EXPLANATORY MEMORANDUM TO

THE CUSTOMS (TARIFF AND RELIEFS) (AMENDMENT) REGULATIONS 2022

2022 No. 780

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument makes amendments to subordinate legislation made under the Taxation (Cross-border Trade) Act 2018 ("TCTA") which provided for the United Kingdom's Customs, Value Added Tax (VAT) and Excise regimes to be in place after the end of the Transition Period following the withdrawal of the United Kingdom (UK) from the European Union.

2.2 Specifically, this instrument updates the reference documents which have been given legal effect by the Customs Tariff (Establishment) (EU Exit) Regulations 2020 (S.I. 2020/1430) and the Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1431).

2.3 The purpose of this instrument is to update the tariff reference document, the Tariff of the United Kingdom version 1.9, dated 1 June 2022 ("Tariff of the United Kingdom") by introducing a new chapter which contains a single new commodity code to be used for Transfer of Residence (ToR) relief. It also updates the United Kingdom Customs Tariff: Reliefs from Import Duty version 1.3, dated 28th December 2021 ("UK Reliefs document") with the conditions and eligibility criteria to use the single commodity code when making a claim for ToR relief.

2.4 The Government is making these changes to reduce the administrative burden on individuals who plan to move their primary residence into the UK.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 The version number of the UK Reliefs document appears to be amended non-sequentially (version 1.3 is amended to version 1.5). Since the definition of the UK Reliefs document was amended by the Customs (Miscellaneous Provisions) (Amendment) (EU Exit) Regulations (S.I. 2021/1489) to introduce version 1.3 a public notice published under section 32A(2) of the Taxation (Cross-border Trade) Act 2018, has modified the definition to refer to a new version of the UK Reliefs document (version 1.4). As the new version (version 1.4) was introduced by way of public notice and took effect as a non-textual modification, the underlying statutory words still refer to version 1.3 of the UK Reliefs document. As version 1.4 is already in existence, the new version introduced by this instrument is therefore numbered 1.5.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Sections 8 of the TCTA requires the Treasury to make regulations establishing and maintaining a system for classifying goods that arrive in the UK by applying a classification code enabling the correct amount of import duty to be charged. Section 19 of the TCTA gives the Treasury a power to make regulations for full or partial relief from a liability to import duty. The relevant secondary legislation made under these powers are the Customs Tariff (Establishment) (EU Exit) Regulations 2020 (S.I. 2020/1430); and the Customs (Relief from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1431); the United Kingdom Customs Tariff: Reliefs from Import Duty version 1.3, dated 28 December 2021 and the Tariff of the United Kingdom version 1.9, dated 1 June 2022.

Tariffs

6.2 Regulation 2 of the Customs Tariff (Establishment) (EU Exit) Regulations 2020 makes provision, to give legal effect to the Tariff of the United Kingdom document, which outlines the system for classification of goods per commodity code.

6.3 This instrument amends regulation 1(2) of the Customs Tariff (Establishment) (EU Exit) Regulations 2020 by amending the definition of the UK tariffs document to introduce and give legal effect to a revised Tariff of the United Kingdom document.

Reliefs

6.4 Regulation 4 of the Customs (Relief from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations makes provision to give legal effect to the UK reliefs document, which describes the conditions under which claims for relief can be granted.

6.5 This instrument amends regulation 2(1) of the Customs (Relief from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020 by amending the definition of the UK Reliefs document to introduce and give legal effect to a revised UK reliefs document.

7. Policy background

What is being done and why?

7.1 Transfer of Residence (ToR) relief can be claimed by individuals to provide relief from import duties for their personal effects when moving their primary residence to the UK. This requires prior authorisation from HMRC to claim unless the claimant is moving for the purposes of full-time study, or the purposes of marriage to an UK citizen ("international students and spouses").

7.2 Under the current process for claiming the relief, those wishing to claim must:

(a) Receive prior approval from HMRC to claim this relief,

(b) Submit a packing list of the items moving under the relief; and

(c) Where a written Customs declaration is required (i.e., when goods are not accompanied across the border by the person claiming relief), this must include commodity codes for each of the items moving under the relief.

7.3 Where international students and spouses have applied for this relief, they do not need to satisfy the first two requirements ((a) and (b)), although they do need to provide evidence of study or marriage (as applicable) when claiming.

7.4 Views shared by industry stakeholders, such as removal and haulage associations, as well as correspondence from private removal firms and individuals, highlighted the requirement to find and submit individual commodity codes for each item when moving a household's personal effects to the UK is a high burden, and that they would welcome the use of a single commodity code for goods moved under ToR.

7.5 This measure will allow the use of a single commodity code when making a written or electronic customs declaration to claim ToR relief. This administrative simplification will apply when claiming the relief for goods entering the UK. However, this new instrument will not confer on the declarant an authorisation to use ToR relief, nor will it provide for a duty rate or commodity code classification.

7.6 Allowing goods to be declared under a single commodity code reduces the administrative burden on ToR claimants, and the agents and removal companies engaged to assist in the relocation, making moving to the UK easier and more attractive.

7.7 This is done by introduction of a new chapter, Chapter 99, to the reference document: "The Tariff of the United Kingdom" which sets out the new single commodity code which any persons claiming ToR relief can use for all eligible imported goods (except for prohibited and restricted goods and excise goods).

7.8 This will also update the UK Reliefs document by outlining the conditions and eligibility criteria to use the new single commodity code when claiming ToR.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 These regulations do not provide for any consolidation of existing legislation, and none is necessary in the circumstances. Given the recurrent nature of this type of amending legislation, the Government considers it would be inappropriate to consolidate the legislation at this time.

10. Consultation outcome

10.1 No formal consultation in relation to this instrument has been undertaken, but this amendment was brought about following views received from industry stakeholders.

11. Guidance

11.1 There is already guidance on the transfer of residence reliefs at: Transfer of residence to UK - GOV.UK (www.gov.uk). This guidance will be updated once this instrument comes into force.

12. Impact

12.1 There is no significant impact on business, charities, or voluntary bodies.

12.2 There is no significant impact on the public sector.

12.3 A Tax Information and Impact Note covering this instrument will be published on: Tax information and impact notes - GOV.UK (www.gov.uk).

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small business.

13.3 The basis for the final decision on taking no specific action to support small businesses is that the easement provided for by this measure benefits them in the same way as larger businesses.

14. Monitoring & review

14.1 This legislation will be monitored in the context of wider customs tariffs and reliefs legislation, which are kept under review, to ensure that it meets the policy objective set out in section 7 of this explanatory memorandum.

14.2 A statutory review clause is not included in these regulations because this instrument relates to a tax or duty, and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise, and Employment Act 2015.

15. Contact

15.1 Revati Bhand at HM Revenue and Customs (email: revati.bhand@hmrc.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Sally Beggs, Deputy Director, Customs Policy & Strategy at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Financial Secretary to the Treasury, Rt Hon Lucy Frazer, QC MP at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.