

VAT UPDATE 2023/24

INDEX

**Covering quarterly update
April 2023**

VAT Update April 2023 Index

INTRODUCTION

This index arranges the material in the update according to type of source (ECJ 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>CH140295</i>	HMRC announce end of “commercial restitution” policy on interest	Apr 23 6.3.2
<i>Notice 700/2</i>	Updated Notice <i>Group and divisional registration</i>	Apr 23 6.1.2
<i>Notice 701/15</i>	Updated Notice <i>Animals and animal food</i>	Apr 23 2.4.4
<i>Notice 708/6</i>	Updated Notice <i>Energy-saving materials and heating equipment t</i>	Apr 23 2.4.5
<i>Revenue & Customs Brief 2/2023</i>	R&C Brief discusses apportionment of consideration on mixed supplies for single payment	Apr 23 2.6.1
<i>Revenue & Customs Brief 3/2023</i>	HMRC accept that local authority leisure services can be treated as outside the scope of VAT	Apr 23 2.1.2
<i>VAEC1341</i>	Updated guidance on 12 month time limit for assessments	Apr 23 6.7.1
<i>VATGPB4300</i>	New bodies added to s.33 VATA 1994	Apr 23 5.8.3
<i>VATREG17200</i>	Manual on VAT Registration clarifies	Apr 23 6.2.2

	status of subpostmasters	
<i>VATVAL03700, VATVAL03800, VATVAL03900, VATVAL04000, VATVAL04100 and VATVAL04200</i>	Amendments to HMRC manuals in relation to apportionment of consideration on mixed supplies for single payment	Apr 23 2.6.1
<i>VENSAV2080 and VENSAV3035</i>	New pages in Manual VAT energy saving materials and grant-funded heating supplies	Apr 23 2.4.5
<i>VRM9300</i>	VAT Refunds Manual updated to reflect Supreme Court decision in NHS Lothian	Apr 23 6.4.4
<i>www.gov.uk/government/publications/em-on-eu-regulation-2822011-com2022704</i>	UK explains effect in UK of EU proposals in VAT in the Digital Age	Apr 23 4.4.1
<i>www.gov.uk/government/publications/gfc2-2023-guidelines-for-compliance-vat-apportionment-of-consideration</i>	Guideline for compliance discusses apportionment of consideration on mixed supplies for single payment	Apr 23 2.6.1
<i>www.gov.uk/government/publications/the-windsor-framework-sector-explainer</i>	Explainer for the main provisions and effect of Windsor Framework	Apr 23 4.3.3
<i>www.gov.uk/government/publications/treasury-minutes-march-2023</i>	Response to Public Accounts Committee's report on HMRC's performance in 2021-22	Apr 23 6.9.1
<i>www.gov.uk/government/publications/vat-penalties-and-vat-interest-charges-communications-resources</i>	HMRC resources to explain new penalties and interest	Apr 23 6.3.1
<i>www.gov.uk/guidance/charging-vat-on-goods-sold-direct-to-customers-in-the-uk</i>	New guidance for online marketplaces	Apr 23 4.3.6
<i>www.gov.uk/guidance/charging-vat-when-goods-are-sold-if-youre-an-online-marketplace-operator?</i>	New guidance for online marketplaces	Apr 23 4.3.6
<i>www.gov.uk/guidance/charging-vat-when-using-an-online-marketplace-to-sell-goods-to-customers-in-the-uk</i>	New guidance for online marketplaces	Apr 23 4.3.6
<i>www.gov.uk/guidance/check-which-motor-vehicles-are-eligible-for-the-second-hand-motor-vehicle-payment-scheme</i>	Guidance for new second-hand car scheme in Northern Ireland	Apr 23 2.10.2
<i>www.gov.uk/guidance/check-which-records-to-keep-for-second-hand-vehicles-you-move-to-northern-ireland-for-resale</i>	Guidance for new second-hand car scheme in Northern Ireland	Apr 23 2.10.2
<i>www.gov.uk/guidance/check-which-records-to-keep-for-second-hand-vehicles-you-export-to-the-eu-for-</i>	Guidance for new second-hand car scheme in Northern Ireland	Apr 23 2.10.2

<i>resale</i>		
<i>www.gov.uk/guidance/claim-a-vat-related-payment-if-you-buy-second-hand-motor-vehicles-in-great-britain-and-move-them-to-northern-ireland-for-resale</i>	Guidance for new second-hand car scheme in Northern Ireland	Apr 23 2.10.2
<i>www.gov.uk/guidance/claim-a-vat-related-payment-if-you-buy-second-hand-motor-vehicles-in-great-britain-and-export-them-to-the-eu-for-resale</i>	Guidance for new second-hand car scheme in Northern Ireland	Apr 23 2.10.2
<i>www.gov.uk/guidance/complete-your-vat-return-to-account-for-import-vat</i>	New guidance on VAT returns for importers	Apr 23 4.3.5
<i>www.gov.uk/guidance/get-your-postponed-import-vat-statement</i>	New guidance on VAT returns for importers	Apr 23 4.3.5
<i>www.gov.uk/guidance/how-late-payment-penalties-work-if-you-pay-vat-late</i>	Guidance on operation of new penalty and interest system	Apr 23 6.8.1
<i>www.gov.uk/guidance/how-to-work-out-the-value-of-a-vehicle-for-the-second-hand-motor-vehicle-payment-scheme</i>	Guidance for new second-hand car scheme in Northern Ireland	Apr 23 2.10.2
<i>www.gov.uk/guidance/insurance-sector-partial-exemption-framework</i>	Partial exemption guidance for insurance sector	Apr 23 5.3.2
<i>www.gov.uk/guidance/late-payment-interest-if-you-do-not-pay-vat-or-penalties-on-time</i>	Guidance on operation of new penalty and interest system	Apr 23 6.8.1
<i>www.gov.uk/guidance/making-tax-digital-for-vat-as-an-agent-step-by-step</i>	Updated guidance for agents on MTDfV	Apr 23 6.6.1
<i>www.gov.uk/guidance/penalty-points-and-penalties-if-you-submit-your-vat-return-late</i>	Guidance on operation of new penalty and interest system	Apr 23 6.8.1
<i>www.gov.uk/guidance/remove-penalty-points-youve-received-after-submitting-your-vat-return-late</i>	Guidance on operation of new penalty and interest system	Apr 23 6.8.1
<i>www.gov.uk/guidance/repayment-interest-on-vat-credits-or-overpayments</i>	Guidance on operation of new penalty and interest system	Apr 23 6.8.1
<i>www.gov.uk/hmrc-internal-manuals/litigation-and-settlement-strategy</i>	New Litigation and Settlement Strategy Manual	Apr 23 6.9.4

2 Statute and other Parliamentary material

<i>assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1138989/The_Windsor</i>	Explainer for the main provisions and effect of Windsor Framework	Apr 23 4.3.3
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_Framework_a_new_way_forward.pdf		
<i>SI 2023/19</i>	New bodies added to s.33 VATA 1994	Apr 23 5.8.3
<i>SI 2023/376</i>	Zero-rating of installation of energy saving materials extended to Northern Ireland	Apr 23 2.4.7
<i>SI 2023/388</i>	Exemption for medical services extended to supervision by pharmacists	Apr 23 2.3.4
<i>SI 2023/64</i>	Changes to excise rules in NI	Apr 23 4.3.4
<i>SI 2023/68</i>	Regulations for new second-hand car scheme in Northern Ireland	Apr 23 2.10.3
<i>SI 2023/69</i>	Regulations for new second-hand car scheme in Northern Ireland	Apr 23 2.10.3
https://bills.parliament.uk/bills/3418	Private member's bill aims to exempt sunscreen	Apr 23 6.9.8
https://bills.parliament.uk/bills/3435	Finance (No. 2) Bill 2023 published	Apr 23 6.9.2
www.gov.uk/government/consultations/draft-regulations-vat-provisions-for-drink-deposit-return-schemes	Consultation on operation of drink deposit return scheme	Apr 23 2.6.2
www.gov.uk/government/consultations/vat-energy-saving-materials-relief-improving-energy-efficiency-and-reducing-carbon-emissions/call-for-evidence-vat-energy-saving-materials-relief-improving-energy-efficiency-and-reducing-carbon-emissions	Call for evidence in relation to the VAT reliefs for installation of energy-saving materials	Apr 23 2.4.6
www.gov.uk/government/publications/rates-and-allowances-hmrc-interest-rates-for-late-and-early-payments/rates-and-allowances-hmrc-interest-rates#current-late-payment-and-repayment-interest-rates	Changes to rates of interest charged and paid by HMRC	Apr 23 6.3.3
www.gov.uk/government/publications/spring-budget-2023 - Red Book 4.77	Government is considering results of consultation on VAT treatment of fund management	Apr 23 2.3.2

3 Other UK official material

www.cps.gov.uk/cps/news/company-director-jailed-defrauding-taxpayer-more-ps2-million	Man imprisoned for tax fraud	Apr 23 6.9.6
www.cps.gov.uk/mersey-cheshire/news/horse-trader-jailed-tax-fraud	Man imprisoned for tax fraud	Apr 23 6.9.6

www.instituteforgovernment.org.uk/explainer/windsor-framework#vat-and-excise	Explainer for the main provisions and effect of Windsor Framework	Apr 23 4.3.3
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4 Case law: Court of Justice of the European Union

CJEU (A-G) (Case C-180/22): <i>Finanzamt Hamm v Harry Mensing</i>	Details of operation of margin scheme considered in relation to acquisitions from another EU country	Apr 23 2.10.1
CJEU (Case C-239/22): <i>État belge and Promo 54 v Promo 54 and État belge</i>	Consideration of alleged artificial split of transaction into component parts	Apr 23 4.4.5
CJEU (Case C-42/22): <i>Generali Seguros SA v Autoridade Tributária e Aduaneira</i>	VAT treatment of insurance company selling off parts of cars acquired in insurance transactions	Apr 23 2.3.1
CJEU (Case C-482/21): <i>Euler Hermes SA Magyarországi Fióktelepe v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága</i>	Credit insurer was not a taxable person entitled to a bad debt relief claim in respect of the debts insured	Apr 23 4.4.3
CJEU (Case C-519/21): <i>ASA v DGRFP Cluj</i>	Status of taxable persons in land development transactions	Apr 23 4.4.4
CJEU (Case C-612/21): <i>Gmina O v Dyrektor Krajowej Informacji Skarbowej</i>	Business status of local authority considered – installation of renewable energy sources funded by grants	Apr 23 4.4.6
CJEU (Case C-616/21): <i>Dyrektor Krajowej Informacji Skarbowej v Gmina L</i>	Business status of local authority considered – removal of asbestos funded by grants	Apr 23 4.4.7
CJEU (Case C-664/21): <i>NecPlus Ultra Cosmetics AG v Republika Slovenija</i>	CJEU considers late production of export evidence	Apr 23 4.3.2
CJEU (Case C-677/21) (A-G): <i>FluviusAntwerpen v MX</i>	VAT chargeable on “theft” of electricity as a supply of goods	Apr 23 4.4.2
CJEU (Case C-695/20): <i>Fenix International Ltd v HMRC</i>	CJEU confirms that art.9a Implementing Regulation is valid in setting terms for application of art.28 PVD	Apr 23 2.9.1
CJEU (Case C-713/21): <i>AT v Finance X</i>	Horse trainer’s services in exchange for a share of prize money were taxable supplies for consideration	Apr 23 2.1.1

5 Other European material

https://ec.europa.eu/commission/press-corner/detail/en/IP_23_1841	Decision adopting Windsor Framework	Apr 23 4.3.3
https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13186-VAT-in-the-digital-age_en	EU proposals for changes to VAT registration and other obligations in 2025	Apr 23 4.4.1

6 Case law: House of Lords/Supreme Court

Supreme Court: <i>Mouldsdale t/a Mouldsdale Properties v HMRC</i>	Supreme Court resolves circularity in disapplication of option to tax provisions	Apr 23 3.1.1
Supreme Court: <i>News Corp UK & Ireland Ltd v HMRC</i>	Supreme Court confirms that “always speaking” rule could not extend zero-rating to digital newspapers, because they did not exist in 1991	Apr 23 2.4.1

7 Case law: Court of Appeal/Court of Session

Court of Appeal: <i>Greenspace (UK) Ltd v HMRC</i>	Supplies of insulated roofs for conservatories did not qualify for reduced rate	Apr 23 2.5.1
Court of Appeal: <i>HMRC v Gray & Farrar International LLP</i>	Matchmaking was not “consultancy” for place of supply of services on the basis of wording of contract	Apr 23 4.2.1
Court of Appeal: <i>R v Miller</i>	Confiscation order considered by CA: case remitted to court below for reconsideration	Apr 23 6.9.5
Court of Appeal: <i>Tradition Financial Services Ltd v Bilta (UK) Ltd and others</i>	Appeals dismissed in civil cases arising out of carbon trading MTIC fraud	Apr 23 6.9.3

8 Case law: High Court/Upper Tribunal

High Court: <i>The King (on the application of Nourish Training Ltd) v HMRC</i>	Judicial review refused in case about HMRC cancelling registration on basis of alleged fraudulent intent	Apr 23 6.2.1
Upper Tribunal: <i>CPR Commercials Ltd v HMRC</i>	Deliberate penalty downgraded to careless	Apr 23 6.8.3
Upper Tribunal: <i>HBOS plc and another v HMRC</i>	Interest was due under s.78 where Customs had applied a law that was contrary to EU law – that was “an error by the Commissioners”	Apr 23 6.4.1
Upper Tribunal: <i>HMRC v The Prudential Assurance Company Ltd</i>	Continuous supplies had tax point fixed only by receipt of payment, even though work was done while parties were members of a VAT group	Apr 23 6.1.1
Upper Tribunal: <i>Kingston Maurward College v HMRC</i>	Company had failed to produce a fallback position in the FTT: it could not then offer a “middle road” position when it lost its main argument	Apr 23 6.8.6
Upper Tribunal: <i>R (on the application of Gloucestershire Hospitals NHS Foundation Trust) v HMRC</i>	Judicial review agrees that NHS Trust bought a single compound supply of contracted-out services, eligible for s.41 VATA 1994 claim	Apr 23 2.8.1

Upper Tribunal: <i>WM Morrisons Supermarkets plc v HMRC</i>	Cereal bars marketed as “healthy snacks” might not be confectionery as a result: case remitted to FTT for reconsideration	Apr 23 2.4.2
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9 Case law: VAT Tribunal/First Tier Tribunal

First-Tier Tribunal (TC08668): <i>Pye Motors Ltd</i>	Insufficient evidence to support claim for interest based on “mistake by Commissioners”	Apr 23 6.4.2
First-Tier Tribunal (TC08671): <i>London Drylining Ltd</i>	Appeal rejected in case about car available for private use; penalty suspended as “careless”	Apr 23 5.4.1
First-Tier Tribunal (TC08674): <i>TalkTalk Telecom Ltd</i>	Company’s contracts did not create a “discount for prompt payment”	Apr 23 2.7.1
First-Tier Tribunal (TC08675): <i>Bicester Property Interiors Ltd</i>	Surcharge appeal allowed	Apr 23 6.8.
First-Tier Tribunal (TC08682): <i>Isle of Wight NHS Trust and others</i>	HMRC had made an appealable decision so taxpayer’s appeal could proceed	Apr 23 6.8.4
First-Tier Tribunal (TC08686): <i>Golden Grove Trust</i>	Application to appeal out of time dismissed	Apr 23 6.8.5
First-Tier Tribunal (TC08689): <i>ATN Marketing Ltd</i>	Deliberate penalties confirmed	Apr 23 6.8.3
First-Tier Tribunal (TC08695): <i>Hussain (trading as Nisa Local)</i>	Application to appeal out of time dismissed	Apr 23 6.8.5
First-Tier Tribunal (TC08698): <i>Singh & Kainth (trading as Western News)</i>	Application to appeal out of time dismissed	Apr 23 6.8.5
First-Tier Tribunal (TC08699): <i>Ince Gordon Dadds LLP</i>	Input tax on share transaction costs was not linked to taxable outputs	Apr 23 5.3.1
First-Tier Tribunal (TC08700): <i>The Squa.re Ltd</i>	TOMS did not allow the use of “negative margins” in calculating output tax	Apr 23 2.9.2
First-Tier Tribunal (TC08702): <i>Everyday Wholesale Ltd</i>	Appeal in MTIC case refused	Apr 23 5.8.1
First-Tier Tribunal (TC08709): <i>WJE Ltd and another</i>	PLNs against director confirmed	Apr 23 6.8.3
First-Tier Tribunal (TC08712): <i>Pavan Trading Ltd</i>	Trader’s export records were “a counsel of perfection”; HMRC’s rejection of them was “nonsense”	Apr 23 4.3.1
First-Tier Tribunal (TC08713): <i>Adrian Mckiernan (trading as AMK Fuels)</i>	Repayment claim was based on inadequate evidence that reduced rate for domestic fuel was available	Apr 23 6.4.3
First-Tier Tribunal (TC08714): <i>Tajinder Singh Pawar</i>	Application to appeal out of time dismissed	Apr 23 6.8.5

First-Tier Tribunal (TC08716): <i>Dunne</i>	DIY claim rejected on grounds of planning permission	Apr 23 3.4.1
First-Tier Tribunal (TC08719): <i>Bachra</i>	Director “ought to have known” of connection to fraud, but this was not enough to support a PLN, which required actual dishonesty	Apr 23 6.8.3
First-Tier Tribunal (TC08720): <i>Colm Brendan Malone</i>	Dishonest conduct penalties upheld by FTT	Apr 23 6.8.3
First-Tier Tribunal (TC08721): <i>Hamilton Bradbury Ltd in liquidation</i>	FTT considers rules on disclosure of tax avoidance schemes – notifiability and identity of promoter	Apr 23 6.9.7
First-Tier Tribunal (TC08722): <i>Diamond Bodycraft Ltd</i>	Surcharge appeal dismissed	Apr 23 6.8.2
First-Tier Tribunal (TC08724): <i>The CBD Flower Shop Ltd</i>	HMRC’s addition of extra argument about illegality and zero-rating was too late and could not be used in substantive appeal	Apr 23 2.4.3
First-Tier Tribunal (TC08727): <i>Godavari Consultancy Services Ltd</i>	Surcharge appeal dismissed	Apr 23 6.8.2
First-Tier Tribunal (TC08729): <i>Paradise Wildlife Park Ltd</i>	Charity used buildings for business purposes, and some structures were not “buildings”	Apr 23 3.3.1
First-Tier Tribunal (TC08736): <i>Fulfillment Logistics UK Ltd</i>	UK company operating fulfilment house acted as fixed establishment of Seychelles company in fraud case	Apr 23 5.8.1
First-Tier Tribunal (TC08737): <i>Vortex Enterprises Ltd</i>	Appeal in MTIC case refused	Apr 23 5.8.1
First-Tier Tribunal (TC08739): <i>Jabble</i>	Dishonest conduct penalties upheld by FTT	Apr 23 6.8.3
First-Tier Tribunal (TC08740): <i>Fareham College</i>	Principles of <i>Brockenhurst College</i> case applied to training restaurant but not to hairdressing salon or theatre	Apr 23 2.3.3
First-Tier Tribunal (TC08741): <i>Hillhead Ltd</i>	Appeal in MTIC case refused	Apr 23 5.8.1
First-Tier Tribunal (TC08745): <i>Phu Hung Ltd</i>	HMRC’s strike-out application refused, statement of case to be produced within 28 days	Apr 23 6.8.7
First-Tier Tribunal (TC08748): <i>The Young Driver Training Ltd</i>	Driver training experiences did not qualify for temporary reduced rate	Apr 23 2.5.2
First-Tier Tribunal (TC08750): <i>Allegion (UK) Ltd</i>	Historic bad debt claim refused for lack of reliable evidence	Apr 23 5.7.1
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<i>Mareel Ltd</i>		
First-Tier Tribunal (TC08762): <i>Prisma Recruitment Ltd</i>	Surcharge appeal dismissed	Apr 23 6.8.2
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First-Tier Tribunal (TC08767): <i>Bharat Patel</i>	Application to appeal out of time dismissed	Apr 23 6.8.5
First-Tier Tribunal (TC08772): <i>Vanrooyen (Elite Prestige Supercars) Ltd</i>	Appeals on <i>Kittel</i> and <i>Mecsek</i> grounds refused	Apr 23 5.8.2
First-Tier Tribunal (TC08773): <i>Ashley Charles Trees</i>	Appeal struck out in part for abuse of process in trying to relitigate matters that had already been decided	Apr 23 6.8.3
First-Tier Tribunal (TC08775): <i>Mediability Ltd</i>	Appeal struck out for no reasonable prospect of success based on earlier decision dealing with same facts	Apr 23 6.8.7

10 Other material

www.att.org.uk/sites/default/files/1.%20VAT%20trader%20penalty%20pages%20NOV22.pdf	Practical examples of new interest and penalty system	Apr 23 6.8.1
www.att.org.uk/sites/default/files/2.%20VAT%20trader%20appeal%20pages%20NOV22.pdf	Practical examples of new interest and penalty system	Apr 23 6.8.1
www.att.org.uk/sites/default/files/3.%20Agent%20penalty%20pages%20NOV22.pdf	Practical examples of new interest and penalty system	Apr 23 6.8.1
www.att.org.uk/sites/default/files/4.%20Agent%20appeal%20pages%20NOV22.pdf	Practical examples of new interest and penalty system	Apr 23 6.8.1
www.civilsociety.co.uk/news/charity-sector-coalition-urges-hunt-to-overhaul-tax-system-in-budget-2023.html	Budget submissions plead for VAT reliefs for charitable sector (without success)	Apr 23 2.11.1
<i>Taxation, 2 March 2023</i>	Article about recovery on corporate finance costs	Apr 23 5.1.1
<i>Taxation, 16 March 2023</i>	Article about operation of domestic reverse charge for construction	Apr 23 3.3.2
www.tax.org.uk/ref1065	CIOT responds to consultation on VAT treatment of fund management	Apr 23 2.3.2
www.tax.org.uk/ref1078	CIOT suggests that HMRC's "turn" on interest rates is excessive and unfair	Apr 23 6.3.3

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2.1 Scope of VAT

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