

Amendment	Page	Line
RS 18	22	6
RS 19	22	40
RS 20	22	44

Mr Chancellor of the Exchequer

Amendment 18

Page 22, line 6 [*Clause 19*], at beginning insert ‘An order under this subsection may confer power on the Commissioners to make regulations or exercise any other function.’

Amendment 19

Page 22, line 40 [*Clause 19*], at end insert—

(2A) In section 65 of VATA 1994 (inaccuracies in EC sales statements)—

(a) at the end insert—

“(7) This section applies in relation to a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11 as it applies in relation to an EC sales statement.”, and

(b) in consequence of the amendment made by paragraph (a) the heading becomes “Inaccuracies in EC sales statements or in statements relating to section 55A”.

(2B) In section 66 of VATA 1994 (failure to submit EC sales statements)—

(a) at the end insert—

“(10) This section applies in relation to a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11 as it applies in relation to an EC sales statement.”, and

(b) in consequence of the amendment made by paragraph (a) the heading becomes “Failure to submit EC sales statement or statement relating to section 55A”.

(2C) In section 69 of VATA 1994 (breaches of regulatory provisions), in subsection (1) (failure to comply with a requirement imposed under provisions mentioned in the

Amendment	Page	Line
RS 18	22	6
RS 19	22	40
RS 20	22	44

paragraphs in that subsection), after paragraph (b) insert—

“(ba) paragraph 2(3B) of Schedule 11; or”.’.

Amendment 20

Page 22, line 44 [*Clause 19*], at end insert—

‘(3A) In Schedule 11 to VATA 1994 (administration, collection and enforcement), in paragraph 2 (accounting for VAT and payment of VAT), after sub-paragraph (3) insert—

“(3A) Regulations under this paragraph may require the submission to the Commissioners by taxable persons, at such times and intervals, in such cases and in such form and manner as may be—

- (a) specified in the regulations, or
- (b) determined by the Commissioners in accordance with powers conferred by the regulations,

of statements containing such particulars of supplies to which section 55A(6) applies in which the taxable persons are concerned, and of the persons concerned in those supplies, as may be prescribed.

(3B) Regulations under this paragraph may make provision, in relation to the first occasion on which a person makes a supply of goods to which section 55A(6) applies, for requiring the person to give to the Commissioners such notification of the supply at such time and in such form and manner as may be specified in the regulations.”.’

SUMMARY

1. Clause 19 provides for the introduction of a change of accounting procedure (reverse charge) whereby the Value Added Tax (VAT)-registered customer, rather than the seller, accounts for and pays the VAT on the supply of certain goods of a kind used in Missing Trader Intra Community (MTIC) fraud.

Amendment	Page	Line
RS 18	22	6
RS 19	22	40
RS 20	22	44

2. Amendment 18 provides that a Treasury Order under new subsection 55A(13) amending the Value Added Tax Act 1994 where it is necessary and expedient to do so for the purposes of, or in connection with, section 55A may confer power on the Commissioners for Revenue and Customs to make regulations or exercise any other function.
3. Amendment 19 applies existing penalties for inaccurate EC sales statements and the non-submission of such statements to statements which a taxable person will be required to submit in relation to supplies to which the new section 55A of the Value Added Tax Act 1994 applies. It also provides for a penalty for failing to comply with the notification requirement imposed under new paragraph (3B) of Schedule 11 to the Value Added Tax Act 1994.
4. Amendment 20 introduces a power enabling the Commissioners for Revenue and Customs to make regulations requiring taxable persons trading in goods to which the new section 55A of the Value Added Tax Act 1994 applies to submit statements of those transactions. It also allows the Commissioners to make regulations requiring a notification on the first occasion that a supply of these goods is made.

DETAILS OF THE CLAUSE

5. The amended subsection (13) of the new section 55A of the Value Added Tax Act 1994 provides that a Treasury Order under that subsection may also confer power on the Commissioners to make regulations or exercise any other power.
6. Subsection 2A(a) of the clause inserts a new subsection (7) to section 65 of the Value Added Tax Act 1994 (inaccuracies in EC sales statements). This will apply the penalties in section 65 to statements required under new paragraph 2(3A) of Schedule 11 to the Value Added Tax Act 1994.
7. Subsection 2A(b) of the clause amends the title of section 65 of the Value Added Tax Act 1994 to “Inaccuracies in EC sales statements or in statements relating to section 55A”.

Amendment	Page	Line
RS 18	22	6
RS 19	22	40
RS 20	22	44

8. Subsection 2B(a) of the clause inserts a new subsection (10) to section 66 of the Value Added Tax Act 1994 (failure to submit EC sales statements). This applies the penalties in section 66 of the Value Added Tax Act 1994 to statements required under new paragraph 3A of Schedule 11 to the Value Added Tax Act 1994.
9. Subsection 2B(b) of the clause amends the title of section 66 of the Value Added Tax Act 1994 to “Failure to submit EC sales statement or statement relating to section 55A”.
10. Subsection 2C of the clause inserts a new paragraph (ba) to section 69(1) of the Value Added Tax Act 1994. This applies the penalties in section 69(1) to a failure to give a notification that may be required in accordance with regulations made under new paragraph (3B) of Schedule 11 to the Value Added Tax Act 1994.
11. Subsection 3A of the clause introduces new sub-paragraphs (3A) and (3B) to paragraph 2 (accounting and payment of VAT) of Schedule 11 to the Value Added Tax Act 1994. Sub-paragraph (3A) provides that regulations may require the submission by taxable persons to the Commissioners of statements relating to supplies to which section 55A applies. These may be required at such times and intervals, in such cases and in such form and manner as may be specified in the regulations or determined by the Commissioners in accordance with powers conferred by the regulations. Sub-paragraph (3B) provides that regulations may make provision for the notification to the Commissioners when a person first makes a supply of goods to which the new section 55A applies. The notification may be in such form and manner as may be specified in the regulations.

BACKGROUND NOTE

12. Missing Trader Intra-Community (MTIC) fraud is a highly sophisticated and well-organised criminal attack on the VAT system. The fraud arises through contrived transaction chains involving supplies of high value goods with the tax loss occurring when the VAT charged by the supplier is not paid to HMRC but can be reclaimed by the recipient.

Amendment	Page	Line
RS 18	22	6
RS 19	22	40
RS 20	22	44

13. Clause 19 provides for introduction of a change of accounting procedure for specified goods to tackle MTIC fraud. This change of accounting procedure requires a derogation from the 6th VAT Directive, which the Government has applied for, before it can be introduced. As the recipient will account for and pay the VAT on the supply as well as reclaim the VAT on the purchase of the specified goods, the reverse charge procedure removes the VAT from the transaction chain.
14. The clause will have effect in relation to supplies made on or after a date specified by the Treasury by order. This order will be made once the derogation has been agreed. Detailed secondary legislation specifying the goods and supplies to which the reverse charge will apply and the reporting requirements for business will be introduced at the same time.