

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

Clause 8(1), page 5, line 25, after “must” insert
“following consultation with relevant stakeholders”

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

Clause 8(5), page 6, line 7, leave out “and” and line 8, insert at end
“and (f) and the public interest generally”

Clause 9(1), page 6, line 26, leave out “may” and insert
“must, following consultation with relevant stakeholders”

Clause 10(1), page 6, line 34, after “may” insert
“following consultation with relevant stakeholders”

Clause 10(3)(b), page 7, line 6, after “withdrawal” insert
“and restoration or reinstatement”

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

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

Clause 14(1), page 9, line 24, after “may” insert

“following consultation with relevant stakeholders”

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.”

Clause 39(4), page 27, line 27, leave out “and”, and line 28, insert at end

“and (f) the public interest generally”

Clause 42, page 30, line 1, leave out subsections (3) and (4)

Clause 47, page 33, line 29, leave out subsection (4)

Clause 51(1), page 35, line 22, leave out “appropriate” and insert

“necessary”

TAXATION (CROSS-BORDER TRADE) BILL
AMENDMENTS TO BE MOVED AT COMMITTEE 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.

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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.

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Clause 8(5), page 6, line 7, leave out “and” and line 8, insert at end

“and (f) and the public interest generally”

Effect

The effect of the 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 public interest generally.

Reason

We support the duty placed on the Treasury to have regard to the interests listed. However, consideration should also be given to the public interest more generally.

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Clause 9(1), page 6, line 26, 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.

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AMENDMENTS TO BE MOVED AT COMMITTEE STAGE

Clause 10(1), page 6, line 34, 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.

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Clause 10(3)(b), page 7, line 6, 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
AMENDMENTS TO BE MOVED AT COMMITTEE 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
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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.

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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
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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
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Clause 39(4), page 27, line 27, leave out “and”, and line 28, insert at end

“and (f) the public interest generally”

Effect

The effect of the 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 public interest generally.

Reason

We support the duty placed on the Treasury to have regard to the interests listed. However, consideration should also be given to the public interest more generally.

TAXATION (CROSS-BORDER TRADE) BILL
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Clause 42, page 30, line 1, 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.

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Clause 47, page 33, line 29, leave out subsection (4)

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
AMENDMENTS TO BE MOVED AT COMMITTEE STAGE

Clause 51(1) at page 35, line 22, 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.