EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (PLACE OF SUPPLY OF SERVICES) (TRANSPORT OF GOODS) ORDER 2012

2012 No. 2787

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 amends Part 2 of Schedule 4A to the Value Added Tax Act 1994 ('VATA') to remove United Kingdom ('UK') VAT from supplies of freight transport and associated services which take place wholly outside the European Union ('EU').

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

3.1 None.

4. Legislative Context

4.1 This instrument amends VATA.

5. Territorial Extent and Application

5.1 This instrument applies to the whole of the UK.

6. European Convention on Human Rights

David Gauke MP, Exchequer Secretary to the Treasury, has made the following statement regarding human rights:
"In my view, the provisions of the Value Added Tax (Place of Supply of Services) (Transport of Goods) Order 2012 are compatible with the Convention rights".

7. Policy background

- ***What is being done and why***

7.1 On 1 January 2010 the UK implemented EU-wide changes to the VAT place of supply of services rules which govern the country where VAT is due.

7.2 One of the results of the changes was that UK VAT became due on supplies of freight transport received by a UK business or charity even where the service physically takes place wholly outside the EU. These services had previously been outside the scope of UK VAT.

7.3 This could result in double taxation, both in the UK and in the place of performance, and was of particular concern to charities undertaking relief work overseas.

7.4 EU Law allows member States to remove from the scope of VAT services physically performed wholly outside the EU. The relevant law is article 59a of Council Directive 2006/112/EC as affecting article 44 of that Directive.

7.5 In March 2010 HMRC introduced a temporary easement to remove UK VAT from freight transport services that take place wholly outside the EU. This instrument formalises the arrangement.

- ***Consolidation***

There are no projects currently on hand to consolidate Schedule 4A VATA.

8. Consultation outcome

8.1 HMRC undertook a limited informal consultation with the transport industry and charities.

9. Guidance

9.1 HMRC's guidance will be updated in due course to reflect this change.

10. Impact

10.1 A Tax Information and Impact Note covering this instrument was published on 28 May 2012 on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm.

11. Regulating small business

11.1 This instrument benefits businesses and charities that purchase freight transport services that are provided wholly outside the EU. It has no specific impact on small businesses.

12. Monitoring & review

12.1 This policy will be kept under review through HMRC’s normal audit activities.

13. Contact

Peter Bennet at HMRC Tel: 0207 147 0324 or email: peter.bennet@hmrc.gsi.gov.uk can answer any queries regarding this instrument.