EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (FLAT-RATE VALUATION OF SUPPLIES OF FUEL FOR PRIVATE USE) ORDER 2013

2013 No. 2911

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.

2. Purpose of the instrument

2.1 This instrument makes provision for the optional flat-rate basis for valuing supplies of a business's road fuel for private use where those supplies fall within paragraph A1 of Part 1 of Schedule 6 to the Value Added Tax Act 1994 ("VATA"). It also imposes a requirement on HMRC to regularly revalorise the flat-rate values in accordance with the method set out in the instrument and requires HMRC to publish updated valuation tables and the date from which they are to take effect.

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

3.1 None.

4. Legislative Context

4.1 VAT is payable if road fuel acquired by a business is used for private motoring. Council Decision 659/2006/EC of 25th September 2006 (O.J. No. L 272. 3.10.2006, p.15) authorises the United Kingdom to fix, on an optional flat-rate basis, the proportion of VAT that relates to expenditure on fuel incurred by a business which is used for private purposes. That proportion is required to be expressed in fixed amounts and is to be established on the basis of the CO_2 emissions level of the type of vehicle to reflect fuel consumption. The amounts must be adjusted annually to reflect changes in the average cost of fuel.

4.2 Paragraph B1 of Part 1 of Schedule 6 to VATA was inserted by the Finance Act 2013. It requires Her Majesty's Treasury ("HMT") to make provision for the valuation, on a flat-rate basis, of supplies of road fuel for private use, for the regular revalorisation by HMRC of those values and the publication of updated valuation tables. This instrument is the first to be made under that provision.

4.3. The effect of this instrument is to set out in secondary legislation a base valuation table, the method by which the values set out in that table will be re-valorised, that the values must be revalorised at least annually and that HMRC must publish updated valuation tables and the date from which such

tables take effect. The instrument also sets out notes to the valuation table which are to be used in conjunction with the table when determining the flat-rate value of supplies of a business's road fuel for private use.

5. Territorial Extent and Application

5.1 This instrument applies to the whole of the United Kingdom.

6. European Convention on Human Rights

The Exchequer Secretary to the Treasury, David Gauke, has made the following statement regarding Human Rights.

"In my view the provisions of the Value Added Tax (Flat-rate Valuation of Provision of Fuel for Private Use) Order 2013 are compatible with the Convention rights".

7. Policy background

7.1 VATA was amended by the Finance Act 2013, effective from 1 February 2014, to update and streamline the law on accounting for VAT on supplies of road fuel that arise where a business's road fuel is used for private journeys for no consideration. The new law gives taxpayers clear and simple options which are all provided for in law rather than by concession.

7.2 This instrument is an integral and essential part of the new flat-rate basis for valuation of supplies of fuel for private use. It sets out the base table containing the value of the supplies, notes on its interpretation and the method by which HMRC is required to update it over time to reflect changes in fuel prices. The updated tables will appear in HMRC publications alongside clear and simple guidance on taxpayer options and their practical effect.

7.3 This achieves the policy objectives of having a properly set out flat-rate basis of valuation available to taxpayers, making it accessible to, and understandable by, small businesses and removing the routine updating of tables from the budget process without weakening Parliamentary control of taxation.

8. Consultation outcome

8.1 Consultation with business took place from 24 April 2012 to 20 July 2012. This set out how HMRC intended to update the valuation of supplies of road fuel for private use and invited comments.

8.2 Comments were supportive of the changes. A Summary of Responses was published on 11 December 2012.

9. Guidance

HMRC will publish the flat-rate updated valuation tables alongside guidance on the options available to business and how to operate the flat-rate basis of valuation.

10. Impact

10.1 No significant economic effects are expected from the changes.

10.2 The cost to HMRC and taxpayers of updating the flat rate basis provisions is estimated to be negligible.

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

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, the approach taken is to have clear and simple rules set out in clear guidance.

11.3 Although the consultation invited responses from small businesses none commented. The needs of small businesses were represented by accountancy bodies that advise small business.

12. Monitoring & review

12.1 HMRC will update the values in use at least annually as required by the instrument to reflect changes in fuel prices.

12.2 HMRC will monitor how the flat-rate basis of valuation is meeting taxpayer needs for simplification and amend the system if necessary through an Order made by HM Treasury.

12.3 If developments in technology overtake the flat-rate valuation so that it no longer meets business needs the flat-rate valuation scheme will be reviewed and amended as necessary.

13. Contact

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