out from the very beginning. However, these regulations do not deal with the significant uncertainty, and especially the additional cost, that companies would face in relation to their tax liabilities abroad if there was a change to the current VAT process, especially if they suddenly had to register separately for VAT in every EU country in which they operate.

I think this is a matter of omission by the Government, rather than commission. My concern is that the Government have not spelled out how they would help those companies and what they would do specifically to deal with the bureaucratic obstacles that would arise in

what may currently seem an unlikely eventuality, although I think it is perhaps more likely than the Government appear to believe.

As the Minister explained, the current system of VAT for tour operators treats the place of supply for VAT purposes as the UK, irrespective of where their travel service is employed. Therefore, VAT currently stands at 20% across the board for outbound tourist services. Under the new system, as I understand it, the amount of VAT due would differ depending on the country the service was provided in, if those different EU27 countries decided they wanted to levy it; I appreciate that they might not, but equally they might decide to do so.

The rate due in that eventuality would vary depending on the country, with the burden of operating in, say, Scandinavian countries such as Norway or Sweden increasing due to their higher VAT rate of 25%. It would also potentially become very complicated; as we know, in some countries such as Germany there are different VAT rates for different aspects of tourism-related activities. In the hotel sector, for example, VAT is 7%, compared with restaurants where it is 19%.

The Government's impact assessment insisted that the impact of this regulation was negligible, but I understand from the representations made to me by industry that the changes could be felt in significant ways by outbound tourist companies. If it was necessary to have multiple VAT registrations, it would place a significant financial burden on tour companies, particularly small and medium-sized enterprises. Those tour operators would need to understand the operation of VAT in all those other countries in which they operate within the EU and how each VAT system could affect their business. That could place a considerable burden on tour operators and many would need to pay for local advice.

There is also the fact that different types of digital tax systems have been introduced in different EU states. Under these proposals, tour operators may need to have systems capable of compliance with multiple different versions of digital tax accounting. For example, I understand that the digital tax system in Spain—the biggest destination for UK holidaymakers—has been described as particularly complicated and likely to lead to high compliance costs for British businesses.

Those new costs would have to be absorbed by those companies, potentially at the same time as they had to comply with making tax digital for the first time, given the Government's timetable on MTD. In fact, it has been suggested that the typical cost of basic local compliance in each EU member state could amount to between €8,000 and €15,000 per VAT-registered entity per annum. That is a pretty big burden. If we look at the outbound tourist industry, according to the Association of British Travel Agents, 90.7% of companies in the industry employ fewer than 10 people and a further 8% employ fewer than 50. They are not gigantic organisations that can have whole sets of staff dealing with VAT; that is just not on the cards for them at all.

As a first question, can the Minister explain clearly to this Committee what his Government would do to support small and medium-sized enterprises through this transition, if necessary? I must say that I find the impact assessment quite peculiar in its claim that there would be a minimal impact on business, because that surely would not be the case if they suddenly had to comply with all those different systems.

This is very evocative for me of what happened with the situation for VAT on digital services. I am sure that Committee members remember that the EU introduced a lower threshold for the payment of VAT on digital services, and changed the locus of payment from the location of the seller—that is effectively the same approach as that of these regulations—to the location of the consumer. It also introduced the VAT mini one-stop shop—I am sure hon. Members remember VATMOSS. The VATMOSS system calculated the VAT that was payable for businesses without their having to do that work, but even with VATMOSS lots of businesses found it very difficult to comply with the new system. There does not appear to be anything equivalent even to VATMOSS in the regulations for tour operators if they suddenly have to start paying all that VAT in EU27 countries. My second question is, have the Government made any attempt to encourage the EU27 to consider creating a one-stop shop if these regulations are acted upon?

There is also the matter of the impact of these new rules on revenue to the Exchequer. Studies have shown that TOMS VAT equates to about 1.08% of tour operating turnover. ABTA estimates that its members paid in the region of £300 million in TOMS VAT last year. Thirdly, I hope the Minister will be able to outline what measures the Government intend to adopt to avoid the loss of revenue that looks set to arise from this approach if it is acted upon.

It is important, as we head into economically uncertain times, that the Government do all they can to support the tourism sector, particularly given that the UK has one of the most developed outbound travel markets in the world. I want to pause a little to consider the Minister's claim that it is very unlikely that we will see change here because third-country regimes are not being invoked at the moment and because EU27 countries currently do not charge VAT to third-country operators. The UK is in a different situation because of the number of trips organised by UK-based tour operators for people from outside the EU which begin in the UK and follow a so-called grand tour of Europe. That is very important for many of our tour operators.

The overall industry of outbound tourism is worth more than £11.7 billion a year to the UK economy, and in excess of £28.3 billion a year by the time aggregate impacts are taken into account. Those tourists sometimes start their trip in Paris or Berlin, but I estimate that quite a large proportion of them start in the UK. Therefore, the incentives are stronger for the EU27 to look into changing this regime, particularly if they think that there could be a positive revenue impact on them or that there is the opportunity to persuade those tourists to start their trips within their jurisdiction, rather than the UK, or to prevent tours from being run by a UK tour operator.

This is all occurring at a time when the tourism industry is facing difficulties. We have all heard about what has been happening with Thomas Cook. There is growing uncertainty, and it is creating an increasingly difficult environment for the tourism and hospitality sectors to operate in. It is also affecting consumers, who have been warned by travel companies that they will not be compensated if a no-deal Brexit causes travel chaos.

[Anneliese Dodds]

**Mr Barry Sheerman** (Huddersfield) (Lab/Co-op): I am sorry I was late, Sir Henry. It is Europe day, and I was asking a question in business questions about celebrating our membership of the European Union. Does my hon. Friend agree that working people in the travel and tourism industry in our country, which is very important, are extremely worried about their jobs and their future? This statutory instrument is very important indeed to their lives.

**Anneliese Dodds:** I could not agree more. That is absolutely the case. To an extent, I have an interest in this sector, as some of my family members have been involved in it. It is often a route for social mobility, because small, innovative firms can develop a specific offer and, as a result, grow, innovate and create new jobs. It is a dynamic part of the UK economy. We need more information—I hope that the Minister can provide some—about how the Government will try to protect and nurture those firms, given the potential impact of the additional administrative and perhaps financial burden if these measures are required.

11.44 am

**Martyn Day** (Linlithgow and East Falkirk) (SNP): It is a pleasure to serve under your chairmanship, Sir Henry. I am grateful for the Minister's summation and I find myself much in agreement with what the Opposition spokesperson has already said. I would add that I find it absolutely disgraceful that the UK Government are still planning for a no-deal scenario, which in my opinion should have been ruled out far earlier than now. I am also concerned about the risk of multiple VAT registrations that may be required at some point in the future, and deeply concerned about the impact that could have on businesses.

11.45 am

**Mel Stride:** I am grateful to the hon. Member for Oxford East for her usual thorough interrogation of the issues at hand.

**Mr Sheerman:** Yes, she's good, she is.

**Mel Stride:** The hon. Lady's colleague says she is very good, and I concur entirely with that sentiment.

I am pleased that the hon. Lady agrees with the premise of what we are attempting to achieve here. She recognised the importance of avoiding potential changes in the unlikely event of a no-deal Brexit, in terms of double taxation. She specifically raised the issue of what would happen, and she set out in great detail what might happen, in the event that we were to leave the European Union and the EU were to then change its relationship in respect of this particular element of the VAT regime and what the impact of that might be on the UK business sector. I would like to make a few brief points on that.

The first point to make is that there is no suggestion at this stage from HMRC or ourselves that that is a likely outcome, in terms of the discussions that we have

had with the European Union on our exit. It would introduce a great additional complication on both sides were the EU27 to decide to move in that direction.

The second point I would raise is one that the hon. Lady raised. Under the EU's current regime, no third countries are treated as having to register for VAT within any of the EU28 member states with which they may be conducting business.

Thirdly, when we look at VAT, where holidays or trips are sold from the UK into the EU27, VAT is generated as a consequence of those trips and the hotel bookings and so on, so the EU and member states are collecting VAT in that way. As the hon. Lady will recognise, the context of this debate is the margin on which the VAT is being accrued.

Finally, if we were to end up in a no-deal situation, which I think unlikely, and the EU were to decide that our businesses had to register separately within the EU27, it would have to think long and hard about the consequences and what we might do in response to that. I do not think it would be in either party's interest to change from the current status quo.

The hon. Lady also pointed out that the impact assessment foresees limited or effectively no impact on businesses. Of course, that excludes the scenario on which she dwelt at great length in her speech, and rightly so, as I have set out why we think that is highly unlikely. She asked what support we would provide to business in the event that there was a changed response from the EU27. Were we to get into that kind of territory, we would know some time in advance, and would take decisions at that moment in time.

She also asked whether we had encouraged the EU to look at alternative arrangements. I am fairly confident in saying that we have not engaged in those specific discussions with the EU on the basis that we think that it is extremely unlikely, but were it to appear to become more likely, then of course we would look at all those particular avenues. She asked a specific question about what the loss of VAT revenue might be as a consequence of complying with WTO rules and applying the zero VAT rate to those transactions between ourselves and the EU27, in the unlikely event of a no-deal Brexit. I am very happy to write to her to give as accurate an answer as I can.

I thank the hon. Member for Linlithgow and East Falkirk (Martyn Day) for his comments. I think he said it was disgraceful that we are still planning for a no-deal Brexit, but that is something that we passionately do not want, which is why we are working so hard to try to deliver a deal. However, we must recognise the fact that ultimately a no-deal might be outside of our control. It is to some degree within the gift of the European Union. As a responsible Government, we must make sure we cover that remote possibility. On that basis, I hope the Committee will support the instrument.

*Question put and agreed to.*

11.50 am

*Committee rose.*



