

Tackling VAT Evasion on Road Vehicles Brought into the UK

Who is likely to be affected?

Anyone who brings a road vehicle into the UK for permanent use on UK roads.

General description of the measure

At Budget 2011, the Government announced a joint HMRC and Driver and Vehicle Licensing Agency (DVLA) initiative to combat VAT fraud on road vehicles brought into the UK.

From 2013, a person bringing a new or used road vehicle into the UK from within the EU or outside of the EU for permanent use on UK roads will have to notify HMRC within 14 days of the arrival of the road vehicle in the UK and before registering it with the DVLA. In the case of an acquisition of a new road vehicle from within the EU, private individuals and non-VAT registered businesses will be required to pay any VAT due at the time of notification. VAT registered customers will continue to make payment via their VAT return.

Until HMRC is notified and any VAT due has been paid, or for VAT registered businesses is assessed as "secure", it will not be possible to licence and register a road vehicle with the DVLA.

Some arrivals into the UK will be specifically excluded from the requirement to notify i.e. visitors bringing their vehicles into the UK temporarily, UK residents returning from a holiday with their road vehicle, private importers, and vehicles brought into the UK under secure schemes approved by the DVLA.

Policy objective

To support the government objective of a fair tax system by reducing the opportunity for evasion.

Background to the measure

This measure was announced at Budget 2011 with a commitment to consult. A consultation document was issued on 31 May 2011 and the consultation period ended on 31 August 2011. A summary of responses document was published on 6 December 2011.

Detailed proposal

Operative date

The new system will come into force during 2013 at a date to be confirmed in due course.

Current law

The Vehicle and Excise Registration Act (VERA) 1994 provides the legal framework for the DVLA to refuse to licence a road vehicle brought into the UK if the tax due has not been paid. The Road Vehicle (Registration and Licensing) Regulations 2002 (2742/2002) provide the legal basis for the disclosure of registration and licensing particulars to law enforcement agencies.

The VAT Act 1994 (VATA) defines the scope of the charge to tax for an acquisition of goods from another member State and for the importation of goods from outside the EU. It also provides the legal basis for HMRC to make regulations requiring non-taxable persons to notify specified particulars of a new means of transport (including a road vehicle) acquired from another member State and to pay the VAT due on the acquisition (see paragraph 2(4) of Schedule 11 VATA and regulation 148 of the VAT regulations 1995 (SI 1995/2518).

Proposed revisions

Legislation will be introduced in Finance Bill 2012 with supporting secondary legislation. Paragraph 2 of Schedule 11 to VATA will be amended to provide the power for HMRC to make regulations which require the arrival in the UK of goods which are a means of transport (whether new or used) to be notified in any such form and manner as HMRC direct and to make provision as to how any VAT due should be accounted for. This will apply to all means of transport but the power will only be exercised for the time being in relation to road vehicles.

New regulations will be introduced to provide for the new notification system for the arrival of new and used road vehicles in the UK and to make provision as to how and when any acquisition VAT due on an arrival is to be paid to HMRC.

Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	-	-	+ 125	+ 110	+ 105
	These figures were set out in Table 2.1 of Budget 2011 and have been certified by the Office of Budget Responsibility. More detail can be found in the policy costings document published alongside the Budget.				
Economic impact	The changes will significantly reduce the scope for fraud, preventing unfair competition with legitimate trade.				
Impact on individuals and households	Individuals and households (around 18,000 in 2010) who currently bring road vehicles into the UK will be required to pay the VAT earlier in comparison to the current system. There will be a cash flow impact for these persons, and they will be subject to a penalty regime in respect of the late notification of the road vehicle to HMRC. However, they will benefit from the online notification process which will streamline the process for EU movements of road vehicles.				
Equalities impacts	<p>Evidence from consultation suggests that a mandatory online channel could cause problems for some disabled customers, therefore a paper channel will be offered as an alternative.</p> <p>Consultation also identified a potential impact on those customers where English is not their first language. HMRC provides accessible products for all its customer services and the new system will also be accessible. HMRC does not consider that translation into foreign languages would be a cost effective service for customers bringing in cars. The Government therefore plans to follow existing HMRC practices and provide online and paper services in English. Upon request HMRC will provide a Welsh language option in respect of guidance and public notices.</p>				

Impact on business including civil society organisations	The consultation exercise did not identify any major impacts on business. HMRC are in the process of developing the information technology solution to deliver this measure and will assess the impact upon businesses when the requirements are finalised. Businesses that previously were evading payment of VAT will face an administrative burden as they comply with their obligations.
Operational impact (£m) (HMRC or other)	An initial estimate for the information technology cost is £11 million. However, recent changes to our requirements should significantly reduce the estimated cost, which will be confirmed shortly. HMRC does not expect to incur any significantly increased staff costs itself as a result of this measure.
Other impacts	<u>Small firms impact test:</u> There will be an efficiency benefit to all customers including small firms who opt to notify the arrival of road vehicles to HMRC using the online communication channel. A paper communication channel will also be available, therefore all customers who prefer to use this method of communication will see no significant change to their operations.

Monitoring and evaluation

The new notification system will result in a comprehensive database of road vehicles brought into the UK, the VAT paid by individuals and the tax due from VAT registered businesses. This information will be used to evaluate the effectiveness of the system in tackling fraud and will support targeted compliance interventions.

Further advice

If you have any questions about this change, please contact Richard Bysouth on 020 7147 0328 (email: richard.bysouth@hmrc.gsi.gov.uk).

1 VAT: notification of arrival of means of transport in UK

In Schedule 11 to VATA 1994 (administration, collection and enforcement), in paragraph 2 (accounting for VAT and payment of VAT), after sub-paragraph (5) insert –

“(5A) Regulations under this paragraph may make provision –

- (a) for requiring the relevant person to give to the Commissioners such notification of the arrival in the United Kingdom of goods consisting of a means of transport, at such time and in such form and manner, as may be specified in the regulations or determined by the Commissioners in accordance with powers conferred by the regulations, and
- (b) where notification of the arrival of a means of transport acquired from another member State, or imported from a place outside the member States, is required by virtue of paragraph (a), for requiring any VAT on the acquisition or importation to be paid at such time and in such manner as may be so specified or determined.

(5B) The provision that may be made by regulations made by virtue of sub-paragraph (5A) includes –

- (a) provision for a notification required by virtue of that sub-paragraph to contain such particulars relating to the notified arrival of the means of transport and any VAT chargeable on its acquisition or importation as may be specified in the regulations,
- (b) provision for such a notification to be given by a person who is not the relevant person and is specified, or is of a description specified, in the regulations,
- (c) provision for such a notification to contain a declaration, given in such form and by such person as may be specified in the regulations, as to the information contained in the notification, and
- (d) supplementary, incidental, consequential or transitional provision (including provision amending any provision made by or under this Act or any other enactment).

(5C) Subsection (3) of section 97 (orders subject to Commons approval) applies to a statutory instrument containing any regulations made by virtue of sub-paragraph (5A) which amend an enactment as it applies to an order within subsection (4) of that section.

(5D) For the purposes of sub-paragraph (5A) –

“means of transport” has the same meaning as it has in this Act in the expression “new means of transport” (see section 95);

“relevant person”, in relation to the arrival of a means of transport in the United Kingdom, means –

- (a) where the means of transport has been acquired in the United Kingdom from another member State, the person who so acquires it,
- (b) where it has been imported from a place outside the member States, the person liable to pay VAT on the importation, and
- (c) in any other case –

- (i) the owner of the means of transport at the time of its arrival in the United Kingdom, or
- (ii) where it is subject to a lease or hire agreement, the lessee or hirer of the means of transport at that time.”

EXPLANATORY NOTE

VAT: TACKLING VAT EVASION ON ROAD VEHICLES BROUGHT INTO THE UK

SUMMARY

1. This clause provides for the introduction in 2013 of a new notification system for arrivals of means of transport in the United Kingdom, and payment of VAT due.

DETAILS OF THE CLAUSE

2. Sub-paragraph (5A) provides that provision may be made by regulations for requiring a relevant person to notify, and make payment of any VAT due in respect of, the arrival in the UK of a means of transport from another member State, or from outside of the member States, to the Commissioners at such time and in such form and manner as they may specify.
3. Sub-paragraph (5B) provides that provision may be made by regulations made under sub-paragraph (5A):
 - to specify the particulars to be notified to the Commissioners in relation to the arrival of a means of transport in the UK (including details of any VAT chargeable);
 - for a person specified or of a description specified in the regulations who is not the relevant person to make the notification on behalf of a relevant person;
 - for the notification to contain a declaration given in such form and by such person as may be specified in the regulations in relation to the information contained in the notification, and;
 - to make supplementary, incidental and consequential changes to other parts of the legislation and introduce transitional provisions if need be.
4. Sub-paragraph (5C) provides that section 97(3) Value Added Tax Act 1994 (“VATA”) (i.e. the affirmative resolution procedure) applies to regulations made under sub-paragraph (5A) which amend an enactment.
5. Sub-paragraph (5D) introduces definitions for the terms “means of transport” and “relevant person”.

BACKGROUND NOTE

6. At Budget 2011, the Government announced a joint initiative between HM Revenue & Customs (HMRC) and the Driver and Vehicle Licensing Agency (DVLA) to combat VAT fraud on road vehicles brought into the UK.
7. From 2013, a person bringing a new or used road vehicle into the UK for permanent use on UK roads will have to notify HMRC within 14 days of the arrival of the road vehicle in the UK. In the case of an acquisition of a new road vehicle from within the EU, private individuals and non-VAT registered businesses will be required to pay any VAT due at the time of notification. VAT registered customers will continue to make payment via their VAT returns. In the case of a road vehicle imported from outside the EU, VAT will continue to be collected under existing arrangements.
8. Until HMRC is notified and any VAT due has been paid or, in the case of VAT registered businesses, is assessed as "secure", it will not be possible to licence and register a road vehicle with the DVLA. Online notification is expected to be the preferred method of communication, although a paper channel will also be available.
9. If you have any questions about this change, or comments on the legislation, please contact Richard Bysouth (email: Richard.bysouth@hmrc.gsi.gov.uk).

2013 No. 0000

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. X) Regulations 2013

<i>Made</i>	- - - -	2013
<i>Laid before the House of Commons</i>		2013
<i>Coming into force</i>	- -	2013

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sub-paragraphs (4) to (5D) of paragraph 2 of Schedule 11 to the Value Added Tax Act 1994(a), sections 132 and 133 of the Finance Act 1999(b) and section 204 of the Finance Act 2003(c).

Citation, commencement and effect

1. These Regulations may be cited as the Value Added Tax (Amendment) (No. X) Regulations 2013.
2. These Regulations come into force on [DATE] 2013.

Amendment of the Value Added Tax Regulations 1995

3. Part XVII of the Value Added Tax Regulations 1995(d) (new means of transport) is amended as follows.
4. For the heading to Part XVII substitute "MEANS OF TRANSPORT".
5. For regulation 146 (interpretation of Part XVII), substitute—

"146. In this Part—

"acquisition" means an acquisition of goods from another member State within the meaning of section 11(1) of the Act and "acquired" shall be construed accordingly;

"arrival" means the arrival of a land vehicle in the United Kingdom;

"claim" means a claim for a refund of VAT made pursuant to section 40 of the Act and "claimant" shall be construed accordingly;

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- (a) 1994 (c.23); section 96(1) defines "the Commissioners" as meaning the Commissioners of Customs and Excise and "regulations" as meaning regulations made by the Commissioners under the Act; sub-paragraphs (5A) to (5D) of paragraph 2 of Schedule 11 were inserted by section X of the Finance Act 2010 (c. X). The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11); section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (b) 1999 (c. 16); section 132 was amended by section 406 of, and paragraph 156 of Schedule 17 to, the Communications Act 2003 (c. 21).
- (c) 2003 c. 14; section 204 was amended by sections 94 and 95 of the Finance Act 2007 (c. 11).
- (d) SI 1995/2518.

“competent authority” means an authority having powers under the laws in force in any member State to register a vehicle for road use in that member State;

“Customs legislation” means the enactments referred to in section 16(1)(a) and (b) of the Act;

“DVLA” means the United Kingdom Driver and Vehicle Licensing Agency;

“first entry into service” in relation to a new means of transport means the time determined in relation to that means of transport under regulation 147;

“importation” means an importation from a place outside the member States and “import” and “importing” shall be construed accordingly;

“land vehicle” means a motorised land vehicle falling within section 95(1)(c) of the Act(a);

“notice published by the Commissioners” means such a notice as revised or replaced from time to time;

“registration” means registration for road use in a member State corresponding in relation to that member State to registration in accordance with the Vehicles Excise and Registration Act 1994(b);

a reference to a “taxable person” is limited to a reference to a taxable person acting as such in relation to an arrival.”.

6.—(1) In the heading to regulation 148 (notification of acquisition of new means of transport by non-taxable persons and payment of VAT) substitute “ships and new aircraft” for “means of transport”.

(2) In regulation 148—

- (a) wherever it appears, for “means of transport” substitute “ships or new aircraft”; and
- (b) in paragraph (2)(d) omit “registration mark allocated to it by any competent authority in another member State prior to its arrival in the United Kingdom and any chassis,”.

(3) The changes made by this regulation do not have effect in relation to the arrival on or before [DAY BEFORE THE COMING INTO FORCE DATE] 2013 in the United Kingdom of a new means of transport that is a land vehicle(c).

7. After regulation 148, insert—

“Notification of the arrival in the United Kingdom of land vehicles and payment of VAT

148A.—(1) In this regulation—

“relevant person” has the same meaning as in sub-paragraph (5D) of paragraph 2 of Schedule 11 to the Act(d);

“excepted relevant person” means a relevant person who is—

- (a) bringing a land vehicle into the United Kingdom in circumstances where that person is entitled to register that vehicle in the United Kingdom using the DVLA’s secure Automated First Registration and Licensing system;
- (b) importing a land vehicle into the United Kingdom and who is not a taxable person at the time of the arrival;

(a) Section 95(3) was amended by SI 1994/3128.

(b) 1994 (c. 22).

(c) Regulation 148 provides for notification of an acquisition of a new means of transport (including a land vehicle) and payment of any acquisition VAT due within specified time periods; these provisions will need to remain in force after these Regulations come into force in relation to earlier arrivals of new land vehicles that are acquisitions.

(d) Sub-paragraph (5D) was inserted by section X of the Finance Act 2012 (c. X).

- (c) bringing a land vehicle into the United Kingdom in circumstances where the vehicle is not required to be registered for road use in the United Kingdom in accordance with the Vehicle Excise and Registration Act 1994; or
- (d) returning to the United Kingdom in a land vehicle which has remained registered for road use in the United Kingdom in accordance with the Vehicle Excise and Registration Act 1994 during the period when it has been outside the United Kingdom.

(2) Where a land vehicle arrives in the United Kingdom, a relevant person other than an excepted relevant person must notify the Commissioners of the arrival within 14 days of the date of the arrival.

(3) A person required to notify under paragraph (2) may authorise a third party to notify on that person's behalf.

(4) The notification shall be made in the English language—

- (a) using an electronic communications system; or
- (b) in writing in paper form.

(5) Where an electronic communications system is used, it must take the form approved by the Commissioners in a general direction.

(6) An electronic communications system shall incorporate an electronic validation process.

(7) Subject to paragraph (8) and unless the contrary is proved—

- (a) the use of the electronic communications system shall be presumed to have resulted in the making of the notification to the Commissioners only if this has been successfully recorded as having been made by the electronic validation process;
- (b) the time of making the notification using the electronic communications system shall be presumed to be the time recorded as such by the electronic communications system; and
- (c) the person making the notification shall be presumed to be the person identified as such by any relevant feature of the electronic communications system.

(8) No notification shall be treated as having been made using an electronic communications system unless it is in the form required by paragraph (5).

(9) A notification made under paragraph (4)(a) carries the same consequences as a notification made under paragraph (4)(b) except in relation to any matter for which alternative or additional provision is made by or under this regulation.

(10) A notification under paragraph (2) must—

- (a) contain the particulars listed in paragraph (11);
- (b) include a declaration by the person required to notify the arrival or a person authorised on that person's behalf that all the information entered in it is true and complete; and
- (c) when made under paragraph (4)(b), be made at or sent to any office designated by the Commissioners for the receipt of such notifications.

(11) The particulars referred to in paragraph (10) are—

- (a) the name and current address of the person bringing the land vehicle into the United Kingdom;
- (b) the date of the arrival;
- (c) a full description of the land vehicle which shall include any registration mark allocated to it by any competent authority in another member State prior to its arrival and any chassis identification number and engine number;

- (d) in the case of an acquisition arising from a deemed supply under paragraph 6 of Schedule 4 to the Act, the value of the transaction determined in accordance with paragraph 3 of Schedule 7 to the Act;
- (e) in the case of any other acquisition—
 - (i) the consideration for the transaction in pursuance of which the land vehicle was acquired, and
 - (ii) the name and address of the supplier in the member State from which the land vehicle was acquired;
- (f) in the case of an import—
 - (i) the price paid for the land vehicle including deposit, commission and fees, and
 - (ii) the country in which the person bringing the land vehicle into the United Kingdom obtained it;
- (g) the place where the land vehicle can be inspected;
- (h) the date of notification; and
- (i) any other particulars specified in a notice published by the Commissioners.

(12) Any person required under paragraph (2) to notify the Commissioners of an arrival which is an acquisition must pay any VAT due on the acquisition at the time and in the manner prescribed in regulations 148B to 148F as appropriate.

(13) In the case of an import of a land vehicle, any requirements to notify the importation and pay any tax, duty of customs or duty of excise due as may be prescribed in Customs legislation shall apply in addition to any requirements imposed by or under this regulation.

148B. Where—

- (a) the arrival is a taxable acquisition which takes place in the United Kingdom, and
- (b) the person acquiring the land vehicle is not a taxable person at the time of the acquisition,

payment shall be made at the time of notification.

148C. Where—

- (a) the arrival is a taxable acquisition which takes place in the United Kingdom, and
- (b) the person acquiring the land vehicle is a taxable person at the time of the acquisition,

payment shall be made in accordance with regulation 148E.

148D. Where the arrival is an acquisition arising from a deemed supply under paragraph 6 of Schedule 4 to the Act, payment shall be made in accordance with regulation 148E.

148E. Where this regulation applies, payment shall be made in accordance with regulation 40 having been accounted for in the appropriate return required by regulation 25.

148F. In any case where—

- (a) VAT due is required to be paid at the time of notification under regulation 148B, and
- (b) notification is made under regulation 148A(4)(a),

the relevant payment shall be made solely by means of electronic communications that are acceptable to the Commissioners.”

Date

Name
Name
Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Part XVII (new means of transport) of the Value Added Tax Regulations 1995 (S.I. 1995/2518).

Regulation 4 inserts a new heading to Part XVII.

Regulation 5 substitutes a new regulation 146 (interpretation of Part XVII) to add a number of new definitions.

Regulation 6 amends regulation 148 to limit it to the notification of acquisition of new ships and aircraft and make the necessary consequential amendments. As regulation 148 makes provision as to time limits for notification and payment of acquisition VAT due subsequent to an acquisition, regulation 6(3) makes it clear that, although the amendments to regulation 148 will apply to arrivals of any means of transport in the United Kingdom on or after [DATE OF COMING INTO FORCE] 2013, arrivals of new land vehicles in the United Kingdom on or before [DAY BEFORE DATE OF COMING INTO FORCE] 2013 will be covered by the old rules.

Regulation 7 inserts new regulations 148A to 148F to provide for a new notification system for the arrival of land vehicles in the United Kingdom and to make provision as to how and when any acquisition VAT due on an arrival is to be paid to the Commissioners.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/the_library/tiins/htm.

EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (AMENDMENT) (No. X) REGULATIONS 2013
2013 No. [XXXX]

1. This explanatory memorandum has been prepared by HM Revenue and Customs (“HMRC”) and is laid before the House of Commons by Command of Her Majesty. It contains information for the Select Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This instrument amends Part XVII (new means of transport) of the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the Principal Regulations”) to implement a new notification scheme in relation to the arrival in the United Kingdom of land vehicles¹. This scheme applies to both new and used land vehicles and requires their arrival in the United Kingdom to be notified to the Commissioners in the manner prescribed in the regulations and for any VAT due in the case of an arrival which is an acquisition to be paid at the time and in the manner prescribed in the regulations.

2.2 The previous notification scheme for acquisitions of new means of transport (ships, aircraft and land vehicles) contained in regulation 148 of the Principal Regulations is amended so that it is limited to new ships and new aircraft. However, as regulation 148 makes provision in relation to time limits for the notification of an acquisition and the payment of any acquisition VAT due subsequent to the date of the acquisition, it will still apply as if un-amended in relation to an acquisition of a new land vehicle that takes place in the United Kingdom on or before the day before this instrument comes into force.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

None.

4. **Legislative Context**

This instrument amends the Principal Regulations.

5. **Territorial Extent and Application**

This instrument applies to the whole of the United Kingdom.

6. **European Convention on Human Rights**

As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

¹ The definition of a land vehicle can be found in section 95(1)(c) VATA 1994.

7. Policy background

7.1 At Budget 2011, the Government announced a joint HMRC-DVLA initiative to combat VAT fraud on land vehicles brought into the UK.

7.2 From [DATE] 2013, a person bringing a land vehicle into the UK from within the EU or outside of the EU for permanent use on UK roads will have to make a notification to HMRC within 14 days of the arrival of the land vehicle in the United Kingdom.

7.3 In the case of the acquisition of a land vehicle from within the EU, private individuals and non VAT registered businesses will be required to pay any acquisition VAT due at the time of notification. VAT registered customers will continue to make payment through their VAT returns.

7.4 A key change to the system is that HMRC must be notified of the arrival of land vehicle in the UK prior to any application to license and register it with the DVLA. Until such a notification is made to HMRC, it will not be possible to license and register a land vehicle with the DVLA.

7.5 A consultation document was published on 31 May 2011 and a summary of responses document was published on 6 December 2011. The legislation covering this scheme has been introduced in Finance Bill 2012 and provides the vires for this instrument.

Consolidation

7.6 There are no projects presently on hand to consolidate the Principal Regulations.

8. Consultation outcome

These changes have been consulted upon and are generally supported. Changes have been made to address specific concerns.

9. Guidance

Guidance will be published before the changes take effect.

10. Impact

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/the_library/tiins/htm.

11. Regulating small business

The changes will have no specific impact on small businesses

12. Monitoring & review

The new system will produce management information reports which will be used to assess its effectiveness. It will be subject to a programme of on-going review which will address market trends and associated compliance issues.

13. Contact

For further advice please contact Richard Bysouth at HMRC either by telephone on 0207 147 0328 or by email richard.bysouth@hmrc.gsi.gov.uk.