**EXPLANATORY MEMORANDUM TO**

# THE VALUE ADDED TAX (DISCLOSURE OF INFORMATION RELATING TO VAT REGISTRATION) (EU EXIT) REGULATIONS 2018

**2018 No. 1228**

## 1. Introduction

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

## 2. Purpose of the instrument

2.1 This instrument addresses a deficiency in United Kingdom ('UK') legislation arising from its withdrawal from the European Union ('EU'). It enables HMRC to respond to an enquiry relating to a UK Value Added Tax ('VAT') registration number ('VRN') by confirming its validity (or otherwise) and, where it is valid, providing the name and address of the registered person. It replaces the requirement imposed on HMRC by Council Regulation (EU) 904/2010 to provide UK VRN information to businesses, which ceases to apply to the UK after the UK leaves the EU.

## 3. Matters of special interest to Parliament

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

3.1 None.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)***

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

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

## 6. Legislative Context

6.1 Sections 51 and 52 of the Taxation (Cross-border) Trade Act 2018 ('TCTA') provide the power for the Treasury to make regulations required as a consequence of, or otherwise in connection with, the withdrawal of the UK from the EU.

6.2 This instrument is made under those powers and will be the first of a number of Statutory Instruments which will ensure that the UK has a properly functioning VAT system after it leaves the EU.

6.3 EU member states are required by Article 31 of Council Regulation (EU) 904/2010 to provide information about VRNs including the names and addresses of registered persons to those involved in certain cross-EU border supplies of goods or services. The EU-hosted 'VIES on the Web' service facilitates this requirement by providing an electronic platform for Member States to provide this information to businesses.

6.4 After the UK withdraws from the EU and section 42(1) of the TCTA comes into force, the UK will no longer be subject to this requirement to provide information relating to VRNs. This instrument will allow HMRC to continue to confirm whether a given number is a valid UK VRN and, where it is valid, to provide the name and address of the person to whom that number is allocated.

6.5 Whilst section 18 of the Commissioners for Revenue and Customs Act 2005 ('CRCA') prohibits HMRC officials from disclosing information held in connection with HMRC's functions, this prohibition is subject to other enactments permitting disclosure. This instrument will constitute such an enactment thereby permitting disclosure for the purposes of section 18 CRCA.

## 7. Policy background

7.1 Businesses can currently check whether a UK VRN is valid, and obtain confirmation of the name and address of that registered person. This disclosure is justified because checking the validity of a customer's or supplier's VRN forms part of most businesses' due diligence. Businesses use this information to ensure that they are not unknowingly party to fraudulent activity. It also helps them to apply the correct VAT treatment to certain digital supplies. It therefore protects revenue collection and helps prevent VAT fraud.

7.2 HMRC currently makes this information available online through VIES on the Web. After the UK leaves the EU, this facility will no longer be available.

7.3 To ensure businesses can continue to check UK VRNs in a similar way, HMRC intends to provide an online service that will replicate VIES on the Web, but only for UK VRNs. This contributes to the Government's commitment to minimise disruption to UK businesses after the UK leaves the EU and removes the need to contact HMRC directly to check a UK VRN. It encourages the use of digital services, lowering the number of telephone calls HMRC would otherwise have to answer.

7.4 HMRC has a good record of protecting information released through VIES on the Web and will put robust protections in place to prevent abuse. The measure meets current Data Protection Act 2018 requirements.

## 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the UK from the EU. It allows HMRC to disclose information relating to UK VRNs that is currently disclosed because of an obligation in Council Regulation (EU) 904/2010, which will cease to apply after the UK has left the EU. It is made using the power in the TCTA to make provision relating to VAT which the Minister considers appropriate in consequence of, or connection with, the withdrawal of the UK from the EU.

## 9. Consolidation

9.1 This instrument does not amend existing legislation and there are no plans to consolidate it with existing legislation.

## 10. Consultation outcome

10.1 This instrument forms part of wider changes to ensure that the UK has a VAT system that operates as required when the UK leaves the EU. A formal consultation on this instrument has not been carried out because it only replicates a current HMRC practice.

10.2 HMRC has engaged with businesses and software providers to ensure that HMRC's new digital VRN checker service meets user requirements.

## 11. Guidance

11.1 HMRC does not intend to issue specific guidance relating to this instrument.

11.2 Guidance on the new digital VRN checker service will be released to coincide with the system going live.

## 12. Impact

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

12.2 There is no, or no significant, impact on the public sector.

12.3 The impact of a no deal exit was announced in the "VAT for business if there's no Brexit deal" Technical Note published 28 August 2018 and "Partnership pack: preparing for a 'no deal' EU Exit" published 22 October 2018.

12.4 This instrument is one of a group of instruments covered by a single overarching HMRC impact assessment which will be published on 4 December 2018 and will be available on the website at https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal .

12.5 There may be a minor cost to businesses associated with the change from using the VIES on the Web to check UK VRNs to using a UK-based service. Businesses that do not currently use VIES on the Web can continue to contact HMRC to check UK VRNs.

12.6 The impact on HMRC is negligible. The introduction of a replacement digital service will prevent the need for businesses to contact HMRC directly. This would place HMRC's customer services under significant pressure due to the number of checks carried out on UK VRNs.

## 13. Regulating small business

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

13.2 The legislation will allow businesses to meet their due diligence commitments by allowing them to continue to check the VRN of UK suppliers and customers using a web-based service.

13.3 It will prevent an increase in administrative burdens and costs associated with checking the validity of customer and supplier VRNs by allowing people to continue to access the information electronically.

## 14. Monitoring & review

14.1 The measure will be kept under review through communication with affected taxpayer groups.

14.2 This instrument does not include a statutory review clause. None is required under the provisions of the Small Business, Enterprise and Employment Act 2015 because the instrument does not make or amend regulatory provision in relation to any qualifying activity.

## 15. Contact

15.1 Samuel Warren at HMRC Telephone 03000 525289 or email: samuel.warren@hmrc.gsi.gov.uk can be contacted with any queries regarding the instrument.

15.2 Eileen Patching at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 Mel Stride, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.