EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (RELIEF FOR EUROPEAN RESEARCH INFRASTRUCTURE CONSORTIA) ORDER 2012

2012 No. 2907

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument provides VAT relief for the import or acquisition of goods by a European Research Infrastructure Consortia ("ERIC") and amends Schedule 8 to the Value Added Tax Act 1994 ("VATA") to provide VAT relief for supplies of goods or services to an ERIC.

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

3.1 None.

4. Legislative Context

4.1 This instrument provides VAT relief for bodies set up as an ERIC that have their statutory seat in an EU Member State. To qualify for relief the ERIC must be recognised by the EU Commission by a decision under Article 6(1)(a) of Council Regulation (EC) No 723/2009.

4.2 This instrument introduces a new Group 18 to Schedule 8 of VATA, which provides VAT relief for supplies of goods or services to an ERIC. VAT relief will only be available where the supplies would have otherwise been taxable, the goods or services are for the official use of the ERIC and a certificate is given to the supplier.

4.3 The instrument also provides relief from VAT on the importation or acquisition of goods, again where the goods are for the official use of the ERIC and a certificate is given to the Commissioners.

4.4 Relief will only be available where it is not precluded by the limitations and conditions laid down in the agreement between the members of the ERIC, as referred to in Article 5(1) (d) of Council Regulation (EC) No 723/2009.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

In my view the provisions of the Value Added Tax (Relief for European Research Infrastructure Consortia) Order 2012 are compatible with the Convention rights.

7. Policy background

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

7.1 ERICs are international bodies that have been created by the European Union to facilitate a more pan-European approach to research work.

7.2 This instrument provides the VAT relief to which ERICs are entitled under Articles 3(1)(a), 143(1)(g) and 151(1)(b) of Council Directive 2006/112/EC (the Principal VAT Directive).

8. Consultation outcome

8.1 No concerns were raised in response to the consultation on the VAT relief to be provided.

9. Guidance

9.1 Guidance will be published on the VAT relief alongside its introduction.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 A Tax Impact and Information 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 is not likely to impact on small businesses. In the event it did, the impact would be negligible.

12. Monitoring & review

12.1 As this instrument transposes EU legislation the legislation will be subject to ministerial review every 5 years. HMRC will also monitor and assess the impact of the legislation.

13 Contact

Kshama Purohit at HM Revenue and Customs Tel: 020 7147 0485 or email: kshama.purohit@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

Transposition Note

Implementation of Articles 3, 143 and 151 of Council Directive 2006/112/EC to give effect to Article 50 of Council Implementing Regulation (EU) 282/2011 of 15 March 2011 which provides that European Research Infrastructure Consortia are entitled to VAT relief as International Bodies.

Provision in Directive 2006/112	Summary of Provision	Relevant Provision in the Value Added Tax (Relief for European Research Infrastructure Consortia) Order 2012
Article 143 (1)(g)	Relief from VAT on the importation of goods from a place outside the member States	Article 2
Article 3(1)(a)	Relief from VAT on the acquisition of goods from another member States	Article 2
Article 151(1)(b)	Relief from VAT on a supply of goods or services	Article 3