

VAT UPDATE 2015/16

INDEX

**Covering quarterly update
April 2015**

VAT Update April 2015 Index

INTRODUCTION

This index arranges the material in the update according to type of source (CJEU decision, High Court, Tribunal, new law etc.). If you are looking for a particular word or name, use the “find” function to find it.

This is a cumulative for the year to date. Each January’s index will be the final index for the calendar year to 31 December.

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1 HMRC’s publications of their views

<i>Notice 700</i>	Updated version of the VAT Guide	Apr 15 6.9.1
<i>Notice 701/7</i>	Revised version of Notice <i>Reliefs for disabled people</i>	Apr 15 2.4.4
<i>Revenue & Customs Brief 2/2015</i>	HMRC give further comments about <i>Skandia</i> decision of CJEU	Apr 15 6.1.1
<i>Revenue & Customs Brief 8/2015</i>	More guidance about input tax claims by employers operating defined benefit pension schemes	Apr 15 5.6.1
<i>VAT Information Sheet 1/2015</i>	HMRC guidance on <i>Bridport</i> claims	Apr 15 2.3.3
<i>VAT Information Sheet 10/2014</i>	Exchange rates for traders registered under the pre-MOSS special scheme for e-traders	Apr 15 4.1.3
www.gov.uk/government/consultations/hmrc-penalties-a-discussion-document	Discussion document on review of penalty regime	Apr 15 6.8.1
www.gov.uk/government/consultations/simplification-of-intrastat	Summary of responses to Intrastat consultation	Apr 15 4.3.2
www.gov.uk/government/publications/vat-notification-of-an-option-to-tax-land-and-or-buildings-	Revised versions of forms VAT1614A and VAT1614H	Apr 15 3.2.1

vat1614a#history		
www.gov.uk/government/publications/vat-supplying-digital-services-to-private-consumers	Updated HMRC guidance on MOSS rules	Apr 15 4.1.2
www.gov.uk/register-and-use-the-vat-mini-one-stop-shop	HMRC's guidance on how to register and use MOSS updated	Apr 15 4.1.2

2 Statute and other Parliamentary material

<i>SI 2015/449</i>	London Legacy Development Corporation specified body under s.33 VATA 1994	Apr 15 5.8.5
<i>SI 2015/750</i>	Annual increase in registration thresholds	Apr 15 6.2.3
<i>SI 2015/Draft</i>	Changes to partial exemption rules in relation to turnover of foreign branches	Apr 15 5.3.1
www.gov.uk/government/publications/vat-deductions-relating-to-foreign-branches	Changes to partial exemption rules in relation to turnover of foreign branches	Apr 15 5.3.1
www.gov.uk/government/publications/vat-refunds-for-palliative-care-charities	Palliative care charities added to s.33 bodies	Apr 15 5.8.5
www.gov.uk/government/publications/vat-refunds-to-medical-courier-charities	Search and rescue charities added to s.33 bodies	Apr 15 5.8.5
www.gov.uk/government/publications/vat-refunds-to-strategic-highways-companies	Strategic Highways Companies added to list in s.41(7) VATA 1994	Apr 15 5.8.5
www.gov.uk/government/uploads/system/uploads/attachment_data/file/385271/Refunds_of_VAT_to_search_and_rescue_charities.pdf	Medical courier charities added to s.33 bodies	Apr 15 5.8.5

3 Other UK official material

4 Case law: Court of Justice of the European Union

CJEU (A-G) (C-109/14): <i>Finanzamt Hamburg-Mitte v Marenave Schiffahrts AG</i>	Opinion about deduction of input tax by holding company and legality of restrictions on grouping	Apr 15 4.4.8
CJEU (A-G) (Case C-108/14): <i>Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG v Finanzamt Nordenham</i>	Opinion about deduction of input tax by holding company and legality of restrictions on grouping	Apr 15 4.4.8
CJEU (Case C-131/13): <i>Staatssecretaris van Financiën, other party: Schoenimport 'Italmoda'</i>	Member State could apply general principle that traders must act in good faith to deny tax advantages, even if	Apr 15 4.4.4

<i>Mariano Previti</i>	specific powers not enacted in law	
CJEU (Case C-144/13): <i>VDP Dental Laboratory NV, Staatssecretaris van Financiën</i>	Exemption of intra-community acquisitions of dental prostheses depends on exemption of onward supply by purchaser	Apr 15 4.3.1
CJEU (Case C-154/13): <i>X BV</i>	Exemption of intra-community acquisitions of dental prostheses depends on exemption of onward supply by purchaser	Apr 15 4.3.1
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CJEU (Case C-163/13) <i>Turbu.com BV</i>	Questions about connection with fraud were hypothetical and therefore inadmissible	Apr 15 4.4.4
CJEU (Case C-164/13) <i>Turbu.com Mobile Phone's BV</i>	Questions about connection with fraud were hypothetical and therefore inadmissible	Apr 15 4.4.4
CJEU (Case C-479/13): <i>Commission v French Republic</i>	France's lower rate on e-books held to breach PVD	Apr 15 4.4.3
CJEU (Case C-499/13): <i>Macikowski v Dyrektor Izby Skarbowej w Gdansk</i>	Polish rules requiring bailiff to account for output tax on property sold for creditor were not contrary to Directive	Apr 15 4.4.7
CJEU (Case C-502/13): <i>Commission v Grand-Duchy of Luxembourg</i>	Luxembourg's lower rate on e-books held to breach PVD	Apr 15 4.4.3
CJEU (Case C-55/14): <i>Régie Communale Autonome du Stade Luc Varenne v État Belge</i>	Letting of football stadium seemed more likely to be supply of services than supply of land	Apr 15 3.1.1
CJEU (Case C-594/13): <i>'go fair' Zeitarbeit OHG v Finanzamt Hamburg-Altona</i>	Staff agency could not qualify for exemption for bodies recognised as supplying care	Apr 15 4.4.6
CJEU (Case C-639/13): <i>European Commission v Republic of Poland</i>	Poland's lower rate on fire protection goods held to breach PVD	Apr 15 4.4.3
CJEU (Case C-662/13): <i>Surgicare – Unidades de Saúde SA v Fazenda Pública</i>	PVD did not preclude the mandatory application of a preliminary procedure in relation to determining VAT abuse	Apr 15 4.4.5
CJEU (Reference) (Case C-419/14): <i>WebMindLicences Kft. Nemzeti Adó és Vámhivatal Kiemelt Adó és Vám Főigazgatóság v Nemzeti Adó és Vámhivatal Kiemelt Adó és Vám Főigazgatóság</i>	Reference about power of Hungarian authorities to counter perceived tax avoidance through contrived transactions	Apr 15 4.4.5
CJEU (Reference) (Case C-497/14): <i>procedimento penale a carico di</i>	Questions for CJEU about penalties	Apr 15 4.4.9

<i>Stefano Burzio</i>		
CJEU (Reference) (Case C-516/14): <i>Barlis 06 – Investimentos Imobiliários e Turísticos SA v Autoridade Tributária e Aduaneira</i>	Questions for CJEU to clarify level of detail required for an invoice for services	Apr 15 6.6.3
CJEU (Reference) (Case C-518/14): <i>Senatex GmbH v Finanzamt Hannover-Nord</i>	Questions for CJEU to find out if there are specific requirements for correction of incomplete invoices	Apr 15 6.6.2
CJEU (Reference) (Case C-607/14): <i>Bookit Ltd v HMRC</i>	Questions for CJEU on scope of financial exemption with respect to card processing charges	Apr 15 2.3.2

5 Other European material

ec.europa.eu/taxation_customs/communication/publications/studies/index_en.htm	Report examines different treatments of passenger transport in EU	Apr 15 4.4.2
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/telecom/information_microbusinesses_euvat_2015.pdf	Commission provides basic information for micro-businesses supplying electronic services	Apr 15 4.1.2
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf	Different VAT rates in 28 EU countries considered	Apr 15 4.4.1
http://tinyurl.com/kh7qpqd	European Commissioner rules out application of distance selling threshold to MOSS rules	Apr 15 4.1.1

6 Case law: Supreme Court

Supreme Court: <i>HMRC v Pendragon plc and others</i>	Case about abuse of rights in Supreme Court	Apr 15 5.1.1
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7 Case law: Court of Appeal/Court of Session

Court of Appeal: <i>Changtel Solutions UK Ltd (formerly Enta Technologies Ltd) v HMRC</i>	Dispute about winding-up petition on basis of assessment subject to appeal to Tax Tribunal	Apr 15 6.9.4
Court of Appeal: <i>Fonecomp Ltd v HMRC</i>	Court of Appeal upholds decisions below that trader had means of knowledge in respect of contra-trading MTIC fraud	Apr 15 5.8.1
Court of Appeal: <i>Investment Trust Companies (in Liquidation) v HMRC</i>	Direct claim by customers of investment managers against HMRC considered by Court of Appeal	Apr 15 6.4.1
High Court of Justiciary: <i>Ramzan v HM Advocate</i>	Sentence on MTIC fraudster confirmed on appeal	Apr 15 6.9.3

8 Case law: High Court/Upper Tribunal

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Upper Tribunal: <i>Colaingrove Ltd v HMRC</i>	UT overturns FTT decision that veranda was supply separate from caravan and did not qualify for ZR	Apr 15 2.4.3
Upper Tribunal: <i>HMRC v Antony Barkas</i>	"Live/work unit" qualified for DIY claim on bare words of planning consent – extra conditions could not be inferred by HMRC	Apr 15 3.4.1
Upper Tribunal: <i>HMRC v Colaingrove Ltd</i>	UT overturns FTT's decision that lower rate could apply to electricity supplied with a caravan	Apr 15 2.5.1
Upper Tribunal: <i>HMRC v G B Housley Ltd</i>	FTT was wrong to allow trader's appeal in relation to HMRC's failure to exercise reg.29 discretion: should have referred back to HMRC	Apr 15 6.6.1
Upper Tribunal: <i>HMRC v GMAC UK plc</i>	UT affirms decisions in favour of taxpayer on bad debt relief so appeal can be considered by Court of Appeal	Apr 15 5.7.1
Upper Tribunal: <i>HMRC v Royal College of Paediatrics and Child Health and another</i>	VAT planning scheme involving charity and opted property failed: tenants introduced by purchaser were not "TOGC" from vendor's point of view	Apr 15 2.12.1
Upper Tribunal: <i>Market & Opinion Research International Ltd v HMRC</i>	FTT's decision not to award costs upheld by UT	Apr 15 6.8.3
Upper Tribunal: <i>N & M Walkingshaw Ltd v HMRC</i>	UT upholds FTT's decision that trade-in values agreed between car dealer and customer were the best measure of value for calculating output tax	Apr 15 2.6.1
Upper Tribunal: <i>National Exhibition Centre Ltd v HMRC</i>	UT upholds FTT's decision that company was supplying card handling services to customers; questions to be referred to CJEU on whether that ought to be exempt	Apr 15 2.3.1
Upper Tribunal: <i>R (on the application of ELS Group Ltd) v HMRC</i>	Application for judicial review refused in relation to refusal to operate staff hire concession	Apr 15 6.8.6

9 Case law: First Tier Tribunal

First-Tier Tribunal (TC04198): <i>Per matt Fork Lift Trucks Ltd</i>	Default surcharge appeal dismissed	Apr 15 6.8.2
First-Tier Tribunal (TC04200):	Repayment supplement rules for	Apr 15 6.4.2

<i>Global Foods Ltd and related appeal</i>	enquiry period considered	
First-Tier Tribunal (TC04203): <i>Peter James Hearn & Jaleh Hearn t/a Hennerton Golf Club and related appeal</i>	Separation of golf club into landlord and not-for-profit members' club was an abusive transaction: HMRC could assess as if it never happened	Apr 15 2.3.5
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First-Tier Tribunal (TC04207): <i>Marshall & Co</i>	HMRC had not behaved unreasonably in connection with appeal, so trader could not be awarded costs	Apr 15 6.8.3
First-Tier Tribunal (TC04208): <i>Ragveer Singh and Balbir Kaur t/a R S Garments</i>	Time limit for issuing penalty ran from when appeal against assessments was dropped, not from original period	Apr 15 6.8.4
First-Tier Tribunal (TC04209): <i>Snugglebundl Ltd</i>	"Baby lifting wrap" was clothing in accordance with ordinary English meaning of words	Apr 15 2.4.1
First-Tier Tribunal (TC04211): <i>Nassah Services Ltd</i>	Default surcharge appeal dismissed	Apr 15 6.8.2
First-Tier Tribunal (TC04219): <i>PricewaterhouseCoopers LLP and related appeal</i>	Claim for extra input tax on entertainment expenditure after August 1988 dismissed	Apr 15 5.5.1
First-Tier Tribunal (TC04223): <i>Igloos Ltd</i>	Default surcharge appeal dismissed	Apr 15 6.8.2
First-Tier Tribunal (TC04224): <i>Starmill UK Ltd and related appeal</i>	MTIC appellant fails – no reasonable explanation for transactions if not connected with fraud	Apr 15 5.8.1
First-Tier Tribunal (TC04229): <i>Robert P Slight & Sons Ltd</i>	Default surcharge appeal partly successful	Apr 15 6.8.2
First-Tier Tribunal (TC04230): <i>James Radcliffe</i>	Project carried out in stages did not qualify for DIY relief: planning permission referred to alteration, not new construction	Apr 15 3.4.1
First-Tier Tribunal (TC04232): <i>Len Pang Cheah t/a LPC Shades</i>	Default surcharge appeal dismissed	Apr 15 6.8.2
First-Tier Tribunal (TC04236): <i>HCM Electrical Ltd</i>	Default surcharge appeal dismissed	Apr 15 6.8.2
First-Tier Tribunal (TC04237): <i>Sam Smith t/a Heliops UK</i>	Claim for pre-registration VAT was wrong, and constituted deliberate conduct because trader knew HMRC had said it was not eligible for relief	Apr 15 5.8.3
First-Tier Tribunal (TC04239): <i>Pacific Computers Ltd</i>	MTIC appellant succeeds: HMRC failed to satisfy burden of proof	Apr 15 5.8.1
First-Tier Tribunal (TC04242): <i>Molloy Metals Ltd</i>	Default surcharge appeal dismissed	Apr 15 6.8.2

First-Tier Tribunal (TC04244): <i>Lucam Consultancy Ltd</i>	“Wrongdoing penalty” for issuing VAT invoices without authority upheld	Apr 15 6.8.4
First-Tier Tribunal (TC04245): <i>Brent Newsagents</i>	Corrections made too long after estimated assessments: appeal against refusal of repayment struck out	Apr 15 6.8.7
First-Tier Tribunal (TC04246): <i>Imperial College of Science, Technology & Medicine</i>	Claim for historic input tax by higher education institution upheld in principle	Apr 15 5.3.2
First-Tier Tribunal (TC04247): <i>St Andrew’s College Bradfield</i>	Subsidiaries of charitable school were not “eligible bodies” for sporting exemption because not themselves charitable according to their Articles	Apr 15 2.3.4
First-Tier Tribunal (TC04249): <i>Scandico Ltd</i>	Claim for input tax on mobile phones bought by individual “runners” dismissed	Apr 15 5.8.4
First-Tier Tribunal (TC04250): <i>Workstation Farnham Ltd</i>	Default surcharge appeal dismissed; as surcharge was below £400, no actual surcharge payable	Apr 15 6.8.2
First-Tier Tribunal (TC04251): <i>CJ Palau & RC Loughran</i>	DIY claim form was accurately completed, showing the claim could not succeed – HMRC could not levy an inaccuracy penalty	Apr 15 6.8.4
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First-Tier Tribunal (TC04256): <i>SLL Subsea Engineering Ltd</i>	HMRC were wrong to assess flat rate trader for using the wrong rate	Apr 15 6.3.1
First-Tier Tribunal (TC04260): <i>Gold UK Consulting Ltd and related appeal</i>	MTIC appellant fails – no reasonable explanation for transactions if not connected with fraud	Apr 15 5.8.1
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First-Tier Tribunal (TC04270): <i>Repro FM Ltd</i>	Notice of security requirement upheld on appeal	Apr 15 6.9.5
First-Tier Tribunal (TC04272): <i>Perenco Holdings</i>	Individual transactions considered in relation to <i>Fleming</i> claim: trader persuaded FTT that input tax not claimed on some, but not on others	Apr 15 6.4.3
First-Tier Tribunal (TC04275): <i>Axiom NDT Ltd</i>	Default surcharge appeal dismissed	Apr 15 6.8.2

First-Tier Tribunal (TC04277): <i>A Alexander & Son (Electrical) Ltd</i>	Default surcharge appeal dismissed	Apr 15 6.8.2
First-Tier Tribunal (TC04278): <i>DPAS Ltd (no.2)</i>	HMRC's application for stay of substantive hearing refused: trader was entitled to repayment pending Upper Tribunal hearing of appeal on principle	Apr 15 6.8.5
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First-Tier Tribunal (TC04289): <i>North Berwick Golf Club</i>	FTT allows late appeal on <i>Fleming</i> claim appeal to proceed	Apr 15 6.8.8
First-Tier Tribunal (TC04290): <i>Linda Sherratt t/a The Beeches</i>	FTT confirms HMRC's decision about trader's failure to register in 2000 – appeals dismissed	Apr 15 6.2.1
First-Tier Tribunal (TC04291): <i>Kumon Educational UK Co Ltd</i>	"Rewards" paid to franchisees were retrospective discounts, not consideration for supply by franchisee to company	Apr 15 2.7.1
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First-Tier Tribunal (TC04297): <i>Tennessee Fried Chicken (a partnership)</i>	Case about suppressed turnover examines operation of tills, including X and Z readings	Apr 15 6.7.1
First-Tier Tribunal (TC04303): <i>Colour Blast and another</i>	Daughter held to have known that transactions with her father's companies were connected with fraud	Apr 15 5.8.2
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First-Tier Tribunal (TC04306): <i>Folkestone Harbour (GP) Ltd</i>	Construction of pavement fountain was part of overall business purpose in spite of lack of link to any specific sale	Apr 15 5.1.2

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First-Tier Tribunal (TC04308): <i>Northern Lincolnshire & Goole Hospitals NHS Foundation Trust</i>	Preliminary issue in <i>Fleming</i> claim decided for taxpayer: rights had been transferred with operations from predecessor body to current claimant	Apr 15 6.4.3
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First-Tier Tribunal (TC04319): <i>Ronald Asquith</i>	Individual sourcing tickets for events was buying and selling as principal, not agent charging a fee	Apr 15 2.9.2
First-Tier Tribunal (TC04324): <i>Greater Glasgow & Clyde Health Board</i>	<i>Fleming</i> claim by Scottish health board refused because of difficulties with evidence	Apr 15 6.4.3
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First-Tier Tribunal (TC04335): <i>Servbet Ltd</i>	Penalty revised from “deliberate and concealed” to “careless” and mitigation increased	Apr 15 6.8.4
First-Tier Tribunal (TC04338): <i>TL Step by Step Ltd</i>	Individual did not satisfy <i>Lord Fisher</i> tests: not entitled to register	Apr 15 6.2.2
First-Tier Tribunal (TC04339): <i>Steve Guest t/a All Hours Drain & Plumbing Services Ltd</i>	Default surcharge appeal dismissed	Apr 15 6.8.2
First-Tier Tribunal (TC04341): <i>BTS Specialised Equipment Ltd (in liquidation) and another</i>	MTIC appellant fails – directors knew that transactions must be connected with fraud	Apr 15 5.8.1

10 Other material

<i>Daily Telegraph, 19 January 2015</i>	Report of overcharging by mobile phone operator on calls made outside EU	Apr 15 4.2.1
<i>Taxation, 8 January 2015</i>	Article about <i>Equoland</i> and possible disproportionality of UK’s default surcharge regime	Apr 15 6.8.2
<i>Taxation, 15 January 2015</i>	Article about POSMOSS rules	Apr 15 4.1.1
<i>Taxation, 29 January 2015</i>	Article about VAT visits	Apr 15 6.9.2
<i>Taxation, 12 February 2015</i>	Article about <i>Heliops</i> case on pre-registration VAT	Apr 15 5.8.3

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