

the bottom line

Welcome to the Autumn edition of the bottom line, our accounting and taxation newsletter. In this edition we focus on the VAT changes which come into effect on 1 January 2010 and look briefly at the impending increase of income tax rates to 50% for the highest earners.

VAT CHANGES

Cross border VAT changes

One of the most asked questions by businesses who provide services to customers outside the UK is should they charge VAT? The assumption is often that if the customer is overseas then there is no need to charge VAT. The current answer is far from straightforward as there are complex rules which define the place of supply of the service, which in turn defines whether VAT should be charged. It may also impose a requirement for the supplier to register for VAT in another country. The complexity of the rules means that innocent errors can arise, possibly leading to the imposition of interest and penalties by HM Revenue and Customs.

As part of an effort to harmonise the rules for intra European Union supplies of services new rules are being introduced with effect from 1 January 2010. These new rules will also affect the time of supply of these services and introduce more filing requirements for all businesses with European dealings. There are also some much needed improvements to enable businesses to claim VAT suffered on expenditure within other countries of the EC more efficiently than at present. By its very nature this article is only intended to be a brief overview of the impending changes to what is already a complex area. Our view is that taken on the whole the changes are welcome. They do, however, bring yet more stringent filing requirements for the businesses affected.

The stated intention of the new rules is to:

- Modernise and simplify the current rules in relation to cross border supplies.
- Make the recovery of VAT suffered in other EU countries more efficient.

- Help counter VAT fraud.

Specifically the current basic rule that the **place of supply** of a service is where the supplier is established is being changed by a general rule so:

- The place of a supply to a relevant business (mainly VAT registered in the EU) will be where the customer belongs.
- The place of supply to a non-business customer will be where the supplier belongs.

For many businesses there will be no practical impact of this part of the changes. This is because the complex current basic rules have numerous exceptions and concessions which will effectively become redundant. However there are still a number of exceptions to the new general rule which are too numerous to detail here. The most widely encountered of these is in relation to services in respect of land, where VAT is chargeable where the land is located. Plans are in place to make further changes over the next few years with a view to achieving taxation in the place of consumption.

The current reverse charge mechanism will effectively continue unchanged so that a business receiving services from an EU business will account for UK VAT in the same way. However the **time of supply** rules are being changed so that the tax point will be at the completion of the service, with an earlier tax point to the extent that they are paid for beforehand.

Changes to EC sales lists

To enable tax authorities to check that VAT is being accounted for correctly by a business receiving intra-EU supplies of services, UK VAT-registered businesses that supply services to EU businesses where the place of supply is the customer's country, will have to

complete **EC Sales Lists (ESLs)** for each calendar quarter. These should be filed with HMRC within 14 days for paper returns and 21 days for electronic returns. The standard reporting period for all ESLs, whether for goods, services, or both, will in principle be monthly although the UK has taken the option of allowing quarterly reporting periods for supplies of services and, subject to the threshold below, for goods as well.

This means that from 1 January 2010 UK businesses will have to prepare monthly ESLs for supplies of goods, where the value of those supplies exceed £70,000 per quarter (reducing to £35,000 from 1 January 2012) and to prepare quarterly ESLs for supplies of services. Where a business makes supplies of goods below the specified threshold, they may use a reporting period of a calendar quarter.

Businesses that make intra-EC supplies of both goods and services will be able to choose whether to report all their supplies monthly, or to report just the goods monthly and their supplies of services quarterly. The information required and the format of the returns will remain largely unchanged. There are no changes currently proposed for Intrastat returns.

Changes to the EC VAT refund claims

The cross-border refund system which enables a business to recover the VAT it incurs on expenditure in an EC Member State is being substantially changed. The current paper-based system is being replaced by a new electronic procedure for all claims



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submitted after 1 January 2010. Businesses established in the UK will submit claims for VAT incurred in other EU countries on a standardised form through a portal on UK Government Gateway, and not direct to the Member State of the Refund as at present. The time limits for claims are to be extended and deadlines set for refunds to be made. If these deadlines are not met interest will be payable. The intention is that the streamlined and more efficient procedures will encourage claims for smaller amounts to become more cost effective.

Increase in the standard VAT rate

The standard rate of VAT was temporarily reduced to 15 per cent on 1 December 2008 and it will return to 17.5 per cent on 1 January 2010. Any sales of standard-rated goods or services

that are made on or after 1 January 2010 must be charged VAT at the rate of 17.5 per cent. If you have a cash business and calculate your VAT using the VAT fraction you must revert to the VAT fraction of seven forty-sevenths from 1 January 2010. For those using the flat rate scheme, the percentage will, on the whole, revert back to the previous rates, but please check with us.

The change only applies to the standard VAT rate. There are no changes to sales that are zero-rated or reduced-rated for VAT. Similarly, there are no changes to the VAT exemptions. Any sales made at these rates are unaffected by this change.

The 50% rate of income tax

The advent of the 50% rate of income tax from 6 April 2010 leaves

those individuals earning over £150,000 facing the highest effective rate of UK tax for over 20 years. The position is further exacerbated by the restrictions to be placed on pension contributions and the tapering away of personal allowances for those earning over £100,000. Although the new rate is effective for 2010/11, for many self-employed individuals whose accounting year end falls early in the tax year, profits earned now could be subject to the 50% rate. For example a 30 April year end would mean profits earned from 1 May 2009 are potentially taxable at 50% unless action is taken.

We have strategies available to potentially mitigate tax for almost all individuals who will fall into the higher rates. We would be happy to discuss the options which might be suitable for your circumstances.

NEWS IN BRIEF

Minimum Wage

With effect from 1 October 2009 the National Minimum Wage rates have changed to:

Main rate for workers aged over 22	£5.80
Workers aged 18 – 21	£4.83
Workers aged 16 – 17	£3.57

Director's service addresses

From 1 October 2009 onwards, every director will have two addresses filed at Companies House - his usual residential address (as now) - and a service address. Only the service address will be seen by the general public although some old documents may still show the residential address. Companies House will provide a service to eliminate old addresses on the record. The service address can be any address at which documents may effectively be served on a director. The Companies Act provides that the company's registered office can be supplied as a director's service address. By default, director's residential address automatically became a director's service address on 1 October 2009 for all current directors. It is possible, however, to register a different service address with effect from that date. This

would seem a sensible course of action and we are in the process of writing to those clients to whom we provide company secretarial services in this regard. If you would like our assistance in providing or changing a service address please let us know.

PAYE penalties

With effect from 2010/11 HM Revenue and Customs will have new powers to collect penalties on late payment of PAYE and NIC. The intention is to attempt to stop many businesses using the Treasury as a form of free overdraft.

At present, HM Revenue and Customs are able to take action to recover unpaid PAYE and CIS deductions that have not been paid over by the due date. However penalties and interest are chargeable only for deductions not paid over by 19 April following the end of the tax year. From 19 May 2010, the due date of the first payment for 2010/11, there will be a new system of penalties based upon the tax due and dependent upon the number of payments that have been late during the year. The maximum penalty will be 4% of the payments missed if 10 late payments are made. In addition, two levels of surcharge will be made. If a payment is 6 months late there will be a 5% surcharge and a further 5% if the payment is over 12 months late.

HM Revenue and Customs - new disclosure opportunity

HMRC has announced that a 'new disclosure opportunity' (NDO) and a Liechtenstein disclosure facility (LDF), are available to help tax payers bring their UK tax affairs up to date at a reduced penalty of 10%. To take advantage of this "opportunity" you must notify your intention to disclose by 30 November 2009 and provide full details on paper by 31 January 2010 or 31 March 2010 if disclosing electronically. The background to this is that HMRC has already obtained court rulings against a number of financial institutions, including some UK based foreign banks, requiring them to supply specific details for all UK based account holders. HMRC intend to match this information with records they hold and investigate discrepancies.

GBA news

We are pleased to announce that Amanda Nelson, a qualified lawyer, has joined us as an additional tax partner on 2 November. She was previously a private client partner at Dawsons solicitors and brings with her a wealth of experience particularly in capital taxes, trusts and estate planning. Amanda will be a valuable addition to our team.

Contacts:

For further information about the issues raised in this newsletter or if you would like to find out about the range of services that we can offer, please contact Stephen Dabby, Morisha Christy, Tony Sian, Nick Nicolaou or Alex Green.