EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (REFUND OF TAX TO GREAT BRITISH NUCLEAR) ORDER 2026

2026 No. 307

1. Introduction

1.1 This Explanatory Memorandum has been prepared by His Majesty's Revenue and Customs ("HMRC") on behalf of His Majesty's Treasury and is laid before the House of Commons by Command of His Majesty.

2. Declaration

2.1 Dan Tomlinson MP, Exchequer Secretary to the Treasury, confirms that this Explanatory Memorandum meets the required standard.

2.2 Eileen Patching, Deputy Director for Indirect Tax Policy, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Chris Logan at HMRC can be contacted by email at the following address with any queries regarding the instrument: christopher.logan@hmrc.gov.uk. Alternatively, the department can be contacted by telephone: 0300 200 3700.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 Section 33E of the Value Added Tax Act 1994 (c. 23) ("the Act") gives the Treasury the power to specify non-departmental public bodies (NDBPs) and similar organisations as bodies which may claim refunds of Value Added Tax ("VAT") incurred in the course of their non-business activities. This instrument specifies that the company designated by the Secretary of State as Great British Nuclear, under section 317 of the Energy Act 2023, which is currently Great British Energy - Nuclear ("GBE-N"), is a specified person so that, once it is in force, GBE-N or any future designated company will be entitled to claim VAT refunds under section 33E.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The Secretary of State may designate a company as Great British Nuclear in accordance with section 317 Energy Act 2023.

5.2 GBE-N is a publicly funded body which has been designated as Great British Nuclear by the Secretary of State. GBE-N acts as the Government's nuclear delivery body

with the specialist capability and skills necessary to deliver the Small Modular Reactor programme. This instrument specifies that a company designated as Great British Nuclear is entitled to recover VAT incurred in cost-sharing arrangements, or on the cost of contracting-out certain services under section 33E of the Act.

5.3 VAT incurred in the course of non-business activities is not generally recoverable. This means that, ordinarily, public bodies are unable to recover the VAT charged on their purchases of goods and services (or imports of goods) related to their statutory duties, because these are not business activities for VAT purposes.

5.4 Section 41 of the Act allows government departments to reclaim VAT on the cost of contracting out a number of services, or the VAT incurred in cost-sharing arrangements, listed in a Treasury direction. This scheme ensures that what would otherwise be irrecoverable VAT does not become a disincentive to contracting out public services to other providers, or to departments sharing their back-office costs.

5.5 Section 33E of the Act was introduced to allow other public bodies to recover VAT related to their non-business activities on the same basis as government departments.

5.6 To qualify, a body must be specified by the Treasury in an Order under section 33E. GBE-N meets the criteria for consideration by the Treasury for admittance to the section 33E refund scheme. The Treasury is therefore making an Order entitling that body to reclaim non-business VAT insofar as section 33E permits.

What was the previous policy, how is this different?

5.7 There is no change in policy. This instrument is made to add GBE-N to the section 33E refund scheme.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument is made under section 33E and paragraph 18(1) to Schedule 9ZA of the Act and specifies that a company designated as Great British Nuclear under section 317 of the Energy Act 2023 is a specified person for the purposes of the VAT refund scheme under section 33E.

6.2 The VAT refund scheme under section 33E allows eligible NDBPs or similar bodies to claim a refund of VAT charged on supplies of goods and services to them (or the importation of goods by them) in pursuance of their non-business activity. In the absence of section 33E, this VAT would not usually be recoverable under the normal VAT rules because it is not attributable to supplies made in the course of business.

6.3 GBE-N is a NDBP and the company designated under section 317 of the Energy Act 2023, therefore fulfilling the criteria to be a specified person for the purposes of the VAT refund scheme.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 As this change impacts on a single entity and provides GBE-N with parity of treatment with government departments, no consultation was undertaken.

8. Applicable Guidance

8.1 Guidance relating to the administration of the section 33E refund scheme is available in the VAT Government and Public Bodies manual on the GOV.UK website[1]. On the coming into force date, the manual will be updated to include the change made by this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Impact and Information Note covering this instrument will be published on the GOV.UK website[2].

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the legislation does not apply to their activities.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector beyond the named body.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 For reasons of consistency, the VAT issues relating to the public sector are dealt with by a dedicated unit within HMRC. Normal audit activity will encompass the change. Additionally, the measure will be kept under review through communication with affected taxpayer groups.

10.2 The instrument does not include a statutory review clause as this Order does not make regulatory provision in relation to a qualifying activity, as defined in sections 29 and 32 of the Small Business, Enterprise and Employment Act 2015.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

[1] VAT Government and Public Bodies manual: https://www.gov.uk/hmrc-internal-manuals/vat-government-and-public-bodies/vatgpb9660

[2] Tax Information and Impact Note: https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins