EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (INCREASE OF REGISTRATION LIMITS) ORDER 2009

2009 No. 1031

1. This Explanatory Memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 The instrument increases the VAT registration and deregistration thresholds in respect of both taxable supplies (Schedule 1 to the Value Added Tax 1994 ("the Act")) and acquisitions from other member States (Schedule 3 to the Act) in line with inflation. The increase takes effect on 1 May 2009.

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

3.1 The laying of the instrument before the House of Commons breaches the '21 day rule'. The instrument has been made by the Treasury in exercise of its powers under paragraph 15 of Schedule 1 and paragraph 9 of Schedule 3 to the Act. Section 97(5) of the Act provides, with certain exceptions that are not applicable here, that a statutory instrument made under any provision of the Act shall be subject to annulment in pursuance of a resolution of the House of Commons.

3.2 The instrument implements measures announced as part of today's Budget. These measures are to take effect from 1 May 2009, the beginning of the first month after the Budget to ensure that the maximum number of businesses will benefit from the change. Consequently, it was not possible to lay this instrument before the House of Commons 21 days before commencement.

4. Legislative Context

4.1 Under paragraph 15 of Schedule 1 and paragraph 9 of Schedule 3 to the Act the Treasury may by Order increase the VAT registration and deregistration thresholds in respect of both taxable supplies and acquisitions from other member States by such sums as they see fit.

4.2 The effect of this instrument is to increase the VAT registration limits for taxable supplies and for acquisitions from other member States in line with inflation from £67,000 to £68,000. This instrument also makes corresponding increases to the limit for cancellation of registration from £65,000 to £66,000 in the case of taxable supplies and £67,000 to £68,000 in the case of acquisitions from other member States.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Financial Secretary to the Treasury, Stephen Timms, has made the following statement regarding Human Rights:

"In my view the provisions of the Value Added Tax (Increase of Registration Limits) Order 2009 are compatible with the Convention rights".

7. Policy background

7.1 The UK's VAT registration threshold (above which persons making taxable supplies are required to register and account for VAT) is currently set at £67,000 and is the highest in the EU. The high threshold is an advantage to small firms, although they can choose to register voluntarily if trading below the registration limit. The deregistration threshold for taxable supplies is currently £65,000 – set lower than the registration threshold to avoid businesses trading around the threshold level having constantly to register and deregister. Historically, the thresholds have normally been increased in successive budgets broadly in line with inflation to maintain their real level.

8. Consultation outcome

8.1 No consultation has taken place as annual revalorisation in line with inflation is expected by business.

9. Guidance

9.1 A Budget Note details the changes to the VAT thresholds. The Supplement to 700/1 and 700/11, in addition to any relevant HMRC web content, will be updated as soon as possible following the announcement of the change. The change in VAT thresholds will also be included in the Supplement to VAT Notes 1 2009 giving details of all changes to VAT announced in the Chancellor's Budget.

10. Impact

10.1 An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities, voluntary bodies or the public sector.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to revalorise the VAT Registration Threshold in line with inflation.

11.3 Any change to the VAT thresholds is limited by the EC Principal VAT Directive Article 286 (Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax) to maintaining the value of the threshold in real terms.

12. Monitoring & review

12.1 Success of this measure will be achieved by maintaining the value of the VAT threshold in real terms and thereby continuing to remove the requirement for the smallest businesses to register. The change will prevent around 2000 small businesses from having to register for VAT.

13. Contact

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