

# **VAT UPDATE 2022/23**

## **INDEX**

**Covering quarterly update  
April 2022**

# VAT Update April 2022 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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## INDEX BY SOURCE

### 1 HMRC’s publications of their views

<i>PE68100–PE68400</i>	VAT <i>Partial Exemption Guidance Manual</i> updated on moving goods between NI and rest of UK	Apr 22 5.3.1
<i>Revenue &amp; Customs Brief 1/2022</i>	Brief announces review of policy on input tax on charging electric cars	Apr 22 5.4.1
<i>Revenue &amp; Customs Brief 2/2022</i>	HMRC announce revised policy on compensation and cancellation payments to take effect 1 April 2022	Apr 22 2.1.2
<i>Revenue &amp; Customs Brief 3/2022</i>	Changes to FRS traders’ accounting for import VAT from 1 June 2022	Apr 22 4.3.5
<i>Revenue &amp; Customs Brief 4/2022</i>	HMRC state that direct claims under <i>San Giorgio</i> principle no longer available after Brexit	Apr 22 6.4.3
<i>Revenue &amp; Customs Brief 5/2022</i>	HMRC publish what traders should do while waiting for group registration applications to be processed	Apr 22 6.1.3
<i>Revenue &amp; Customs Brief 6/2022</i>	Explanation on <i>Lennartz</i> mechanism where output tax might exceed input tax	Apr 22 2.6.1
<i>VAT Notice 701/57</i>	Updated Notice to confirm that	Apr 22 2.9.1

	benefit of concessions cannot be claimed retrospectively	
VATGPB8876	<i>Government And Public Bodies Manual</i> clarifies when weddings may be subject to VAT	Apr 22 2.12.4
VATHLT2011	Manual updated on ultrasound scanning services	Apr 22 2.3.4
VATPOSS01350	<i>Place of Supply of Services Manual</i> updated definition of supply to relevant business person	Apr 22 4.2.2
VATSC05910	Manual updated for new policy on compensation and cancellation payments	Apr 22 2.1.2
VATSC05920	Manual updated for new policy on compensation and cancellation payments	Apr 22 2.1.2
VATSC05930	Manual updated for new policy on compensation and cancellation payments	Apr 22 2.1.2
VCONST02750	VAT <i>Construction Manual</i> updated on scaffolding services	Apr 22 3.3.1
VFOOD3550	Update to <i>Food Manual</i> on plant growing kits	Apr 22 2.4.2
VIT12200	VAT <i>Input Tax Manual</i> updated on paperwork for supplies for no consideration	Apr 22 5.8.3
VIT12500	VAT <i>Input Tax Manual</i> updated to remove references to acquisitions	Apr 22 5.8.3
VIT25000	VAT <i>Input Tax Manual</i> updated for values of items to be classified as “capital items”	Apr 22 5.3.1
VIT25550	Explanation on <i>Lennartz</i> mechanism where output tax might exceed input tax	Apr 22 2.6.1
VIT30500	VAT <i>Input Tax Manual</i> updated on pre-registration expenditure	Apr 22 5.8.3
VIT44400	VAT <i>Input Tax Manual</i> clarifies deduction of import VAT by toll operators	Apr 22 5.2.2
<a href="http://www.gov.uk/government/news/making-tax-digital-for-vat-is-coming-are-you-ready">www.gov.uk/government/news/making-tax-digital-for-vat-is-coming-are-you-ready</a>	Reminder to businesses on extension of MTD rules in April 2022	Apr 22 6.6.1
<a href="http://www.gov.uk/guidance/sales-of-second-hand-motor-vehicles-in-northern-ireland">www.gov.uk/guidance/sales-of-second-hand-motor-vehicles-in-northern-ireland</a>	Updated guidance on sale of second-hand vehicles in Northern Ireland	Apr 22 2.10.1

<a href="https://www.gov.uk/government/publications/letters-to-businesses-about-importing-and-exporting-goods-between-great-britain-and-the-eu">https://www.gov.uk/government/publications/letters-to-businesses-about-importing-and-exporting-goods-between-great-britain-and-the-eu</a>	Development of replacement for Customs Handling or Import and Export Freight (CHIEF)	Apr 22 4.3.4
<a href="https://www.gov.uk/guidance/completing-a-one-stop-shop-vat-return#what-not-to-include-in-your-oss-vat-return">https://www.gov.uk/guidance/completing-a-one-stop-shop-vat-return#what-not-to-include-in-your-oss-vat-return</a>	Updated guidance on Union One Stop Shop VAT Return	Apr 22 4.3.3

## 2 Statute and other Parliamentary material

SI 2022/226	The Value Added Tax (Enforcement Related to Distance Selling and Miscellaneous Amendments) Regulations 2022	Apr 22 4.3.2
SI 2022/361	Scope of relief for installation of energy-saving materials extended and made zero-rated for 5 years	Apr 22 2.4.1

## 3 Other UK official material

<a href="http://www.gov.uk/government/news/hmrc-late-payment-interest-rates-to-be-revised-after-bank-of-england-increases-base-rate--2">www.gov.uk/government/news/hmrc-late-payment-interest-rates-to-be-revised-after-bank-of-england-increases-base-rate--2</a>	Changes to late payment interest rates	Apr 22 6.3.1
<a href="http://www.gov.uk/government/publications/rates-and-allowances-hmrc-interest-rates-for-late-and-early-payments/rates-and-allowances-hmrc-interest-rates">www.gov.uk/government/publications/rates-and-allowances-hmrc-interest-rates-for-late-and-early-payments/rates-and-allowances-hmrc-interest-rates</a>	Changes to late payment interest rates	Apr 22 6.3.1
<a href="http://www.publicguardian-scotland.gov.uk/general/news/2022/01/10/attention-all-professional-financial-guardians">www.publicguardian-scotland.gov.uk/general/news/2022/01/10/attention-all-professional-financial-guardians</a>	Liability of awards to public guardians in Scotland	Apr 22 6.9.5

## 4 Case law: Court of Justice of the European Union

CJEU (A-G) (Case C-141/20): <i>Finanzamt Kiel v Norddeutsche Gesellschaft für Diakonie mbH</i>	A-G considers German group registration rules to be in breach of PVD	Apr 22 6.1.2
CJEU (A-G) (Case C-269/20): <i>Finanzamt T v S</i>	A-G considers German group registration rules to be in breach of PVD	Apr 22 6.1.2
CJEU (A-G) (Case C-56/21): <i>UAB "ARVI" ir ko v Valstybinė mokesčių inspekcija pray Lietuvos Respublikos finansų ministerijos</i>	Detailed rules on formalities for option to tax considered	Apr 22 4.4.8
CJEU (A-G) (Case C-596/20): <i>DuoDecadKft v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága</i>	A-G opinion on B2B services where Hungarian authorities alleged an abuse of rights	Apr 22 4.2.1

CJEU (A-G) (Case C-607/20): <i>GE Aircraft Engine Services Ltd v HMRC</i>	A-G opinion on staff incentive schemes involving vouchers	Apr 22 2.12.1
CJEU (A-G) (Case C-637/20): <i>Skatteverket v DSAB Destination Stockholm AB</i>	A-G opinion about liability of “city card” vouchers	Apr 22 2.12.2
CJEU (A-G) (Case C-98/21): <i>Finanzamt R v W-GmbH</i>	Inputs incurred as capital contribution to subsidiary were not “general overheads” of holding company; arrangement was potentially abusive	Apr 22 5.1.1
CJEU (Case C-156/20): <i>Zipvit Ltd v HMRC</i>	Businesses could not claim input tax on supplies by Royal Mail because VAT was not “due or paid”	Apr 22 6.4.1
CJEU (Case C-487/20): <i>Philips Orăștie SRL v Direcția Generală de Administrare a Marilor Contribuabili</i>	Romanian rules found to breach principle of equivalence	Apr 22 4.4.6
CJEU (Case C-513/20): <i>Autoridade Tributária e Aduaneira v Termas Sulfurosas de Alcafache SA</i>	CJEU considers “thermal registration” as possibly closely connected to medical care	Apr 22 2.3.3
CJEU (Case C-515/20): <i>B AG v Finanzamt A</i>	CJ considers fiscal neutrality and application of Annex III PVD	Apr 22 4.4.3
CJEU (Case C-582/20): <i>SC Cridar Cons SRL v Administrația Județeană a Finanțelor Publice Cluj and another</i>	CJ considers Romanian authorities’ actions during dispute with taxpayer	Apr 22 4.4.5
CJEU (Case C-605/20): <i>Suzlon Wind Energy Portugal – Energia Eolica Unipessoal Lda v Autoridade Tributaria e Aduaneira</i>	Company fulfilling guarantee obligations of its Indian holding company was making supplies for consideration	Apr 22 4.4.4
CJEU (Case C-697/20): <i>W.G v Dyrektor Izby Skarbowej w L</i>	Polish agricultural flat rate scheme considered	Apr 22 4.4.7
CJEU (Case C-9/20): <i>Grundstücksgemeinschaft Kollaustraß e 136 v Finanzamt Hamburg-Oberalster</i>	CJ considers timing of deductions where cash accounting is used to charge output tax	Apr 22 6.5.1
CJEU (Case C-90/20): <i>Apcoa Parking Danmark A/S v Skatteministeriet</i>	CJEU holds that “control fees” for breaching parking conditions are subject to VAT as part of contract	Apr 22 2.1.1

## 5 Other European material

<a href="https://ec.europa.eu/commission/press-corner/detail/en/IP_22_924">https://ec.europa.eu/commission/press-corner/detail/en/IP_22_924</a>	Proposing of VAT waiver for joint defence procurement projects	Apr 22 4.4.2
<a href="https://ec.europa.eu/info/publications/first-meeting-trade-specialised-committee-vat-administrative-cooperation-and-recovery-taxes_en">https://ec.europa.eu/info/publications/first-meeting-trade-specialised-committee-vat-administrative-cooperation-and-recovery-taxes_en</a>	First meeting of the Trade Specialised Committee on VAT Administrative Cooperation and Recovery of Taxes	Apr 22 4.3.1

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## 6 Case law: House of Lords/Supreme Court

## 7 Case law: Court of Appeal/Court of Session

Court of Appeal: <i>Durham Company Ltd v Durham County Council</i>	Commercial company failed in action to show local authority failing to charge VAT was illegal state aid	Apr 22 2.12.3
Court of Appeal: <i>First Alternative Medical Staffing Ltd and another v HMRC</i>	Confirmation that benefit of concessions cannot be claimed retrospectively	Apr 22 2.9.1
Court of Appeal: <i>Regency Factors plc v HMRC</i>	Company's records did not justify a claim for bad debt relief	Apr 22 5.7.1
Court of Session: <i>Ventgrove Ltd v Kuehne + Nagel Ltd</i>	Payment under break clause was validly exercised because VAT was "not properly due" at the time	Apr 22 3.1.4

## 8 Case law: High Court/Upper Tribunal

Upper Tribunal: <i>HMRC v Tasca Tankers Ltd</i>	FTT's refusal to strike out appeal was flawed: remitted to a different FTT for reconsideration	Apr 22 6.8.5
Upper Tribunal: <i>HSBC Electronic Data Processing (Guangdong) Ltd and others v HMRC</i>	Preliminary issues concerning group registration eligibility mainly decided in favour of HMRC	Apr 22 6.1.1
Upper Tribunal: <i>Y4 Express Ltd v HMRC</i>	Company buying postal services through intermediaries could not deduct input tax	Apr 22 5.2.1
High Court: <i>Claimants in the Royal Mail Group Litigation v Royal Mail Group Ltd</i>	Preliminary findings on status of Royal Mail supplies to businesses claiming input tax	Apr 22 6.4.2
High Court: <i>Haberlin v District Court Hamburg Germany</i>	Dispute about extradition over VAT fraud	Apr 22 6.9.4
High Court: <i>Hall (as liquidator of JD Group Ltd) v Bhatia</i>	Liquidator could sue directors for losses incurred because of VAT fraud	Apr 22 6.9.2
High Court: <i>Pugsley and another v Director of Public Prosecutions</i>	Prosecution for continuing to trade without complying with security requirement	Apr 22 6.9.3
High Court: <i>Umbrella Care Ltd (in liquidation) v Nisa and others</i>	Liquidator could sue directors for losses incurred because of VAT fraud	Apr 22 6.9.1

## 9 Case law: First Tier Tribunal

First-Tier Tribunal (TC08350): <i>Kazitula Ltd (in liquidation)</i>	Application to appeal out of time rejected	Apr 22 6.8.4
First-Tier Tribunal (TC08351): <i>City YMCA London</i>	YMCA hostels were "similar to a hotel" so taxable with special valuation rule	Apr 22 3.1.2
First-Tier Tribunal (TC08354):	Argument about costs in MTIC	Apr 22 6.8.3

<i>Greencyc Ltd</i>	dispute	
First-Tier Tribunal (TC08356): <i>Transwaste Recycling And Aggregates Ltd</i>	Application to appeal out of time allowed	Apr 22 6.8.4
First-Tier Tribunal (TC08360): <i>Flying Spur Ltd</i>	Application to appeal out of time rejected	Apr 22 6.8.4
First-Tier Tribunal (TC08361): <i>Tradestar International Ltd</i>	Company loses MTIC case: director actually knew of connection to fraud	Apr 22 5.8.1
First-Tier Tribunal (TC08370): <i>Errol Willy Salons Ltd</i>	Letting of rooms by hairdressing company was exempt licence to occupy	Apr 22 3.1.1
First-Tier Tribunal (TC08373): <i>PTGI-ICS Ltd</i>	Company wins MTIC appeal: fraud was not the only reasonable explanation	Apr 22 5.8.1
First-Tier Tribunal (TC08380): <i>Julie Lalou T/A Dogs Delight</i>	Courses in dog grooming held not to be “ordinarily taught” so taxable	Apr 22 2.3.1
First-Tier Tribunal (TC08395): <i>Rufforth Park Ltd</i>	Pitches at car boot sale were exempt licences to occupy	Apr 22 3.1.3
First-Tier Tribunal (TC08416): <i>Adrian Ball</i>	Personal possessions subject to import VAT on returning to UK post-Brexit	Apr 22 4.3.6
First-Tier Tribunal (TC08418): <i>Darren Fitzpatrick</i>	Application to appeal out of time rejected	Apr 22 6.8.4
First-Tier Tribunal (TC08420): <i>Starz Traders Ltd</i>	Assessment was to best judgement, but FTT satisfied that business had not understated its liabilities	Apr 22 6.7.2
First-Tier Tribunal (TC08427): <i>Best On Convenience Store (a firm)</i>	Appeal against assessment for understated takings mainly dismissed	Apr 22 6.7.1
First-Tier Tribunal (TC08429): <i>Grantham Ceilings &amp; Interiors Ltd</i>	Directors knew that associated company would not pay output tax; claiming input tax was dishonest	Apr 22 5.8.2
First-Tier Tribunal (TC08431): <i>Atlas Garages (Morpeth) Ltd</i>	Errors were careless, not deliberate, and mitigation increased by FTT	Apr 22 6.8.2
<a href="https://www.tax.org.uk/penalty-reform-for-vat">https://www.tax.org.uk/penalty-reform-for-vat</a>	Information about changes to penalty rules coming in 2023	Apr 22 6.8.1

## 10 Other material

<a href="https://www.tax.org.uk/mtd_sign_up">https://www.tax.org.uk/mtd_sign_up</a>	Illustration of extension of MTD rules from April 2022	Apr 22 6.6.2
<a href="https://www.tax.org.uk/ref891">https://www.tax.org.uk/ref891</a>	Response to the HMRC consultation on modernising tax debt collection	Apr 22 6.3.2
<i>Taxation, 13 January 2022</i>	Article about TOGCs	Apr 22 2.12.5
<i>Taxation, 27 January 2022</i>	Article about problems with HMRC officers failing to understand place of supply rules	Apr 22 4.2.3

<i>Taxation, 24 February 2022</i>	Student article about starting and ceasing trade	Apr 22 6.2.1
<i>Taxation, 3 March 2022</i>	Article about private tuition exemption	Apr 22 2.3.2
<i>Taxation, 17 March 2022</i>	Article about new HMRC policy on compensation and cancellation payments	Apr 22 2.1.3
<i>Taxation, 17 March 2022</i>	Article about Commission's consultation document <i>VAT in the Digital Age</i>	Apr 22 4.4.1
<i>Taxation, 24 March 2022</i>	Article about staff incentive schemes involving vouchers and <i>GE Aircraft Engine Services Ltd v HMRC</i>	Apr 22 2.12.1
<a href="http://www.tax.org.uk/vat-group-registration-applications-vat-accounting-and-reporting-pending-hmrc-s-response">www.tax.org.uk/vat-group-registration-applications-vat-accounting-and-reporting-pending-hmrc-s-response</a>	CIOT publishes interim guidance from HMRC on group registration application processing delays, later reversed by R&C Brief 5/22	Apr 22 6.1.3

## **11 Lectures**

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