

# VAT Newsletter

## Welcome

Welcome to the third edition of the SMP Accounting & Tax VAT newsletter.

VAT is often considered an inconvenient tax, and no more so than currently where a number of significant changes are due to take effect from 1 January 2010, which may require significant changes to accounting and reporting systems. Most businesses are currently working towards the year end and staff generally looking forward to a festive break. However, recent reports indicate that most businesses are not yet ready for the changes. Is your business ready to cope with the changes? More details of the changes are contained below.

VAT revenue is generally down and new areas are being examined to raise additional revenue. The changes introduced as part of the VAT Package and the Anti-Fraud Strategy will generally reduce the amount of VAT in circulation, but will significantly add to the compliance cost of VAT.

One thing is for sure; further changes can be expected during 2010.

Finally, may I take this opportunity to wish you a very happy Christmas and best wishes for 2010.



I hope you enjoy our newsletter.

Peter Duchars  
Director of VAT Services

December 2009

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# News from the UK

## VAT rate change with effect from 1 January 2010

Much has previously been written about the return to a standard rate of VAT of 17.5% in the UK and Isle of Man with effect from 1 January 2010.

An opportunity does still exist for businesses to charge VAT at 15% even though the goods or services are not due to be delivered until after 1 January 2010. The anti avoidance legislation announced to accompany the increase in rate only applies where the customer is not registered for VAT, or not able to recover all VAT incurred, and:

- the supplier and customer are connected parties; or
- the supplier funds the purchase of the goods/services; or
- a VAT invoice is issued by the supplier where payment is not due for at least six months.

In addition, the anti-avoidance provisions will also apply where a pre-payment in excess of £100,000 is made before the rate rises in respect of goods or services to be provided on or after the date of the rate increase. If the pre-payment is in accordance with normal commercial practice the anti-avoidance provisions will not be applied.

Invoices issued after 1 January 2010 will generally be liable to VAT at the increased rate, but it is possible to opt, in certain cases, for the rate applying at the time of delivery of goods or supply of services to be applied, even where the invoice is issued after the rate increase.

## Intrastat changes

EC legislation makes provision for the collection of certain statistical data relating to the intra-EU movement of goods. A certain percentage of goods moving must be recorded and following the decrease in the percentage to be covered from 97% to 95% for arrivals the threshold for registration for Intrastat - arrivals is to increase in the UK to £600,000. At the same time the threshold for dispatches is to decrease to £250,000 due mainly to the recession and the number of businesses now undertaking trade with EU customers.

These changes are due to take effect on 1 January 2010, the same date as the changes relating to the filing of EC Sales Lists. As such, it will be worth reviewing your systems to see whether it is now possible to become exempt from the filing of these forms for goods arriving in the UK from EU suppliers.

Generally a business that drops below the registration threshold has to complete Intrastat forms for the remainder of the calendar year, so it is worth contacting HMRC or IoM Customs & Excise before the end of 2009 to ensure Intrastats are not issued during 2010.





## Changes to VAT return filings

With effect from 1 April 2010 the manner in which VAT returns are filed in the UK will change. From that date all new registrations and those businesses with a turnover in excess of £100,000 (excluding VAT) will be obliged to file VAT returns electronically. Paper returns for the remaining businesses will be phased out at a later date, which is currently proposed as 1 April 2012.

At this stage there is no provision to make on line filing compulsory in the Isle of Man.

## Postal Services

Following the ECJ case involving TNT Post UK, HMRC have now clarified the position of the Royal Mail. It has confirmed that whilst the Royal Mail is the only UK business able to exempt its services however the exempting provisions have been too widely drawn, with the consequence that where services provided by the Royal Mail are individually negotiated or are not subject to any price or regulatory control, such services are outside the scope of the exemption and thus liable to VAT.

This move will ensure that for many contracts VAT will be chargeable, thus increasing the price to consumers and ensuring parity with other providers.

# VAT news from the Isle of Man

## UK Revenue Sharing Agreement

Much has been reported in the local press about the impact of the changes recently announced to the UK/Isle of Man Revenue Sharing Agreement. The only changes announced concerns the method under which the VAT revenues collected in the UK and Isle of Man are divided between the two countries.

The VAT revenue is now to be apportioned based on the relative shares of national income, calculated on a consistent basis. This basis is also used to apportion other duties, such as tobacco, beer, spirits and wine, agriculture and pool betting duties. Air Passenger Duty is not included and Lottery and Hydrocarbon Duties will be based on actual consumption.

The effects of the changes are likely to be significant to the Island's economy, made worse by the reduction in the VAT rate and the recession, which have decreased the amount of revenue available for allocation. However, in terms of the overall situation the retention of the Revenue Sharing Agreement with the United Kingdom is still considered beneficial to the Isle of Man.

# 2010 VAT Package and Anti-Tax Fraud Strategy changes

Extensive detail has been provided in the preceding editions of the newsletter regarding the changes introduced as part of the so called "VAT Package". In summary the basic rule for the place of supply, for business to business transactions, will become where the customer is established. In this context the customer will account for any VAT due under the reverse charge provisions, rather than the supplier charging VAT.

As with most areas of VAT there remain certain exceptions to the revised basic provision as outlined in the last edition.

Businesses may need to make changes to their invoicing procedures where they supply such services and may need to obtain details of their customer's foreign VAT registration number to ensure no VAT is chargeable on the supply. For those businesses paying for such services there may be a need to account for VAT under the reverse charge provisions.

To complement the above, changes have also been announced to the time of supply, ie the date on which VAT is due under the reverse charge provisions. With effect from 1 January 2010 VAT will be due under the reverse charge provisions when the service is completed, unless payment is made earlier, when the tax is due on the payment date. Changes to the accounting system may therefore be required, to ensure the date of completion of the service is identified.

For continuous supplies of services, that do not have a completion date or a regular payment date, the due date on which VAT should be accounted for becomes 31 December in each year.

Finally, in order to ensure VAT is being accounted for, a compliance check is required, namely the filing of EC Sales Lists. These are currently required for businesses who supply goods to customers in other EU countries, but now these will also be required for businesses supplying services to VAT registered customers in other EU countries.

In the UK and Isle of Man the frequency for the filing of EC Sales Lists for goods will be either monthly or quarterly (depending on the value of such transactions), but for services EC Sales Lists are required for calendar quarters, with filing within 14 or 21 days, depending on whether a paper or electronic return is filed. Financial penalties are in place for failure to file by the due date.

These changes are to be applied throughout the whole of the EU, not just the UK and Isle of Man, although the practical application may vary slightly from country to country.

Again, these changes are likely to require changes to the accounting systems for affected businesses.





## News from the EU

### VAT grouping provisions

As reported in the previous edition of this VAT newsletter, the EC has been considering the provisions applying to the treatment of VAT groups throughout the EC. The second part of the process has been announced in that a formal request has now been made to the UK and seven other member states to amend their VAT grouping legislation.

The proceedings against the UK, Ireland, the Netherlands, Spain, Denmark and the Czech Republic are all based on the same matter; the domestic legislation in each case permits non-taxable persons to join a VAT group.

At this stage no formal response has been made by HMRC or indication as to how such changes may be introduced, if HMRC decide to accept the request of the European Commission. The UK has two months to make comment at which time the matter may be referred to the ECJ.

These changes are likely to have a significant impact as VAT grouping is used both for administrative purposes, and VAT planning, especially in the finance, insurance and fund related industries which make mainly exempt supplies.

### France

Significant changes have been proposed to the treatment of real estate transactions in France, which, if introduced will take effect from 2011. The proposals will bring about a rewrite of the VAT legislation in this regard and will simplify existing law and ensure consistency with the EU VAT Directive on this subject.

The proposals suggest that all sales of buildings within five years of completion would be liable to VAT (rather than merely the first sale within that period), an election to waive VAT on otherwise exempt transactions would be introduced, a new and enhanced definition of "building lots" would be introduced and certain treatment available for property dealers would be repealed.

### VAT rate increases

Several member states have announced plans to increase the rate of VAT in an attempt to raise further revenue. The standard rate of VAT in Romania is set to increase to 22%, Latvia is set to increase the standard rate to 23%, Finland's rate is also set to increase to the same rate and the Czech Republic has announced 1% increases to both the standard and reduced rate of VAT to 20% and 10% respectively. However, Bulgaria is set to buck the trend having announced a 4% reduction is planned before the end of the current administration, taking the standard rate to 16%.

All these are likely to ensure that the average rate of VAT applying across the EU will exceed 20% during the course of 2010.

# VAT news from elsewhere

## Changes and introductions of VAT

Further evidence of the demand for increased revenue is illustrated by a number of VAT increases and possible introductions currently under consideration. Mexico is seeking to increase its standard rate by 1% to 16%, St Lucia is now amongst the latest countries set to introduce VAT with effect from 1 April 2010 and the United Arab Emirates is considering whether to introduce VAT. A rate of between 2% and 5% is under consideration to alleviate inflation, which reached 11% in 2008.

## Contacts

SMP Accounting & Tax has a dedicated team of four staff working full time on VAT. The VAT team are able to provide VAT compliance services for businesses based in the Isle of Man, UK and Ireland. In addition, VAT consultancy can be provided in respect of any situation from structuring a business, to advice on particular transactions or dealing with the relevant Revenue authorities.

For further detail on any VAT related matter please contact:

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