

VAT Newsletter

Welcome

Welcome to the latest edition of our VAT Newsletter, which provides up to date detail of significant VAT changes over the past few months.

The first quarter has already seen a number of significant changes announced, but many of the concerns expressed about the introduction of the VAT Package seem to be unfounded. Whilst the introduction of EC Sales Lists (also known as recapitulative or VIES statements) has caused additional compliance for many business our experience shows that generally the filing has gone smoothly, so thank you to our clients in this regard.

In the UK and Isle of Man the standard rate of VAT reverted to 17.5% after the 13 month introduction of a 15% rate. Many UK businesses have still not fully passed on the increased rate to their customers, but rumours continue that the standard rate will increase further in due course. There continue to be signs that Revenue Authorities throughout Europe are looking for further revenue raising opportunities.

Finally, I would like to introduce a new member of our VAT team. Rachel Purnell has joined SMP Partners after 11 years with KPMG Isle of Man. Rachel brings a wealth of compliance experience with her and replaces Steve Glynn who has now moved within SMP Partners to a new role. Thanks to Steve for his contribution to the VAT team over the years and those clients and contacts who previously dealt with Steve are asked to now contact another member of the team, details for whom are at the end of this Newsletter.



I hope you enjoy our newsletter.

Peter Duchars
Director of VAT Services

April 2010

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UK News

UK Budget

The thresholds for VAT registration and deregistration increased to £70,000 and £68,000 respectively in the UK Budget. Otherwise the only significant changes announced related to further revisions to the penalty regime for late filing of VAT returns or payment of the relevant VAT liability and in respect of the deduction of VAT incurred on the purchase of assets that are to be used for both business and personal use. The latter was previously dealt with under the so called "Lennartz" principle which will now be abolished.

Further details on both will be announced later in the year.

UK zero rating of aircraft

During the course of 2009 the European Commission issued a formal request to the UK Government requesting they change the legislation relating to the zero rating of aircraft. The required changes were announced as part of the UK budget, and whilst detailed guidance has not yet been announced the legislation is to be amended such that zero rating will only be available where the aircraft is used by an airline operating for reward chiefly on international routes. This brings the UK legislation into line with the EC Directive and will apply not only to the supply of the aircraft but also to the provision of related services and spares.

Services relating to health care professionals

HMRC have recently issued Business Brief 12/10 which seeks to clarify their stance on businesses that provide various health care professionals. A number of employment businesses provide staff involved in this sector, but concern has been expressed as to whether such services are the provision of staff (which would be liable to VAT) or whether they are health services (which would be exempt).

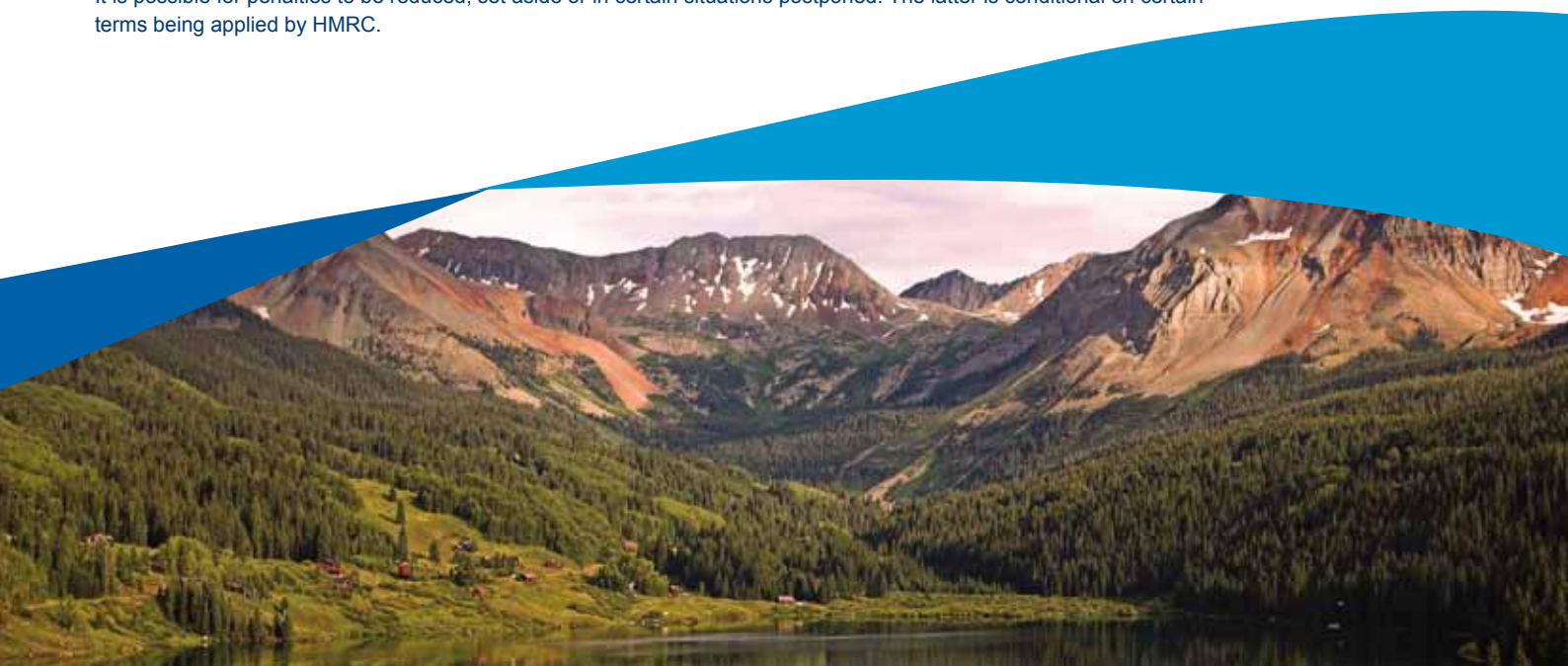
Where the staff fall under the control of the customer, usually a hospital or NHS Trust, the supply will be of staff and thus liable to VAT. Action may be required to amend previous invoicing in this regard.

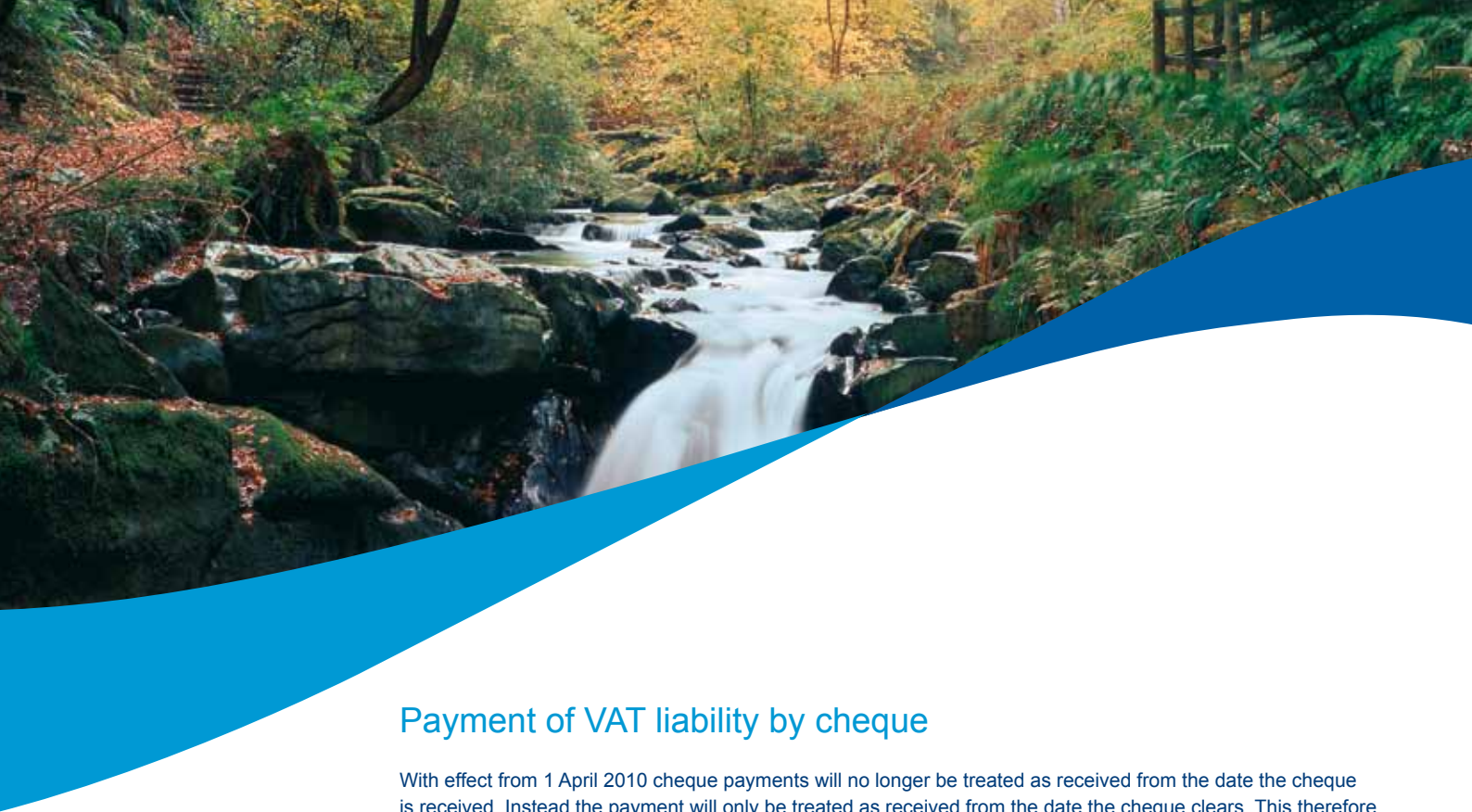
Penalty and interest regimes

The revised penalty and interest regime announced by HMRC last year is now taking effect. The time limit for periods on which HMRC can issue assessments has now increased to four years.

In addition, the full effects of the upgraded penalty regime are now being felt as HMRC in particular have been rigorously applying penalties. The penalty regime applies penalties from 0% to 100% depending on the nature of the error and any subsequent action, and generally it is possible to mitigate penalties by cooperating with the authorities in resolving the matter. In many cases the starting point for penalties has been high and delays have occurred in appealing and mitigating the penalties.

It is possible for penalties to be reduced, set aside or in certain situations postponed. The latter is conditional on certain terms being applied by HMRC.





Payment of VAT liability by cheque

With effect from 1 April 2010 cheque payments will no longer be treated as received from the date the cheque is received. Instead the payment will only be treated as received from the date the cheque clears. This therefore accelerates the timing of the VAT return. Online filing, which is now compulsory for many VAT returns in the UK, together with online payment, remains the most efficient means of dealing with VAT compliance requirements.

VAT news from the Isle of Man

Budget changes

The Isle of Man and United Kingdom form a common Customs and VAT area whereby goods can move freely and revenues are shared according to an agreed formula. The basis of sharing has been amended with effect from 1 April 2010 which will give rise to a significant decrease in VAT revenues for the Isle of Man. The recent Isle of Man budget anticipates VAT revenue of £244m down from the estimated revenue of £292m for the year 2009/10.

Yacht chartering and leasing

During the course of last year HMRC issued a Business Brief that created significant concerns to those businesses involved in yacht chartering and leasing. Following the definition of "abusive business" provided in the ECJ case of Halifax HMRC took the view that many yacht related businesses were artificial.

Isle of Man Customs & Excise have now issued a [practice note](#) which provides further detail as to which structures may qualify for continued VAT registration in the Isle of Man. Effectively commercial charter businesses may continue to register for VAT in the Isle of Man, those businesses that are involved in lease, and were in operation prior to 14 September 2009 will be "grandfathered" until the expiry of the lease or any other change to the nature of the trade, whilst new lease structures will not be permitted to register and those charter structures that are not considered commercial will have to be unwound.

A transitional period until 31 May 2010 is now in place during which time necessary action should be taken. There are various options available and we would be happy to provide advice on this matter for any affected structures.

Online filing

Unlike the UK, the Isle of Man has not yet made online filing of VAT returns and EC Sales Lists mandatory. This does remain their preferred option. The online service for EC Sales Lists is not yet available and consequently the filing deadline for paper returns currently stands at 21 days.

This will reduce to 14 days once the online service is operating, which is envisaged to be in the next month or so, once current testing is completed.

8th Directive reclaims

The EU wide position relating to the recovery of VAT from other Member States under the 8th VAT Directive changed with effect from 1 January 2010. No longer are claims made directly, in paper form, to the Member State of recovery, but instead an online claim is made. For business registered for VAT in the Isle of Man the claim is made through the HMRC portal, but ahead of doing so certain details have to be populated by Isle of Man Customs & Excise. As such, they should be contacted prior to any reclaim being submitted.

Customs matters

Russia, Belarus and Kazakhstan agreed to form a customs union with effect from 1 January 2010, with a common customs code being implemented from 1 July 2010. As a result Customs checkpoints between the members will close in due course.

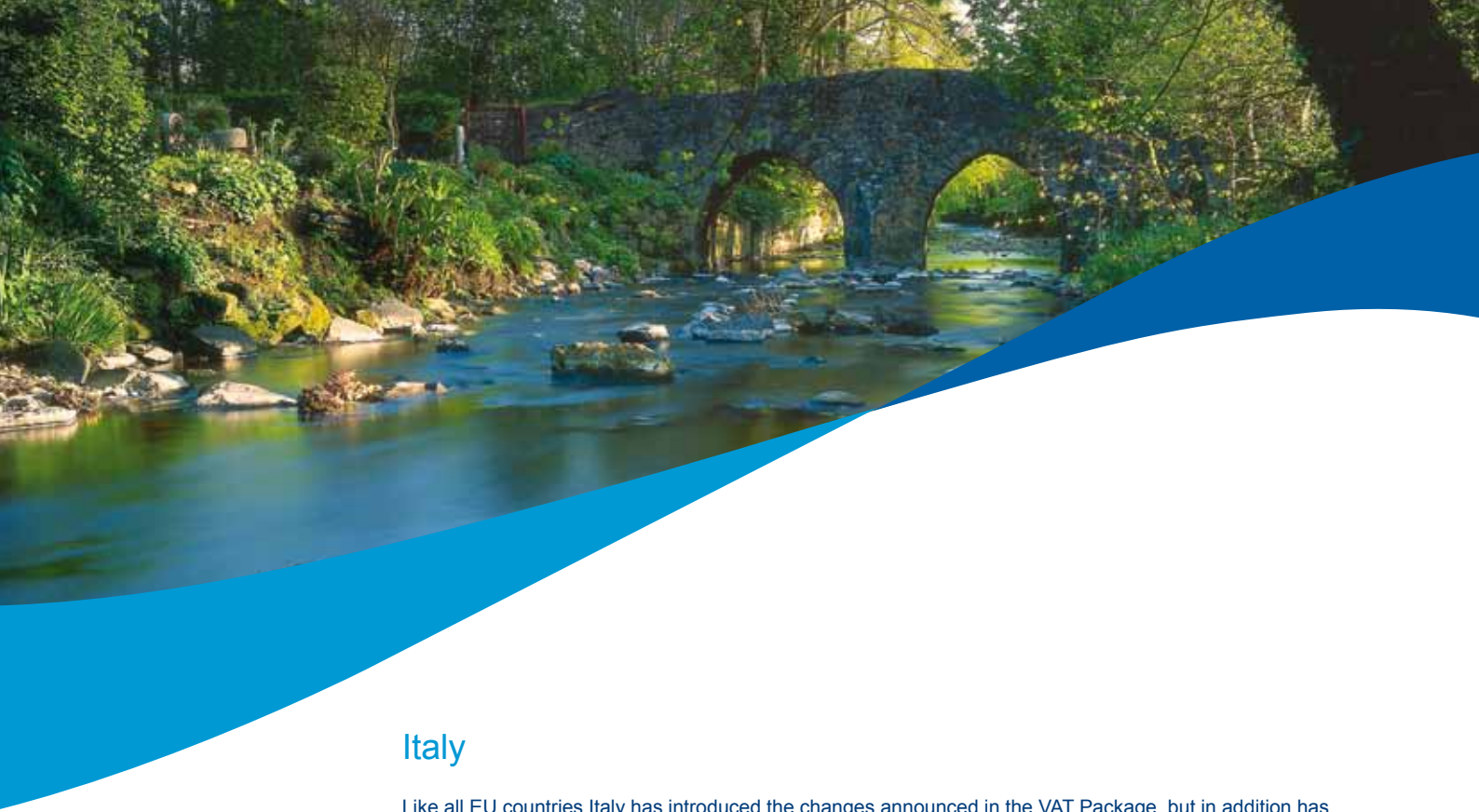
News from the EU

EC Sales Lists

Following the VAT Package changes of 1 January 2010 the supply of many services and goods between a supplier and a business customer in another EC country will be zero rated, provided a number of conditions are satisfied, one of which is that the customer's VAT registration number is quoted on the sales invoice. This will, in addition give rise to a requirement for the supplier to file an EC Sales List or Recapitulative Statement.

The customer's VAT registration number can be verified using the website,
http://www.ec.europa.eu/taxation_customs/vies/vieshome.do





Italy

Like all EU countries Italy has introduced the changes announced in the VAT Package, but in addition has introduced a form of reverse charge for non-established businesses. With effect from 20 February 2010 a domestic supply of goods by a non-established supplier, to a VAT registered customer, will be liable to the reverse charge procedure rather than VAT being charged, even if the supplier has an Italian VAT registration number.

France

The EC has requested France change its legislation relating to the exemption applying to ships and vessels used for navigation on the high seas. It is considered unlikely that this will impact the yachting industry, at least for the larger yachts, but details are still awaited. Perhaps this is part of the ongoing EC initiative into the treatment of yachts used for charter and lease.

Missing Trader Intra-Community (“MTIC”) fraud

MTIC fraud has been common place for a number of years, primarily within the high value low volume goods sector, such as computer games, mobile phones and similar. Recently this form of fraud has spread to services, such as carbon emission trading and recently to telecom services.

This latest issue serves to highlight the importance of knowing suppliers and customers and having procedures in place to test the viability of transactions.

VAT rate changes

The recession has resulted in the demand for increased revenues from indirect tax and in response to this the Czech Republic has increased its rates of tax from 19% to 20% and from 9% to 10%, Greece has increased its rates to 21%, 10 % and 5% (with the rates applying in the Aegean island also increasing, but remaining below those applying in the mainland), Finland has increased its main VAT rates by 1% to 23%, 9% and 13% and Spain will increase its standard rate by 2% to 18% and lower rate by 1% from 1 July 2010. However, the standard VAT rate in Ireland fell to 21% (from 21.5%) on 1 January 2010.

The impact of the above changes is that the average EU standard rate of VAT will be 20.15% at 1 July 2010, the first time the average has exceeded 20%.

VAT news from elsewhere

India

The introduction of GST in India has been delayed for a period of 12 months and will now be introduced in April 2011.

Indonesia

Generally VAT rates globally are increasing, but the prize for the highest rate must go to Indonesia where a super rate of 200% has been introduced on luxury goods, up from 75%.

Canada

In Canada, the provincial sales tax in Ontario and British Columbia are to be merged with the federal GST rate to give a Harmonised Sales Tax of 13% and 12% respectively. Other provinces are expected to follow suit in due course.

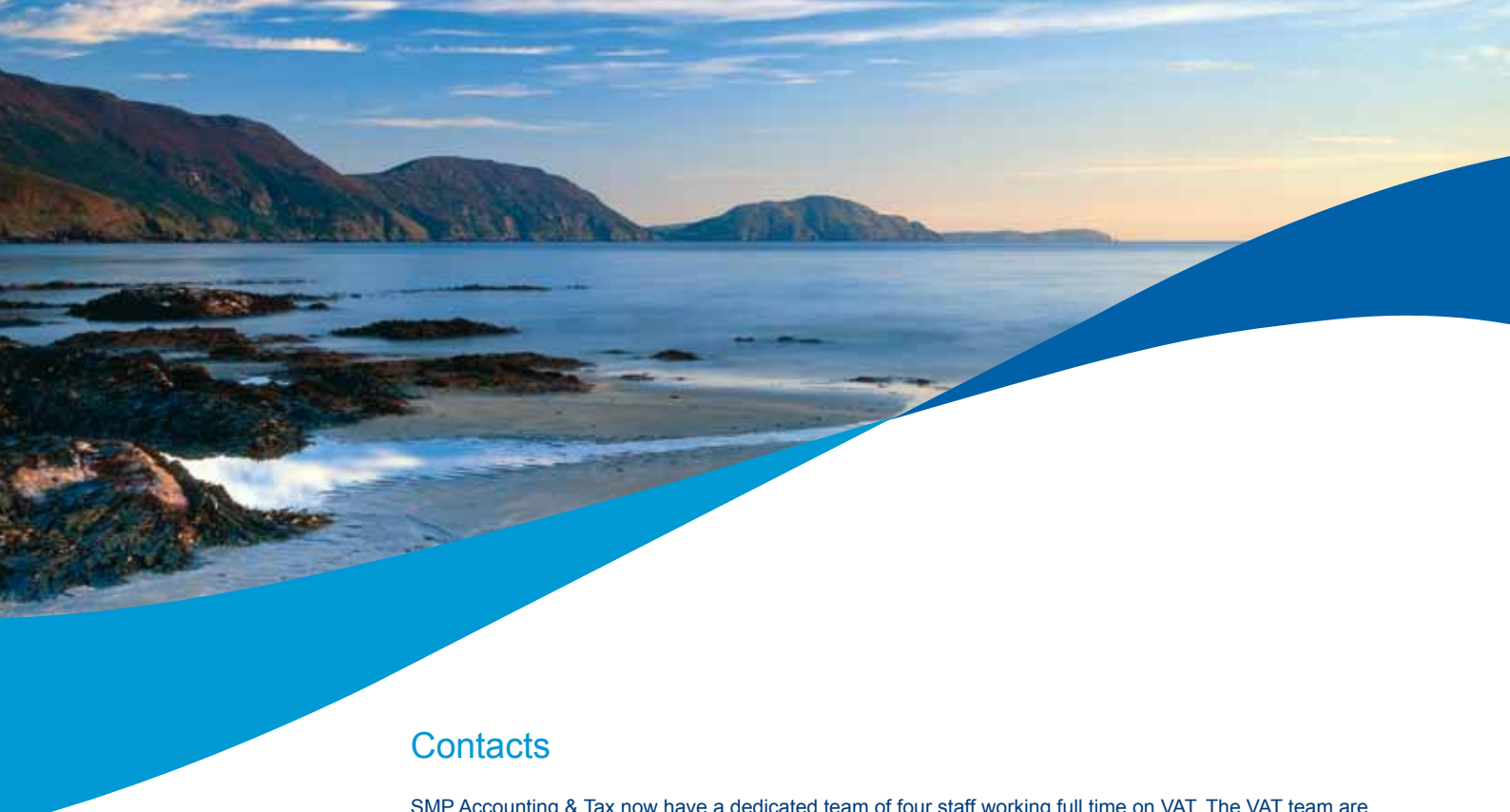
Jersey

Changes to the GST legislation applying in Jersey have recently been announced which include the time of supply being the date of issue of invoices if issued in the same month, the time for the issue of GST assessments is extended to five years and the sale of a business is now outside the scope of GST rather than being zero rated.

Also, the place of supply of certain services changed to where the service is provided or land is located rather than being where the supplier is established.

No further changes are anticipated at this time, but recent warnings indicate that the current rate of GST of 3% will have to increase significantly to cover the budget deficit, some say to at least 12% by 2014.





Contacts

SMP Accounting & Tax now have 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.

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