EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (SPORT) ORDER 2014

2014 No. 3185

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. It contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

This instrument amends Group 10 (sport, sports competitions and physical education) of Schedule 9 (exemptions) to the Value Added Tax Act 1994 ("the Act") to widen the scope of the exemption by removing the requirement for the individual receiving the supply to be a member where the body making the qualifying supply operates a membership scheme.

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

None.

4. Legislative Context

This instrument is made under sections 31(2) and 96(9) of the Act

5. Territorial Extent and Application

This instrument applies to the whole of the United Kingdom.

6. European Convention on Human Rights

The Financial Secretary to the Treasury, David Gauke, has made the following statement regarding Human Rights:
"In my view, the provisions of the Value Added Tax (Sport) Order 2014 are compatible with the Convention Rights.".

7. Policy background

Under European Law supplies by non-profiting making bodies of services closely linked and essential to sport to persons taking part in sport must be exempt from VAT. In implementing this requirement, the UK applied a further test to limit exemption, where the body supplying sporting services operated a membership scheme, to supplies made to its members. Following an appeal by the Bridport & West Dorset Golf Club (Case C-495/12) ("Bridport"), the Court of Justice of the European Union (CJEU) held that, in applying this exemption, it was immaterial whether the supply was provided to a member of the body or a visitor. In other words, a Member State was not permitted to exclude certain groups of recipients from the benefit of the exemption provided that the specified conditions were satisfied.

Under the change now being made, the requirement in UK law for the recipient to be a member where a body operates a membership scheme is being omitted. In future, supplies to both members and non-members are to be treated as exempt from VAT provided all the other conditions are met.

8. Consultation outcome

In line with the Tax Consultation Framework a consultation has not taken place because this instrument is a consequence of a judgment issued by the CJEU, which included a finding that the UK had failed to correctly implement Directive 2006/112 (the Principal VAT Directive). The amendment removes a provision which was not permitted under European Law.

9. Guidance

Revenue & Customs Brief 25/14 was published on 25 June 2014. This explained the implications of the CJEU's judgment in the Bridport case and confirmed that UK legislation would be amended. Notice 701/15 Sport will be updated as soon as possible.

10. Impact

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

11. Regulating small business

The legislation applies to small business. The change will benefit non-profit-making sports clubs, who will be able to apply VAT exemption to supplies of sporting services to non-members that were previously treated as taxable at the standard rate of VAT. Similar supplies made by profit-making sports clubs are all subject to VAT at the standard rate but this distinction is inherent in the provisions of the Principal VAT Directive which expressly limit exemption to supplies made by non-profit making organisations.

12. Monitoring & review

The changes are required following a CJEU judgment. They ensure that European Directives are correctly implemented in UK law. No formal monitoring is planned.

13. Contact

Mike McLachlan at Her Majesty's Revenue and Customs (Tel: 03000 585638 or email: michael.mclachlan@hmrc.gsi.gov.uk) can answer any queries regarding this instrument.