

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

VALUE ADDED TAX (DISTANCE SELLING AND
MISCELLANEOUS AMENDMENTS NO. 2)
REGULATIONS 2021

CUSTOMS TARIFF (ESTABLISHMENT AND
SUSPENSION OF IMPORT DUTY) (EU EXIT)
(AMENDMENT) (NO. 2) REGULATIONS 2021

Thursday 18 November 2021

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The Committee consisted of the following Members:

Chair: CHRISTINA REES

† Baker, Mr Steve (*Wycombe*) (Con)
 Butler, Dawn (*Brent Central*) (Lab)
 † Davies, Dr James (*Vale of Chwyd*) (Con)
 † Elmore, Chris (*Ogmore*) (Lab)
 † Frazer, Lucy (*Financial Secretary to the Treasury*)
 † Hunt, Jane (*Loughborough*) (Con)
 † Jenkyns, Andrea (*Morley and Outwood*) (Con)
 Jones, Darren (*Bristol North West*) (Lab)
 † Murray, James (*Ealing North*) (Lab/Co-op)
 Ribeiro-Addy, Bell (*Streatham*) (Lab)

† Richardson, Angela (*Guildford*) (Con)
 † Robinson, Mary (*Cheadle*) (Con)
 Sharma, Mr Virendra (*Ealing, Southall*) (Lab)
 † Thomson, Richard (*Gordon*) (SNP)
 † Vickers, Martin (*Cleethorpes*) (Con)
 † Williams, Craig (*Montgomeryshire*) (Con)
 † Wood, Mike (*Dudley South*) (Con)

Yohanna Sallberg, Stella-Maria Gabriel, *Committee Clerks*

† **attended the Committee**

Second Delegated Legislation Committee

Thursday 18 November 2021

[CHRISTINA REES *in the Chair*]

Value Added Tax (Distance Selling and Miscellaneous Amendments No. 2) Regulations 2021

11.30 am

The Chair: Before we begin, I remind hon. Members that they are expected to wear face coverings and to maintain distancing, as far as possible. This is in line with current Government guidance and that of the House of Commons Commission. Please give one another and members of staff space when seated and when entering and leaving the room. I remind Members that they are asked by the House to have a covid lateral flow test twice a week, if coming on to the parliamentary estate. That can be done either at the testing centre in the House or at home. Members should send their speaking notes by email to hansardnotes@parliament.uk. Similarly, officials in the Gallery should communicate electronically with Ministers.

11.31 am

The Financial Secretary to the Treasury (Lucy Frazer): I beg to move,

That the Committee has considered the Value Added Tax (Distance Selling and Miscellaneous Amendments No. 2) Regulations 2021 (S.I. 2021, No. 1165).

The Chair: With this it will be convenient to consider the Customs Tariff (Establishment and Suspension of Import Duty) (EU Exit) (Amendment) (No. 2) Regulations 2021 (S.I. 2021, No. 1191).

Lucy Frazer: It is a pleasure to be here under your chairmanship, Ms Rees. I am discussing two measures that ensure that UK tax legislation is consistent with intended policy aims and brings in the latest updates to the UK's tariff suspensions policy.

The first measure is the Value Added Tax (Distance Selling and Miscellaneous Amendments No. 2) Regulations 2021, which relate to two VAT simplification schemes that are optional for businesses to use. These were introduced as part of the VAT e-commerce changes in Northern Ireland in July of this year. Before I explain what the changes do, I will tell the Committee how the schemes work. The first is the optional One Stop Shop scheme: a simplified VAT reporting scheme available to all UK businesses selling goods from Northern Ireland to EU customers where their annual total sale of goods to final customers based in EU member states or Northern Ireland exceeds £8,818. It allows those businesses to register in just one EU member state or Northern Ireland. The businesses can then account for VAT on all their sales of goods to final consumers located in the EU and Northern Ireland on one single quarterly VAT return. The alternative is for businesses to register for VAT in each EU member state to which they sell goods.

The second scheme is similar. It is the optional Import One Stop Shop scheme. In contrast to the One Stop Shop, which applies only to goods sold from Northern Ireland to the EU, the Import One Stop Shop is a simplified import VAT scheme available to UK businesses importing low-value goods into Northern Ireland or the EU from elsewhere. It allows businesses that import low-value goods worth up to £135 into the EU or Northern Ireland to register and account for the VAT in one EU member state or Northern Ireland on a single return, without any import VAT being charged at the port of importation. The alternative is for the recipient to account for import VAT in each country into which goods are imported.

In summary, the two schemes provide benefits to UK businesses that are selling goods from Northern Ireland to consumers in an EU member state, or are importing low-value goods into the EU or Northern Ireland. The statutory instrument makes a number of minor and consequential changes to the VAT legislation and to the e-commerce schemes to improve clarity.

The other measure that we are debating today, the Customs Tariff (Establishment and Suspension of Import Duty) (EU Exit) (Amendment) (No. 2) Regulations 2021, extends and introduces new tariff suspensions, as well as correcting minor errors in previously made secondary legislation.

I will deal in more detail first with the Value Added Tax (Distance Selling and Miscellaneous Amendments No. 2) Regulations 2021. Following a review of the e-commerce legislation, a number of minor issues were identified that required legislative change. First, existing legislation requires that a person who holds goods in Northern Ireland to trade with the EU must be a person who is identified, for the purposes of VAT, in Northern Ireland. Those who register for the One Stop Shop scheme need to be so identified. This SI ensures that anyone who is registered for the One Stop Shop scheme is entitled to be a person who is identified, for the purposes of VAT, in Northern Ireland.

Secondly, this instrument removes superfluous references to “third country” or “third territory” in respect to Great Britain, which might otherwise be confusing to readers.

Thirdly, the instrument makes a change to describe a person who is registered for the OSS scheme in an EU member state as a participant in a non-UK scheme. This brings it into line with the same terminology used elsewhere in the Value Added Tax Act 1994.

Fourthly, shortly after the Finance Act 2021 received Royal Assent, a number of minor drafting errors and omissions were identified. These were addressed at the time in a time-limited transitory instrument—the Finance Act 2021, Section 95 and Schedule 18 (Distance Selling: Northern Ireland) (Appointed Day No. 1 and Transitory Provision) Regulations 2021. The instrument before this Committee retains one of those transitory changes, which clarifies that references to the IOSS scheme apply to all qualifying participants of the scheme in EU member states and Northern Ireland. The remaining transitory changes have been addressed in the VAT (Distance Selling and Miscellaneous Amendments) Regulations 2021—a negative procedure instrument, which was laid at the same time as this instrument.

Fifthly, this instrument also clarifies that references to Great Britain in the IOSS legislation equally apply to the Isle of Man.

Finally, in connection with EU Exit, this measure corrects a cross-referencing error in the legislation, ensuring that claimants who construct or convert an eligible building under the Northern Ireland DIY housebuilders' scheme are able to recover VAT incurred on relevant goods obtained from EU suppliers. Claimants building in Great Britain would incur import VAT on the purchase of such goods from EU suppliers, which is already claimable under the DIY housebuilders' scheme.

I now turn to the second instrument to be debated today: the Customs Tariff (Establishment and Suspension of Import Duty) (EU Exit) (Amendment) (No. 2) Regulations 2021. This instrument makes some amendments to existing tariff legislation that was laid before the House on 16 December 2020 to ensure that the UK's first independent tariff schedule was ready for implementation.

I want to highlight two parts of this instrument. First, it updates our tariffs and suspensions policy to provide continuity for businesses and supports the Government's healthcare response to covid-19. Approximately 2,200 tariff suspensions are currently in force, supporting UK businesses by relieving tariffs on imports for domestic production, such as raw materials for manufacturing and chemicals used for pharmaceutical products.

Those suspensions were due to expire at the end of this year. The instrument extends them for a further two and a half years, avoiding cost pressures on businesses that could arise from tariffs being applied to these goods. Given the adjustments that businesses have had to make this year, these extended suspensions will provide welcome certainty and support businesses across the country, with potential knock-on benefits for consumers.

The instrument also extends 89 tariff suspensions already in place for covid-19 critical goods, such as medical oxygen, plastic face shields and hand sanitiser. It also includes 14 new suspensions related to imports of vaccine inputs, as identified by the World Trade Organisation. These new and extended suspensions should support the UK's wider healthcare response to the pandemic.

The second part of the instrument rectifies some administrative errors related to six tariff lines for articles of worn clothing and textiles, cosmetic products, and certain cables used in vehicles, aircraft and ships. These areas relate to missing tariff duties on these goods in the legislation, which, for some context, is six out of around 16,000 tariff lines.

Although traders were previously charged on the relevant goods at the rates intended, and as traders expected, that was inadvertently done, without those six rates being set out formally in tariff reference documents. After that was discovered as part of an ongoing review, systems were changed so that traders were no longer charged tariffs on these goods.

This instrument inserts the rates that were always intended to be charged, allowing Her Majesty's Revenue and Customs to properly and lawfully correct these rates. It is worth noting that the majority of these lines saw little or no trade, although HMRC is in the process of contacting traders that were charged the intended

rates, which were nevertheless missing from the legislation. More broadly, I emphasise that the vast majority of customs duties are being collected as intended.

In conclusion, the charges in the VAT instrument merely correct minor errors and make consequential changes to ensure that the VAT system operates as was always intended. While the tariff instrument makes limited corrections to address administrative errors, it also makes substantive updates to the UK's suspensions policy, providing continuity for businesses and supporting the Government's healthcare response to covid-19. I commend the regulations to the Committee, and I hope colleagues will join me in supporting them.

11.40 am

James Murray (Ealing North) (Lab/Co-op): Thank you, Ms Rees, for the opportunity to respond on behalf of the Opposition as we consider the two statutory instruments.

The Value Added Tax (Distance Selling and Miscellaneous Amendments No. 2) Regulations 2021 amends certain provisions in the Value Added Tax Act 1994 relating to the application of VAT on goods in Northern Ireland, pursuant to the United Kingdom's obligations under the Northern Ireland-EU protocol. The Opposition can see that this SI makes a minor correction and goes on to make amendments to provisions set out in the Finance Act 2021 relating to the application of two new VAT schemes in Northern Ireland.

The intra-community distance-selling OSS scheme and the IOSS scheme seek to simplify VAT accounting for the sale of goods direct to consumers by suppliers based in the EU and by suppliers who import goods into the EU for sale. Other amendments to the 1994 Act involve the rectification of minor errors, the removal of superfluous wording and edits to bring about consistency in terminology across the relevant schedules.

Finally, we see that this instrument makes amendments to confirm that certain references to Great Britain are also applicable to the Isle of Man. This addresses the issue and risk of double taxation of goods moved between the Isle of Man and Northern Ireland. The Opposition will, of course, not oppose this instrument, as it is important that regulations are clear, and it is right that these errors are corrected through the SI. For the sake of clarity, however, can the Financial Secretary set out what, if any, negative impact the legislation has had in its unamended state?

The Customs Tariff (Establishment and Suspension of Import Duty) (EU Exit) (Amendment) (No. 2) Regulations 2021 are made in relation to part 1 of the Taxation (Cross-border Trade) Act 2018 and seeks to amend the Customs Tariff (Suspension of Import Duty Rates) (EU Exit) Regulations 2020 and the Customs Tariff (Establishment) (EU Exit) Regulations 2020. This second instrument we consider today amends the definition of

“Suspensions of Import Duty Rates Document” in the Customs Tariff (Suspension of Import Duty Rates) (EU Exit) Regulations 2020 to refer to a revised document: the “Tariff Suspension Document”.

The Customs Tariff (Establishment and Suspension of Import Duty) (EU Exit) (Amendment) (No. 2) Regulations 2021 goes on to amend a typographical error and revise the definition of

“Tariff of the United Kingdom”

[James Murray]

to refer to another separately published document, which contained a number of errors and inconsistencies. We will not oppose this instrument, as it is important that tariffs are applied accurately and fairly and that the law concerning those tariffs is unambiguous and that its language is appropriate and accurate.

I have sat in Committees considering statutory instruments that sought to amend errors, and I dare say that I may again. Impact notes routinely describe a negligible impact arising from such amendments, but I am concerned that errors keep piling up. I would be grateful if the Financial Secretary could consider committing to a cumulative impact study of all these errors, perhaps to be reported when we inevitably next sit in this Committee room to correct further errors.

11.43 am

Richard Thomson (Gordon) (SNP): It is a pleasure to serve under your chairmanship, Ms Rees. I am grateful for the opportunity to give a single transferrable speech, which will speak to both measures. The Scottish National party will not be opposing the instruments either.

To be charitable, the statutory instruments before us fall under the category of legislation that is dull but necessary. Of course, I would rather they were not necessary at all, both because of the fact that we have left the European Union and the manner in which we have left. I have just come from speaking to the urgent question on the Northern Ireland protocol, where I made the point—to universal indifference—that the best way to remove the current friction in our legal trading relationship between Great Britain and Northern Ireland is to reduce the friction that exists within the relationship between Great Britain and the European Union.

The alternative is what we see before us today: an endless complexity of myriad make-do-and-mend measures, which need to be brought in to try and correct the unforeseeable, the oversights and the inevitable errors that creep in. That approach risks confusing everyone, while satisfying few. The two measures in front of us are necessary, and they have the SNP's support, even if we wish that they did not have to be discussed here today.

11.45 am

Mr Steve Baker (Wycombe) (Con): I am delighted to have this rare opportunity to speak in a Delegated Legislation Committee. It seems these days that I only obtain this pleasure by swapping with a colleague, and I cannot think why there is a reluctance to appoint me.

I absolutely welcome the simplified accounting schemes, and I commend to Ministers the idea of going further to simplify them. In particular, I hope the Minister could tell us whether it is possible to increase the £135 limit on the IOSS, because the more people who are drawn into simpler schemes, the better. Since he raised the issue, I hope that the hon. Member for Gordon will cast his mind forward with his own arguments to the idea of Scotland leaving the UK while the UK remains out of the European Union. His arguments this morning might come back to haunt him.

It is tempting to say that, until today, I had no idea that our excellent Government and officials could make

minor or consequential errors, but that would be to mislead the Committee. I am grateful that these corrections are being made. These instruments enable UK companies to participate in EU member state VAT schemes. Will my right hon. and learned Friend the Minister reassure me that EU law and the jurisdiction of the European Court of Justice will not end up extending over UK businesses, other than those that actually do business in the EU?

Paragraph 8.1 of the explanatory memorandum to the VAT regulations says that the legislation ensures “that the UK’s e-commerce VAT regime operates as required by the NI Protocol.”

Will my right hon. and learned Friend set out the extent to which she thinks the Northern Ireland protocol constrains the UK’s e-commerce VAT regime overall? I very much hope the Government are able to suspend other tariffs, and keep them suspended, in the interests of free trade.

11.47 am

Lucy Frazer: It is great to see Parliament working at its best—when there are constructive comments in which everybody agrees with the principle of what the Government are doing. I am grateful that the Opposition Members are not opposing these necessary measures.

The hon. Member for Ealing North mentioned errors. I want to highlight that there are 16,000 tariff lines and 8,000 pages of legislation, and we are correcting six errors. The legislation was put in place at pace. Of course, errors are unfortunate, but these were very small. He also asked about a cumulative impact statement. We do produce impact statements, but I will take his suggestion away.

I would like to address the points made by my right hon. Friend the Member for Wycombe—

Mr Baker: Only honourable!

Lucy Frazer: Then I will address the points by my hon. Friend the Member for Wycombe. It is the Government’s policy to simplify taxation more broadly. We want to simplify our relationship with Northern Ireland, and we are progressing negotiations to achieve that. He has asked me a couple of questions that, unfortunately, go beyond the ambit of this narrow debate on VAT legislation and correcting minor errors about the relationship between businesses, EU law, the jurisdiction of the Court and the Northern Ireland protocol. I know that those matters are dear to his heart, but all I can say is that we are trying to achieve an appropriate landing point that is satisfactory to the people of Northern Ireland and the EU in the negotiations between Lord Frost and the EU negotiators. On that basis, I commend the statutory instruments to the House.

Question put and agreed to.

CUSTOMS TARIFF (ESTABLISHMENT AND SUSPENSION OF IMPORT DUTY) (EU EXIT) (AMENDMENT) (NO. 2) REGULATIONS 2021

Resolved,

That the Committee has considered the Customs Tariff (Establishment and Suspension of Import Duty) (EU Exit) (Amendment) (No. 2) Regulations 2021 (S.I. 2021, No. 1191).

11.50 am

Committee rose.