

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENTS TO BE MOVED AT REPORT STAGE

Clause 8(1), page 5, line 25, after “must” insert

“following consultation with relevant stakeholders”

Effect

This amendment would impose a duty on the Treasury to consult relevant stakeholders when making regulations as specified.

Reason

Consultation provides an additional layer of scrutiny by stakeholders. Imposing a duty on the Treasury to consult will ensure any draft statutory instrument is exposed to critical comment from stakeholders, which may improve an instrument and help to avoid future issues when it is going through Parliament.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENTS TO BE MOVED AT REPORT STAGE

Clause 8(1)(a), page 5, line 27 after “other” insert

“relevant”

Effect

This amendment would be to limit the Treasury’s powers to classify goods according to their nature, origin, or any other relevant factor.

Reason

The power under clause 8(1)(a) to classify goods “according to their nature, origin *or any other factor*” is a very broad one. We consider that, at a minimum, this should be limited to “any other *relevant* factor”, although it would be preferable to limit the scope of this provision by giving an indication of the types of factor which might be considered appropriate in this context.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENTS TO BE MOVED AT REPORT STAGE

Clause 8(3)(b), page 5, line 38, after “the” and before “weight” insert
“number,”

Effect

To clarify that number of goods may be a relevant factor in calculating the level of import duty.

Reason

Although clause 8(3)(b) allows for import duty to be charged by reference to value, weight, volume “or any other measure of their quantity or size”, and therefore the number of goods is already caught within “any other measure”, the legislation would read more clearly if reference to “the number” were to be specifically included.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENTS TO BE MOVED AT REPORT STAGE

Clause 8(5), page 6, line 6, insert at end

“(e) the interests of manufacturers in the United Kingdom

(f) and the public interest generally.”

Effect

The effect of these amendments would be to ensure that in considering the level of duty to apply to goods when setting regulations, the Treasury should have regard to the interests of manufacturers in the United Kingdom and the public interest generally.

Reason

We support the duty placed on the Treasury to have regard to the interests listed. However, there are other interests which should be considered, most particularly those of manufacturers and the public interest generally.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 9(1), page 6, line 24, leave out “may” and insert
“must, following consultation with relevant stakeholders”

Effect

This amendment would require the Treasury to make regulations to give effect to international agreements. It would also impose a duty upon the Treasury to consult relevant stakeholders in making the regulations.

Reason

The amendment would require the Treasury to make regulations as opposed to merely granting the option to do so. Once the UK has agreed to be bound by an international agreement, there ought to be an obligation on the Treasury to ensure that this can be put this into effect and that the UK honours that agreement.

Consultation provides an additional layer of scrutiny by stakeholders. Imposing a duty on the Treasury to consult will ensure any draft statutory instrument is exposed to critical comment from stakeholders, which may improve an instrument and help to avoid future issues when it is going through Parliament.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENTS TO BE MOVED AT REPORT STAGE

Clause 10(1), page 6, line 32, after “may” insert

“following consultation with relevant stakeholders”

Effect

This amendment would impose a duty on the Secretary of State to consult relevant stakeholders when making regulations as specified.

Reason

Consultation provides an additional layer of scrutiny by stakeholders. Imposing a duty on the Secretary of State to consult will ensure any draft statutory instrument is exposed to critical comment from stakeholders, which may improve an instrument and help to avoid future issues when it is going through Parliament.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENTS TO BE MOVED AT REPORT STAGE

Clause 10(3)(b), page 7, line 4, after “withdrawal”, insert
“and restoration or reinstatement”

Effect

To allow for restoration or reinstatement of the nil rate band.

Reason

Clause 10 relates to the establishment of preferential rates for eligible developing countries. As currently drafted clause 10(3)(b) makes provision for suspension and withdrawal of the nil rate band, however, it should also be possible for the regulations to provide for restoration or reinstatement of the nil rate band and the clause should therefore be amended to provide for this.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 12(1) – at page 8, line 20, after “may”, insert
“following consultation with relevant stakeholders”

Effect

This amendment would impose a duty on the Treasury to consult relevant stakeholders when making regulations as specified.

Reason

Consultation provides an additional layer of scrutiny by stakeholders. Imposing a duty on the Treasury to consult will ensure any draft statutory instrument is exposed to critical comment from stakeholders, which may improve an instrument and help to avoid future issues when it is going through Parliament.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 12(2)(a), page 8, line 25, after “person” insert

“with a relevant interest”

Effect

To limit the class of persons who can make a request for goods to be classed as specified goods for the purposes of the regulations to those with a relevant interest.

Reason

As currently drafted, the Secretary of State would be obliged to consider all requests received. Although it may be unlikely that (s)he would be inundated with vexatious requests, it would seem sensible to limit those who can make requests under clause 12(2)(a) to persons with a relevant interest.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 14(1), page 9, line 24, after “may”, insert
“following consultation with relevant stakeholders”

Effect

This amendment would impose a duty on the Treasury to consult relevant stakeholders when making regulations as specified.

Reason

Consultation provides an additional layer of scrutiny by stakeholders. Imposing a duty on the Treasury to consult will ensure any draft statutory instrument is exposed to critical comment from stakeholders, which may improve an instrument and help to avoid future issues when it is going through Parliament.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 25(7), page 17, after line 4 insert

“(c) related to information or the production of documents which are subject to legal professional privilege”

Effect

To protect legal professional privilege.

Reason

Legal professional privilege (LPP) and confidentiality are essential to safeguard the rule of law and the administration of justice. They permit information to be communicated between a lawyer and client without fear of it becoming known to a third party without the clear permission of the client. Many UK statutes already give express protection of LPP and it is vigorously protected by the courts. The ‘iniquity exception’ alleviates concerns that LPP may be used to protect communications between a lawyer and client which are being used for a criminal purpose. Such purpose removes the protection from the communications, allowing them to be targeted using existing powers and not breaching LPP.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 25, page 17, line 2, leave out “the Data Protection Act 1998” and insert
“the Data Protection Act 2018”

Effect

To ensure the Taxation (Cross-border Trade) Bill reflects current developments in the field of data protection law.

Reason

The General Data Protection Regulation comes into effect on 25 May 2018. The prospective Data Protection Act 2018,¹ through which the GDPR is being incorporated into domestic UK law, will repeal the Data Protection Act 1998. The Bill should be amended accordingly.

¹ <https://services.parliament.uk/bills/2017-19/dataprotection.html>

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 39(3)(b), page 27, line, 5 after “value,” insert
“number,”

Effect

To clarify that number of goods may be a relevant factor in calculating the level of import duty.

Reason

Although clause 39(4) allows for import duty to be charged by reference to value, weight, volume “or any other measure of their quantity or size”, and therefore the number of goods is already caught within “any other measure”, the legislation would read more clearly if reference to “the number” were to be specifically included.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 39(4), page 27, line 16, leave out “and”, and line 17, insert at end

“(e) the interests of manufacturers in the United Kingdom and

(f) the public interest generally.”

Effect

The effect of these amendments would be to ensure that in considering the level of duty to apply to goods when setting regulations, the Treasury should have regard to the interests of manufacturers in the United Kingdom and the public interest generally.

Reason

We support the duty placed on the Treasury to have regard to the interests listed. However, there are other interests which should be considered, most particularly those of manufacturers and the public interest generally.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 42, page 29, line 34, leave out subsections (3) and (4)

Effect

This amendment would remove unnecessary wording.

Reason

Subsections (3) and (4) are mere explanations: they do not set out legal rules and should be deleted. It could, however, be helpful to include the information in this clause in extra statutory guidance.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 47, page 32, line 38, leave out subsection (3)

Effect

This amendment would remove unnecessary wording.

Reason

Subsection (3) is a mere explanation: it does not set out any legal rules and should be deleted. It could, however, be helpful to include the information in this clause in extra statutory guidance.

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENT TO BE MOVED AT REPORT STAGE

Clause 51(1) at page 34, line 39, leave out “appropriate” and insert
“necessary”

Effect

This amendment would limit the scope of powers to be delegated to an appropriate Minister to what is necessary in relation to VAT or duties of customs or excise.

Reason

Clause 51(1) provides that an appropriate Minister may make such provision as the (s)he considers “appropriate” to implement a future agreement, however the term “appropriate” is vague and subjective. A necessity test is clearer and more objective and we believe this power should be limited to making regulations which are considered “necessary” in consequence of, or in connection with, withdrawal from the EU.