



VAT Changes - effective 1st January 2010

Rate Change

As from 1st January 2010 the basic rate of VAT was restored to the previous rate of 17.5%. There are no changes to the other rates of VAT (zero and reduced rate).

This change clearly brings with it both administrative problems and one or two opportunities. In particular we would highlight the following:

Retailers

It is important that retailers change their on the shelf prices very quickly. If they are advertising a lower price because of the previous 15% rate of VAT but seeking to charge a higher price at the till the client may be in a position to insist on paying the advertised price.

H M Revenue and Customs are permitting retailers, for a fourteen day period until 14th January, to display general notices informing customers of the higher price because of the VAT change but after that date the ticket prices must be correct. Therefore at the very least as from 1st January retailers should be displaying clear notices in their shops.

Supply of Goods

Where goods are supplied, invoiced and paid for before 31st December then, clearly, the 15% rate applies. Conversely, where goods are supplied, invoiced and paid for after 1st January, then the 17.5% rate applies. However there are situations even relating to supplies of goods where the transaction may span the point of the rate change.

The key issue is what is the tax point date for each transaction. Although this tax point is normally the point of supply, either a prepayment of the amount due for the supply or the invoicing of the cost of supply, can create an earlier tax point. Therefore subject to the anti-forestalling regulations which are explained below, it is possible in some circumstances for supplies of goods which are not delivered until after 1st January to be charged at the 15% rate if either the invoicing or payment for the goods happens prior to 31st December.

Supply of Services

If your supply of service spans the 31st December/1st January, then you can opt to charge your customer a split rate of VAT. However, the split of the rate must be fully supported by the stage of completion of the work that you have reached by 31st December.

For example a landscape gardener who is carrying out some work for a private individual which is going to take a total of four days but, by 31st December, only two days have been completed, can raise a bill subsequent to 1st January with half of the charge subject to a VAT rate of 15% and the other half subject to a VAT rate of 17.5%. In addition, similar to the point made on goods above, if the customer has prepaid or the work has been pre-billed in December then, subject to the anti-forestalling rules, the whole charge is capable of being made at 15%.



Rate Change continued

Flat Rate Scheme

As from 1st January the rates applicable to the Flat Rate Scheme were revised to adjust for the new standard VAT rate. See H M Revenue and Customs website (www.hmrc.gov) for details.

Anti-forestalling Rules

H M Revenue and Customs have published clear anti-forestalling rules to avoid VAT registered traders taking advantage of the rate increase by falsely charging for transactions at the lower rate where the customer is unable to reclaim all or some of the VAT charged to him. If any one (or more) of the following apply to a supply which spans the 1st January, then the trader has to invoice at the higher VAT rate:

- The supplier and customer are connected.
- The value of the supply is in excess of £100,000.
- The supplier is in some way financing a prepayment by the customer.
- The invoice raised by the supplier has a deferred payment term which postpones the due date for payment until at least six months from the date of the invoice.

Opportunity

VAT registered traders, within these rules, could offer their customers who are unable to reclaim any or all of the VAT charged to them, a bonus, perhaps in return for a part or full payment prior to 31st December. This could produce significant cashflow advantages for the business.

In similar vein, service providers could choose to issue interim bills on work in progress prior to 31st December at the 15% rate thus boosting their billing and advancing their cash collection, while at the same time offering some of their customers an effective 2.5% discount.

Place of Supply of Services

The 1st January also brought about a significant change in the regulations relating to supplies of services. If your business only supplies goods then you need read no further, the changes purely relate to providers of services. Also if you are a provider of services who purely deals with UK customers the changes will have no impact on the VAT status of your supplies. The key changes impact on those trading with EC based customers.

New General Rule

As from 1st January the place of supply of services where the supply is from one business to another will be where the customer belongs. This is a reversal of the previous general rule which set the place of supply as to where the supplier belonged.

There are exceptions to this general rule in the case of certain categories of services, brief details of which are provided below.



Place of Supply of Services continued



Impact of the Change

If you are supplying a business customer in another European country the place of supply will be that country, not the UK. Therefore the transaction would be outside the scope of UK VAT, no UK VAT chargeable and the customer will then account for VAT in his home country under the reverse charge procedure.

The new general rule applies to supplies to any business customer, whether they be VAT registered or not in their home European country. Therefore to not charge UK VAT you need clear evidence that your customer is, indeed, a business and not a private individual. If they are VAT registered in their home country that VAT number is, in itself, clear evidence, but if they are not VAT registered you will need on file documentary evidence demonstrating their business status.

Where your supply is not to a business i.e. to a private customer, the new rules do not apply. In the case of a supply, therefore, to a private individual in another European country, the place of the supply continues to be the UK and UK VAT should be charged on that

supply.

The main result of the change is that many more supplies to European business customers will now be subject to the reverse charge rules than previously. This, in itself, comes with an extra reporting burden which has not previously existed for suppliers of services. With effect from 1st January, on a calendar quarter basis, suppliers of services needed to start to submit **EC Sales Lists** to H M Revenue and Customs. These lists have only previously applied to suppliers of goods. Only reverse charge supplies to European business customers are to be included, not supplies to non-business EC customers.

The relevant form is form VAT 101 which is available for download from H M Revenue and Customs website (www.hmrc.gov). The first calendar return will be required for the quarter ended 31st March and there are strict time deadline rules for submitting these returns:

- If you are doing a paper return - 14 days from the calendar quarter end.
- If you are making the return electronically - 21 days from calendar quarter end.



Place of Supply of Services continued

Impact of the Change continued

Where you are making a supply which is subject to the reverse charge and, therefore, does not contain any UK VAT charge, your invoice should be clearly marked with the following phrase – “this is a reverse charge service for VAT purposes”.

One advantage coming with the change is that since 1st January 2010 the recovery of input VAT that has been suffered by a UK business in other European countries should be easier to reclaim. As from that date a new system was introduced whereby any such claim will be made to the UK VAT authorities rather than to each individual European country.

The previous system has proved to be so difficult and slow for UK suppliers that many of them have not bothered to reclaim VAT in the past. It is hoped that the new system, that will be based on forms in English, which will be submitted to the UK authorities, will provide a much simpler system to recover VAT suffered in the EC.

Exceptions to the General Rules

The following categories of supply of services have different rules. If you are making supplies which fall into these categories please talk to us:

- Supplies relating to land.
- Artistic, cultural, sporting and educational services.
- Restaurant and catering services.
- Means of transport.

Conclusion

If you are a supplier of services with customers in the EC you need to make sure of the VAT status of your supplies as from 1st January. Also, for the first time, you have the new burden of the quarterly submission of EC sales lists which need to be done regularly and on time, even if you only make one supply of service to a business customer in the EC in any quarter. There is no de minimus limit for EC sales lists.



For further advice and assistance

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