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VAT: keeping up to date

The world of VAT is always changing. 'Every question answered seems to give rise to three more', according to one expert commentator.

To help keep your business up to date with recent developments, we look at some of the basic questions here. And in the light of a recent VAT case at the First-tier Tax Tribunal, we also focus on points to watch to get VAT recovery right.

What are the current VAT registration and deregistration thresholds?

Thresholds changed from 1 April 2024. VAT registration is now necessary where taxable turnover for the last 12 months goes over £90,000 (up from £85,000). Registration is also needed if you expect your taxable turnover to go over this threshold in the next 30 days.

Since 1 April 2024, you can apply for deregistration where you can demonstrate to HMRC that taxable turnover will be below £88,000 (rather than below £83,000) in the next 12 months.

In Northern Ireland, the registration and deregistration thresholds for EU acquisitions are now £90,000, rather than £85,000 as previously.

What would registration mean for my business?

HMRC has launched a new VAT registration estimator tool to help businesses see what registration would mean in terms of pricing and profitability.

Accessed through gov.uk guidance pages, rather than via Government Gateway, it allows you to model what would happen if you added VAT to your prices; or absorbed some or all of it into your own costs. It also signposts to a range of VAT guidance. It's free to use and HMRC has no record of the details you input.

How do I change my VAT registration details?

Change to VAT registration details must now be made online. There are limited exceptions,

for example where someone is considered to be digitally excluded. This supersedes the previous form VAT 484 print and post option.

The change stems at least in part from concerns about criminal activity, some VAT 484s having been used fraudulently, with criminals changing businesses' bank account details to reroute VAT repayments to their own accounts.

Tip:

In an age of increasingly sophisticated scams, it's always important to be vigilant. It is worth periodically checking that the bank details shown in your business tax account are correct.

To use the new procedure and make changes online, log into your business tax account on Government Gateway, select 'Your VAT account' and then 'Manage your VAT'. Here you will see 'Your business details', and an option to edit each field. This should allow you to change:

- business contact details (unless you are an overseas user, in which case you should contact HMRC for form VAT 484).
- repayment bank details (unless you want to change details for a partnership, in which case you also need to contact HMRC for form VAT 484, returning this with form VAT 2, Partnership details).
- VAT return dates.

How does the VAT penalty system work now?

A new system of penalties for the late filing and late payment of VAT returns took effect at the start of 2023. The old VAT default surcharge regime was replaced by penalties for late submissions, penalties for late payment and interest for late payment. The introduction of interest for late payment is a new development. This is charged at Bank of England base rate, plus 2.5%. Also new is the fact that even nil

or repayment returns submitted late can now potentially incur late submission penalties.

Tip:

Penalties can be checked and appealed from your online VAT account.

Late submission penalties: The new rules use a complex points-based system. The basic principle is that every return sent in late incurs a penalty point, up to a penalty point threshold, which depends on how often you submit VAT returns. For annual filers, the threshold is two penalty points. For quarterly filers, it's four, and for monthly filers, five. Different rules apply for non-standard accounting periods.

Where someone gets to their penalty point threshold, there's a penalty of £200, and a further £200 penalty accrues for any subsequent late submission, once the threshold has been reached.

You can reset points by taking appropriate compliance action, and we can advise further here. Note too that individual points expire broadly after two years, where someone is below the penalty point threshold.

Late payment penalties: Penalties now reflect how late a business is in paying. The later the payment, the higher the penalty. Again, the rules are complex.

- In outline, where you pay in full or make a Time to Pay (TTP) agreement between the first day after the due payment date, and day 15, you won't be charged a penalty: though you will incur interest.
- From day 16 to day 30, where you pay in full or agree TTP within this period, there's a first penalty of 2% of the VAT owed at day 15.
- If you are more than 31 days late in paying, there are two penalties. The first is 2% of the VAT owed at day 15, plus 2% of the VAT owed on day 30. The second is calculated at a daily rate of 4% per year on the remaining balance, and is charged every day from day 31 until the balance is paid in full.
- Note that late payment interest is charged, even where there is a TTP agreement in place.

How is Time to Pay arranged?

Setting up TTP used to mean having to phone HMRC. Now it's usually possible to apply online without the need to speak to an adviser. There are conditions to be aware of. The debt must be under £100,000; you must aim to pay it off within the next 12 months; and all tax returns must have been filed, for example.

You can't set up a payment plan online if you use the Cash Accounting or Annual Accounting Scheme; or if you make payments online: you will have to contact HMRC instead.

Where TTP conditions are broken, HMRC may cancel the arrangement and charge penalties as though the TTP hadn't existed.

Focus on: Getting VAT recovery right

VAT invoices

To recover input tax, it's always necessary to make sure you have valid VAT invoices to back up your claim. Whether paper or electronic, a VAT invoice should show:

- a sequential number based on one or more series which uniquely identifies the document
- time of the supply
- date of issue of the document (where different to the time of supply)
- name, address and VAT registration number of the supplier
- name and address of the person to whom the goods or services are supplied
- a description sufficient to identify the goods or services supplied
- for each description, the quantity of the goods or the extent of the services, and the rate of VAT and the amount payable, excluding VAT, expressed in any currency
- gross total amount payable, excluding VAT, expressed in any currency
- rate of any cash discount offered
- total amount of VAT chargeable, expressed in sterling
- unit price.

If that sounds picky, it is: and HMRC may challenge input tax recovery where it thinks that invoices don't comply.

VAT at the Tax Tribunal

The importance of having the right paperwork to support input tax recovery was underlined in a recent case that went to the First-tier Tax Tribunal. The case was brought by a construction company which stood to have recovery of input tax for a total VAT amount of just over £15,000 disallowed.

Why? On the grounds that the invoices it held didn't provide enough detail to comply with the VAT rules. HMRC said the description was not enough for it to be able to assess the VAT liability or determine the rate of VAT due. The invoices described the supply simply as 'building works at the above'; and a box marked 'Job address' gave the address of the building site involved.

In the event, the taxpayer won. The Tribunal commented: 'Without attempting to be definitive, our view is that it depends on the matters being invoiced.' It distinguished between invoices for goods and invoices for services, suggesting that for a supply of goods, it would be usual to see a narrative description with enough detail for the customer to check and approve for payment, but that the position for services could be different. It also highlighted that in construction groundworks, it was quite common for lesser amounts of detail to be given. Summing up, it said that the degree of description required 'will very much depend on the context'.

Though this was clearly the best case outcome, verdicts at the First-tier Tax Tribunal are not binding and erring on the side of caution with invoices or other VAT records is definitely the recommended option.

Reclaiming input tax: common areas of risk

- **Check the invoices:** Before any claim to recover input tax, check that your supplier

has correctly charged VAT in the first place. Common errors include charging VAT on a zero-rated or exempt supply, or standard rating a reduced-rated supply. Also remember that input VAT can only be recovered by the recipient of the supply - something to watch carefully if you have multiple VAT registrations, for example.

- **Business purpose:** Input tax should only be reclaimed where goods or services are used directly for the purposes of the business. It's not enough simply for a taxable person to have bought the goods and services: the goods and services themselves must pass this specific test.
- **Goods with both business and private use:** Getting this right can be a particular challenge for businesses where personal and business expenditure can be closely linked. Apportion the input tax by working out the ratio of business to private use and reclaim only the business proportion. Where use changes, for example where you buy an asset, or stock, and intend to use it for the business, but end up using it differently, an adjustment will be needed.
- **Purchase of motor cars:** No reclaim of input tax in most circumstances, though there are some exceptions, such as driving schools, taxis, and motor dealers. Rules are different for vans and commercial vehicles.
- **Business entertainment:** No reclaim of input tax on most business entertaining. Note the distinction between business entertainment and entertaining employees. VAT incurred in entertaining employees is broadly recoverable, though there are exceptions even here.

Working with you

VAT wouldn't be VAT if there weren't exceptions to the rules. In this publication, we've highlighted key areas to be aware of — but with VAT, there is always more to say. Do please contact us for more information.