

March 2008 Budget Edition

As usual VAT was hardly mentioned in the Chancellors speech and we had to wait until the press releases became available to see what changes were being proposed.

VAT registration/deregistration

Thresholds to be increased with effect from 1 April 2008 to £67,000 for registration and £65,000 for cancellations.

VAT Fuel Scale charge for private mileage

Scales increased to reflect increases in the price of fuel and are to be used for VAT return periods that commence on or after 1 May 2008.

Correction of errors on returns

The limit is to be increased to the greater of £10,000 or 1% of turnover, subject to an upper limit of £50,000. This will apply to VAT return periods that commence on or after 1 July 2008.

Comment. This is a welcome change as the current limit of £2,000 is far too low.

Claims for overpaid VAT

In response to the defeat for HMRC in the House of Lords the government is allowing businesses until 31 March 2009 to submit claims for overpaid VAT during the period 1973 to 1996/97.

Comment. This will give businesses adequate time to consider if they can now submit a claim. Providing the business was registered for VAT during the above period a claim is still possible. We are working with a number of businesses helping them to identify areas where a claim can now be submitted.

Staff hire concession

With effect from 1 April 2009 the current concession that allows employment

businesses to only charge VAT on their profit for the supply of temporary staff is to be withdrawn.

Comment. This is currently a very important concession for those businesses that are not able to recover all their VAT and therefore their costs of hiring temporary staff is set to increase, especially for charitable organisations.

Independent Pension Trustees

Where insolvency practitioners appoint an independent pension trustee, VAT is normally recoverable up until the insolvency practitioner has completed their role. Once the business has gone, there is no vehicle for VAT recovery to take place in relation to the pension fund that may remain.

A recent tribunal has cleared the way for specialist pension trustees to reclaim VAT back on their charges which was previously unrecoverable. This could generate quite large VAT repayments to the benefit of the pension fund.

Comment. A window of opportunity to reclaim VAT going back three years, the value of which will be a welcome boost to individual pensions funds.

Cost of Fundraising

The cost of fundraising for unrestricted income by charities was previously treated as not VAT recoverable but a High Court decision in 2005 clarified that a proportion of VAT incurred in raising unrestricted funds can now be recovered. Previously, this was limited to three years, back to 2005 but with the window open for claims going further back, charities may need to review their records.

Comment. Charities may now take advantage of both the 2005 High Court outcome, combined with a retrospective claim back to 1973 potentially which may prove lucrative for some charities that had previously not recovered VAT.

VAT Cases Update

Friends of the Elderly

This case concerned the charging of VAT on architects fees that were incurred “in connection with the installation” of a new lift in a VAT qualifying building. The installation of the lift was correctly zero rated but HMRC maintained that the relief

did not extend to professional fees.

The Tribunal ruled that the architect's services were necessary for the installation of the lift and therefore zero rating applied.

Comment. HMRC are likely to appeal this case but charities should consider submitting claims because of the 3 year cap and also consider if they paid VAT on professional fees during the period prior to 1997 and can therefore submit a claim for that as well.

MOT fees (again)

Yet another case where a garage used the services of an MOT station and charged their customer more than they had been charged by the MOT station. And once again HMRC lost!

Comment. All garages that use the services of a third party MOT testing station should review their arrangements and consider how to protect themselves. Also if they have been assessed for VAT by HMRC in the past consider if they are now able to claim it back.

One for the Future - New Penalty Regime for Errors

A new penalty regime is due to be introduced for errors made on returns commencing on or after 1 April 2008 which are submitted from 1 April 2009.

This will apply to errors made in respect of any taxes that HMRC collect and businesses could find they become liable to penalties for errors that under the current separate regimes for taxes would not trigger a penalty.

Currently, a business could be liable to a penalty for where the amount of the error exceeds £1m or more than 30% of the proper amount of VAT due (mis-declaration penalty) or if the business makes persistent errors above certain limits (persistent mis-declaration penalty). The penalty rate in all cases is 15%.

However the tests applied under the new regime will focus on the behaviour of the business which led to the inaccuracy and even in cases where a business makes a voluntary disclosure they may still be penalised.

HMRC will soon consider if the business applied reasonable care. If yes then a penalty will not be charged. If reasonable care was not exercised, the standard penalty will be 30% of the amount of the error. If the business discloses the error the penalty is reduced to 15% if prompted and to nil if unprompted.

If the business deliberately makes an incorrect return but does not conceal it the penalty rate will be 70%, reduced if a disclosure is made. If the business submits a deliberate incorrect return and conceals it the penalty will be 100%.

So what do businesses need to do?

All businesses will need to conduct a review of their procedures in place for determining the correct VAT treatment of transactions and how they prepare for the completion of VAT returns.

In particular they need to consider who is responsible for making decisions regarding VAT, are they appropriately qualified/ trained and how are they kept up to date, does the person responsible for preparing VAT returns have sufficient knowledge, have systems documentation been prepared regarding the processes involved for the preparation of returns

Businesses may be tempted to wait to see if HMRC find errors, but this could work against them when it comes to a penalty and reduction in penalty. Also HMRC policy is to increasingly focus on businesses that, in their view, represent a high risk and those in this category can expect to receive more frequent visits.

Comment. We are already working with businesses to assist them to identify areas that need to be improved upon and to help them implement procedures to ensure that those improvements can be maintained.

VAT Training

Our recent workshops were a great success. If you missed out this time but still interested in renewing your existing VAT knowledge or simply starting anew to the subject, then we will be holding further workshops in 2008. We also offer more tailored training to suit specific areas or needs, either way please email by return if you want to be included on the list for next year or discuss further.

For further information on this or any other VAT related issue please

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