



# VAT: Retail Export Scheme

## **Consultation document**

Publication date: 1 July 2013

Closing date for comments: 30 September 2013

<b>Subject of this consultation:</b>	The VAT Retail Export Scheme - also known as Tax Free Shopping - allows non-European Union visitors to claim a refund of VAT on goods they buy and export from the European Union (EU) in their personal luggage. HMRC would like to make the scheme easier to use and understand, and to limit opportunities for error and fraud.
<b>Scope of this consultation:</b>	This consultation invites general comments on options for redesigning the scheme and asks some specific questions relating to a number of possible changes.
<b>Who should read this:</b>	Retailers and refund companies using the VAT Retail Export Scheme, as well as overseas visitors and individuals who make claims for VAT refunds under the scheme.
<b>Duration:</b>	The consultation will start on 1 July 2013 and end on 30 September 2013
<b>Lead official:</b>	Lara Pritchard, HM Revenue & Customs.
<b>How to respond or enquire about this consultation:</b>	<p>Responses and enquiries about the content or scope of the consultation or requests for hard copies should be sent to:</p> <p>Lara Pritchard  HMRC Indirect Tax Directorate  3/35  100 Parliament Street  London SW1A 2BQ</p> <p>Email: <a href="mailto:RESconsultation.IDT@hmrc.gsi.gov.uk">RESconsultation.IDT@hmrc.gsi.gov.uk</a></p>
<b>Additional ways to be involved:</b>	<p>HMRC would like to identify representatives from key stakeholder groups in the following areas to test understanding and ideas and to build a better picture of the customer experience. If you would like to be considered for one of these groups, please get in touch:</p> <ul style="list-style-type: none"> <li>- overseas visitors who have used the scheme;</li> <li>- refund companies; or,</li> <li>- retailers.</li> </ul> <p>There are more details in paragraph 2.13.</p>
<b>After the consultation:</b>	A summary of responses will be published in late 2013.
<b>Getting to this stage:</b>	The Government announced at Budget 2013 that a consultation would be launched on possible options for redesigning the VAT Retail Export Scheme. There is more information in HM Revenue & Customs' document: "Overview of Tax Legislation and Rates" (Go to <a href="http://www.hmrc.gov.uk/budget2013/ootlar-main.pdf">http://www.hmrc.gov.uk/budget2013/ootlar-main.pdf</a> )
<b>Previous engagement:</b>	HMRC has met informally with a selection of key stakeholders to gather information about the scheme.

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**On request this document can be produced in Welsh and alternate formats including large print, audio and Braille formats**

# 1. Executive Summary

1.1 The Retail Export Scheme, also known as Tax Free Shopping, contributes to the UK economy by encouraging overseas visitors to buy goods here when they visit. The EU-wide scheme ensures that goods are taxed only where they are used and prevents 'double taxation' (which would occur if goods were taxed in the EU when they are purchased and in the visitor's home country when imported). The Government wants to encourage visitors to choose the UK as the best destination for shopping by making the scheme easy for customers to use. But it is also important to ensure that UK taxpayers do not subsidise those who misuse the scheme, so any proposed changes will look to ensure opportunities for error and fraud are minimised.

1.2 This consultation document seeks views on the main options for improving the scheme in the UK. Each of the options will aim to improve the customer experience or protect revenue (or both). Implementation of certain options – in particular, the potential for introducing a digital tax free shopping scheme – will depend upon there being a sufficiently good case for any investment and views will be sought about how this might be achieved.

1.3 There are sections on improving the customer experience and protecting revenue, and separate sections for a digital scheme and a minimum threshold.

## 2. Introduction

### Background

2.1 The VAT Retail Export Scheme allows non-EU residents visiting the UK (and, in very limited circumstances, certain EU residents<sup>1</sup>) to obtain refunds of VAT on goods they buy for personal export outside the EU. The scheme has its basis in EU VAT law and is mandatory for goods exceeding EUR 175. Member States have discretion to extend the benefit of the zero rate to goods below that value and the UK currently exercises that discretion.

2.2 When an overseas visitor shops in the UK, the retailer charges VAT in the normal way and completes a document with details of the transaction. The visitor then presents this document for stamping by a customs official at their point of departure from the EU (in the UK, this is the responsibility of Border Force), together with the goods. In many cases, the form is then sent to the retailer who makes the refund to the visitor. Once the refund has been paid, the retailer can then zero-rate the sale in the business accounts.

2.3 Sometimes, third parties assist in the refund process. These include refund companies, which arrange for the refund to be made to the visitor on behalf of a retailer, and refund outlets - at airports and increasingly in shopping centres - which provide visitors with refunds before they leave the country.

### The case for change

2.4 HMRC estimates that, in the UK, more than £300 million of VAT is refunded under the VAT Retail Export Scheme each year. Around 3.6 million tax free shopping forms are presented at UK exit points annually and, of these, more than 80 per cent are presented at Heathrow Airport. Use of the scheme is increasing every year.

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<sup>1</sup> For the purpose of this document all eligible claimants are described here as 'overseas visitors'.

2.5 Many overseas visitors report that the process of submitting a claim is a positive experience. Some retailers with experience of the scheme report that the rules are relatively straightforward. However, not all users find the scheme easy to use. Over the years, to accommodate developments in the commercial world and the changing demographics of overseas visitors, the conditions of the scheme have been modified and expanded, leading to additional complexity. For example, the term 'overseas visitor' has widened to include migrating EU residents and there are complicated rules for students and workers from overseas who come to live in the EU for limited periods. Also, it is not always easy to determine whether a traveller is an overseas visitor if they have dual nationality or homes in more than one country.

2.6 The scheme is one of the last fully manual, paper-based systems in VAT and does not interact well with the modern electronic processes used by retailers. The forms – though uniform in the information they must carry – vary in size, shape and format. This causes difficulties for Border Force and others when processing them – for example, locating specific information, stamping and storage – and, despite the requirement to complete the forms at the point of sale, many are presented at the departure points incomplete.

2.7 This can cause unnecessary delays for visitors leaving the UK and this customer experience of the VAT Retail Export Scheme at ports and airports is one of the concerns of some overseas visitors leaving the UK.

2.8 Parts of the scheme may also be susceptible to fraud and error. Currently, some customers misunderstand the conditions of the scheme and some retailers/refund companies do not always take the necessary steps to ensure they and their customers comply with the conditions.

2.9 While HMRC does not consider that the scheme is subject to significant fraud, HMRC has identified areas where abuse of the scheme could occur. Clearly, it is very important that opportunities for fraudulent use of the scheme are closed as far as possible to ensure that only eligible overseas visitors are able to buy goods tax free.

## Objectives of the Consultation

2.10 Through informal meetings with a selection of key stakeholders and our experience of the scheme, HMRC has identified some of the main concerns (highlighted above) with the current scheme.

2.11 While no decisions have been made on any preferred way forward, HMRC has also identified possible options to address some of these concerns and seeks your views on these.

2.12 The scope of the consultation is not limited to the solutions suggested in this document, however, and respondents are invited to give more general comments and suggestions. This information will help to determine next steps and the scope of any future development. As always, any option taken forward will need to deliver value for money for the taxpayer.

## Stakeholder groups

2.13 HMRC is keen to consider any changes to the scheme in partnership with key stakeholder groups so that issues and objectives of stakeholders can be taken account of, as far as possible. Individuals and businesses that would like to be considered for one of these groups, subject to demand, should contact [RESconsultation.IDT@hmrc.gsi.gov.uk](mailto:RESconsultation.IDT@hmrc.gsi.gov.uk) by 31 July 2013, putting 'Stakeholder Interest Group' in the subject header of the email.

2.14 HMRC plans to organise Stakeholder Interest Groups for:

- retailers;
- refund companies; and
- overseas visitors.

2.15 Depending on the nature of the individual Stakeholder Interest Group, there will be a range of options as to the best method to keep in contact – in some cases the best way to meet will be face-to-face, but HMRC may also set up a teleconferencing facility to take account of stakeholders based overseas. Some issues will be considered by email forum. These groups will stay in place throughout and beyond the

consultation period and HMRC will use the knowledge and experience of the group members to test its understanding and ideas in developing any changes to the scheme.

2.16 Regardless of whether you join a Stakeholder Interest Group or not, HMRC is interested in responses to this consultation. The deadline is 30 September 2013.

## 3. What is your interest in Tax Free Shopping?

3.1 Individuals and businesses may have different perspectives and HMRC is interested in understanding the context of the answers you give to all the questions in this consultation.

### **Question 1 – Are you:**

- ***a retailer;***
- ***a refund company;***
- ***a refund outlet (by that HMRC means a company offering cash and credit card refunds at airports/ports or in shopping centres etc);***
- ***an overseas visitor; or***
- ***another interested party (in your response to this question, please set out in more detail your interest/involvement in the scheme)?***

## 4. What are the key problems with the current scheme?

4.1 HMRC has information about the main issues for some stakeholder groups but to evaluate a case for change, it would like a better understanding of what is and is not effective for all users of the scheme.

4.2 HMRC would like to understand – for each stakeholder group – what is good about the scheme and what doesn't work so well.

***Question 2 – Thinking about your experience of the current scheme, what are the best and worst elements of the scheme?***

# 5. Measures to improve the customer experience

5.1 HMRC considers 'customer' to include all users of the VAT Retail Export Scheme. While overseas visitors making claims for VAT refunds will clearly have an interest in considering the questions in this section, it will also be relevant to retailers and refund companies, which have an obligation to operate under the conditions of the scheme when making those refunds and when applying the zero rate on sales to overseas visitors.

5.2 Possible options for improving the customer experience:

- eligibility criteria could be more straightforward, for example, giving one simple definition of an 'overseas visitor';
- removing the need for foreign visitors to carry their passports and other identity documents around busy shopping centres;
- gathering less information about a visitor or their purchases so that the form is quicker and easier to complete;
- allowing the overseas visitors to complete the form(s) themselves;
- fast-tracking low-value or straightforward claims at busier airports;
- considering whether it is viable to introduce a single style of form so that the information contained on it is more easily completed and located and whether a uniform size of form will make the forms easier to handle, stamp and store.

5.3 Changes are not limited to these options - HMRC would like you to consider any or all possible solutions for improving the customer experience.

***Question 3 – What changes would help to improve the experience of the scheme at the point of sale (that is to say, at the time the goods are sold to the overseas visitor)?***

***Question 4 – What changes would help to improve the experience of the scheme at the point of exit from the UK (that is to say, at airports and ports)?***

***Question 5 – What changes would help to improve the refund process for the overseas visitor?***

***Question 6 – What changes would help to improve the accounting processes for retailers, refund companies and refund outlets?***

***Question 7 – What other changes would help to improve the customer experience of the scheme?***

## 6. Measures to help protect revenue

6.1 This section asks questions about options for changing the current scheme which may help to prevent opportunities for error and fraud.

6.2 The current scheme has a three-stage compliance process:

i) At the point of sale, the retailer is required to check the eligibility of overseas visitors and ensure that when completing their claim they meet the necessary conditions of the scheme.

ii) At the point of exit (the airport or port), the second stage of the compliance process is undertaken by Border Force, which checks that the goods on which VAT is being claimed are exported from the EU.

iii) HMRC's assurance programme ensures that the scheme has been correctly operated.

6.3 While the process might seem burdensome, when operated correctly, it plays a key part in preventing opportunity for significant fraud and abuse. Currently, even what appear to be small errors in applying the scheme's conditions can allow opportunist fraudsters to misuse the scheme. For example, when a retailer doesn't ensure that a purchase is properly recorded on the claim form (including a serial number, where applicable) there is a risk that goods will be replaced with inferior goods, which are then presented at export. The tax free goods are not exported.

6.4 Possible options for protecting revenue:

- introducing a simple tick-box on the claim form to identify which visitors have dual nationality/residency to prevent misuse of the residency rules by travellers who have dual nationality or residences inside and outside the EU; introduce a straightforward rule about who is and is not eligible in these circumstances.
- making the rules easier to comply with;

- changing the customer and retailer declarations on the claim form to ensure that the obligations of each party are clear;
- tightening the rules on retailers issuing blank or duplicate claim forms and how retailers and refund companies account for the VAT refunds;
- in addition to the criminal sanctions that are currently available, and the ability to seize goods where a fraudulent claim has been identified, exploring whether civil penalties are needed as a sanction for misuse by businesses or claimants using the scheme.

6.5 Changes are not limited to these options - HMRC would like you to consider any or all possible solutions for protecting the revenue and reducing the opportunity for fraud and non-compliance.

***Question 8 – What changes could be made to improve the compliance process of checking the overseas visitor’s eligibility?***

***Question 9 - What changes would help to ensure that forms are completed correctly?***

***Question 10 – Should the Government introduce civil penalties for failing to comply with the conditions of the scheme? Please give reasons for your answer.***

***Question 11 – What other changes to the scheme would help to ensure compliance and/or protect revenue?***

## 7. Digital scheme

7.1 Some stakeholders have suggested that digitising the end-to-end process may offer a more comprehensive solution for improving the customer experience and protecting revenue. This is because a digital scheme could reduce or eliminate paperwork, require fewer checks of eligibility and reduce the need for completion of repeated data.

7.2 A digital scheme may help to:

- improve the efficiency of the scheme at both the point of sale and point of exit from the UK;
- keep pace with technological developments in retail sales;
- make shopping in the UK more straightforward and attractive to overseas visitors, thereby boosting the UK economy;
- improve compliance by users of the scheme;
- focus compliance resources more effectively on risk.

7.3 HMRC has no definite model for a digital solution and, at this early stage, is interested in views on the likely benefits of a digital solution and how this might be delivered. Implementation of any digital solution would depend on a sufficiently strong business case being developed, taking account of improvements in customer experience, revenue protection and resource savings, and the availability of funding.

7.4 In previous discussions with some stakeholders, it has been suggested that commercial providers may be interested in working alongside HMRC to develop a tax free shopping platform, with the digital solution being funded by a commercial provider. If private sector funding of a digital solution is pursued, there would be an open competition to choose the private sector partner. But, at this stage, HMRC would like to gauge the level of interest amongst commercial providers in entering into arrangements of this kind.

**Question 12 – How could a digital Tax Free Shopping scheme benefit:**

- **overseas visitors;**
- **retailers;**
- **refund companies;**
- **refund outlets (meaning a company offering cash and credit card refunds at airport/ports or in shopping centres etc);**
- **HM Government (including Border Force and HMRC);**
- **UK taxpayer;**
- **other (please specify).**

**Question 13 (for businesses) – Taking account of the need to develop a strong business case, how could a digital scheme be delivered? Please provide any details (including likely costs, ways to mitigate those costs, impacts (positive and negative) on different stakeholder groups (including financial and admin burdens) as well as resource and revenue savings.**

## 8. Minimum threshold for using Tax Free Shopping

8.1 EU law permits individual Member States to legislate for a threshold below which claims cannot be made. The threshold cannot be higher than EUR 175 (total value of the supply) – about £150. Most Member States have a threshold but the UK currently does not – leaving it to retailers to set their own limit.

8.2 Provisional findings show that around 20 per cent of claims are below this threshold.

***Question 14 – Should the UK introduce a minimum threshold for the Retail Export Scheme? Please give reasons for your answer.***

***Question 15 – If you think there should be a minimum threshold in the UK, what should it be?***

***Question 16 (for retailers and refund companies) – Please provide an estimate of the impact of a threshold set at £150.***

## 9. Summary of Consultation Questions

**Question 1 – Are you:**

- **a retailer;**
- **a refund company;**
- **a refund outlet (by that HMRC means a company offering cash and credit card refunds at airports/ports or in shopping centres etc);**
- **an overseas visitor; or**
- **another interested party (in your response to this question, please set out in more detail your interest/involvement in the scheme)?**

**Question 2 – Thinking about your experience of the current scheme, what are the best and worst elements of the scheme?**

**Question 3 – What changes would help to improve the experience of the scheme at the point of sale (that is to say, at the time the goods are sold to the overseas visitor)?**

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- **other (please specify).**

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**Question 14 – Should the UK introduce a minimum threshold for the Retail Export Scheme? Please give reasons for your answer.**

**Question 15 – If you think there should be a minimum threshold in the UK, what should it be?**

**Question 16 (for retailers and refund companies) – Please provide an estimate of the impact of a threshold set at £150.**

## 10. Tax impact assessment

10.1 Because there is a range of options, it is not possible to give a comprehensive assessment of the impact of all the possible changes. The consultation gives all interested parties the opportunity to comment on the potential impacts of the various options discussed in this document.

10.2 If an option is taken forward and legislative change is required, a Tax Information and Impact Note will be published alongside the draft legislation and this will take on board comments on the impacts provided in response to this consultation.

10.3 A summary of HMRC's current assessment of impacts can be found below. Please get in touch if you have any comments.

<b>Exchequer impact (£m)</b>	2013-14	2014-15	2015-16	2016-17	2017-18
	Nil	Nil	Nil	Nil	Nil
	<p>If a threshold of £150 were to be introduced, it will raise an estimated £10 million per annum. This is an indicative estimate that is likely to change and will be subject to scrutiny and refinement by the Office for Budget Responsibility.</p> <p>Further work will be carried out to ascertain the revenue yield/revenue protected.</p>				
<b>Economic impact</b>	The measure is not expected to have any significant economic impacts.				
<b>Impact on individuals and households</b>	<p>The changes will have no significant impact on UK residents (except to the very limited extent that changes to the eligibility criteria for users of Tax Free Shopping might prevent departing EU residents from using the scheme);</p> <p>Improved customer experience for users of the scheme;</p> <p>A threshold will have a negative impact on those making low-value claims. Around 20 per cent of claims made have a value of less than £150.</p>				
<b>Equalities impacts</b>	This measure will affect people who are not UK citizens. It will therefore have an impact on people who are a different nationality to the UK population. There is no evidence of any other protected characteristic being impacted.				

<p><b>Impact on businesses and Civil Society Organisations</b></p>	<p>Impacts on the retail and refund sector will depend on options for change – for options aimed at improving the customer experience HMRC expects negligible impacts or reduced admin burdens; for options to protect revenue, admin burdens may increase or reduce;</p> <ul style="list-style-type: none"> <li>- impacts arising from a digital solution will be costed following this consultation.</li> <li>- a minimum threshold may entail admin burdens for retailers.</li> </ul>
<p><b>Impact on HMRC or other public sector delivery organisations</b></p>	<p>A digital solution could entail a significant one-off cost to HMRC but sourcing a commercial provider could mean there is no impact on HMRC. There is also potential for resource savings in Border Force.</p> <p>For options aimed at improving the customer experience and protecting revenue, there may be an increase in resourcing costs to Border Force.</p>
<p><b>Other impacts</b></p>	<p>A threshold may have an adverse impact on small businesses but HMRC will work closely with interested parties to ensure that any impacts are kept to a minimum.</p> <p>Impacts on the retail and refund sector will depend on options for change – for options aimed at improving the customer experience HMRC expects negligible impacts or reduced admin burdens; for options to protect revenue, admin burdens may increase or reduce.</p>

# 11. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework.

There are 5 stages to tax policy development:

Stage 1 Setting out objectives and identifying options.

Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 Drafting legislation to effect the proposed change.

Stage 4 Implementing and monitoring the change.

Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 1 of the process. The purpose of the consultation is to seek views on the policy design and any suitable possible alternatives, before consulting later on a specific proposal for reform.

## How to respond

A summary of the questions in this consultation is included at chapter 9.

Responses should be sent by 30 September 2013, by email or post, to Lara Pritchard.

Emails should be sent to [RESconsultation.IDT@hmrc.gsi.gov.uk](mailto:RESconsultation.IDT@hmrc.gsi.gov.uk). Please note HMRC cannot guarantee the security of emails you send, or that HMRC sends to you, over the internet. Information sent by email over the internet is not secure and is at risk of being intercepted and read by people other than those it was intended for. Any information you send to HMRC by email is at your own risk. If you would like HMRC to reply by email, please confirm in your message that you understand and accept the risks involved. However, if HMRC's response to you contains any personal or confidential information HMRC will only reply to you by letter or telephone.

Post should be sent to:

Lara Pritchard  
HM Revenue & Customs  
Indirect Tax Directorate  
3/35  
100 Parliament Street  
London SW1A 2BQ

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from GOV.UK. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

## Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain why you regard the information you have provided as confidential. If HMRC receives a request for disclosure of the information it will take full account of your explanation, but cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles. HMRC would also like to work with representatives from key stakeholder groups. There is more information at paragraph 2.13 above.

The Consultation Principles are available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

Amy Burgess, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

Please do not send responses to the consultation to this address.

# Annex A: Relevant Legislation

## 1. EU law - from 1 January 2007 to date

The Principal VAT Directive (2006/112) replaced the Sixth Directive in a consolidated form and resulted in the following relevant Articles:

### Article 131

*131. The exemptions provided for in Chapters 2 to 9 shall apply without prejudice to other Community provisions and in accordance with conditions which Member States shall for the purpose of ensuring the correct and straightforward application of those exemptions and of preventing any possible evasion, avoidance or abuse.*

### Chapter 6 – Exemptions on exportation

#### Article 146

*146(1) Member States shall exempt the following transactions:*

*(a)...*

*(b) the supply of goods dispatched or transported to a destination outside the Community by or on behalf of a customer not established within their respective territory,....*

#### Article 147

*147(1) Where the supply of goods referred to in point (b) of Article 146(1) relates to goods to be carried in personal luggage of travellers, the exemption shall apply only if the following conditions are met:*

*(a) the traveller is not established within the Community;*

*(b) the goods are transported out of the Community before the end of the third month following that in which the supply is taken place;*

*(c) the total value of the supply, including VAT, is more than EUR 175 or the equivalent in national currency, fixed annually by applying the conversion rate*

*obtaining on the first working day of October with effect from 1 January of the following year.*

*However, Member States may exempt a supply with a total value of less than the amount specified in point (c) of the first subparagraph.*

147(2) *For the purposes of paragraph 1. “a traveller who is not established within the Community” shall mean a traveller whose permanent address or habitual residence is not located within the Community. In that case “permanent address or habitual residence” means the place entered as such in a passport, identity card or other document recognised as an identity document by the Member State within whose territory the supply takes place.*

*Proof of exportation shall be furnished by means of the invoice or other document in lieu thereof, endorsed by the customs office of exit from the Community.*

*Each Member State shall send to the Commission specimens of the stamps it uses for the endorsement referred to in the second subparagraph. The commission shall forward that information to the tax authorities of the other Member States.*

## 2. UK law: Primary

VAT Act 1994

### 30 Zero-rating

.....

(8) *Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where—*

(a) *the Commissioners are satisfied that the goods have been or are to be exported to a place outside the member States or that the supply in question involves both—*

(i) *the removal of the goods from the United Kingdom; and*

(ii) *their acquisition in another member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member*

*State corresponding, in relation to that member State, to the provisions of section 10; and*

*(b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.*

.....

*(10) Where the supply of any goods has been zero-rated by virtue of subsection (6) above or in pursuance of regulations made under [subsection (8), (8A) or (9)]<sup>2</sup> above and—*

*(a) the goods are found in the United Kingdom after the date on which they were alleged to have been or were to be exported or shipped or otherwise removed from the United Kingdom; or*

*(b) any condition specified in the relevant regulations under [subsection (6), (8), (8A) or (9)]<sup>3</sup> above or imposed by the Commissioners is not complied with,*

*and the presence of the goods in the United Kingdom after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Commissioners, the goods shall be liable to forfeiture under the Management Act and the VAT that would have been chargeable on the supply but for the zero-rating shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the United Kingdom; but the Commissioners may, if they think fit, waive payment of the whole or part of that VAT.*

### **3. UK Law - Secondary**

#### **VAT Regs 1995 (SI1995/2518)**

#### **PART XVI – Importations, Exportations and Removals**

*117(4) In regulation 131 “goods” does not include—*

*(a) a motor-vehicle, or*

*(b) a boat intended to be exported under its own power.*

....

*117(7) For the purposes of regulation 129 “overseas authority” means any country other than the United Kingdom or any part of or place in such a country or the government of any such country, part or place.*

*117(7A) In regulation 131 the words “overseas visitor” refer to a traveller who is not established within the member States.*

117(7B) For the purposes of paragraph (7A) above, a traveller is not **established within the member States** only if that traveller's domicile or habitual residence is situated outside the member States.

117(7C) Solely for the purposes of paragraph (7B) above, the traveller's domicile or habitual residence is the place entered as such in a valid—

- (a) identity document,
- (b) identity card, or
- (c) passport.

117(7D) A document referred to in subparagraph (a), (b) or (c) of paragraph (7C) above is **valid** for the purposes of that paragraph only if—

- (a) it is so recognised by the Commissioners; and
- (b) it is not misleading as to the traveller's true place of domicile or habitual residence.

.....

**131—**

(1) Where the Commissioners are satisfied that—

- (a) goods have been supplied to a person who is an overseas visitor and who, at the time of the supply, intended to depart from the member States before the end of the third month following that in which the supply is effected and that the goods should accompany him,
- (b) save as they may allow, the goods were produced to the competent authorities for the purposes of the common system of VAT in the member State from which the goods were finally exported to a place outside the member States, and
- (c) the goods were exported to a place outside the member States,

the supply, subject to such conditions as they may impose, shall be zero-rated.

#### **4. UK law - Tertiary**

Parts of Notice 704, [VAT Retail Exports](#).