

# **VAT UPDATE 2017/18**

## **INDEX**

**Covering quarterly update  
April 2017**

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# VAT Update April 2017 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>CC/FS12</i>	Updated factsheet <i>Compliance checks: penalties for VAT and Excise wrongdoing</i>	Apr 17 6.9.7
<i>Notice 700/67</i>	Updated Notice <i>Registration scheme for racehorse owners</i>	Apr 17 6.2.4
<i>Notice 702</i>	Updated Notice <i>Imports</i>	Apr 17 4.3.6
<i>Notice 733</i>	Updated Notice on Flat Rate Scheme taking into account changes from 1 April 2017	Apr 17 6.3.2
<i>R &amp; C Brief 01/2017</i>	HMRC set out conditions for historic bad debt claims following <i>GMAC</i>	Apr 17 5.7.1
<i>VAT Information Sheet 1/2017</i>	Table of VAT MOSS exchange rates for quarter to December 2016	Apr 17 4.1.2
<i>VAT Information Sheet 2/2017</i>	Romanian VAT rate 19% with effect from 1 January 2017	Apr 17 4.1.3
<i>VAT Information Sheet 3/2017</i>	Internet access subject to 18% in Hungary from 1 January 2017	Apr 17 4.1.3
<i>www.gov.uk/government/publications/vat-supplying-digital-services-to-</i>	Updated guide on MOSS	Apr 17 4.1.1

<i>private-consumers</i>		
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## **2 Statute and other Parliamentary material**

<i>SI 2017/290</i>	Annual increase in registration thresholds	Apr 17 6.2.3
<i>SI 2017/295</i>	Final version of changes to Flat Rate Scheme from 1 April 2017	Apr 17 6.3.2
<i>SI/Draft The Enactment of Extra-Statutory Concessions Order 2017</i>	Enactment of ESC 3.20 disapplying s.26A where insolvency has commenced	Apr 17 6.9.5
<i>House of Commons 7 February 2017: "UK tax after the EU referendum"</i>	Commons library comments on Brexit consequences	Apr 17 6.9.1
<i>No reference</i>	Finance Bill contains new penalty for involvement in VAT fraud	Apr 17 6.8.2
<i>No reference</i>	Relaxation in Making Tax Digital timetable for businesses below the VAT registration threshold	Apr 17 6.9.2
<i>No reference</i>	Finance Bill contains measures to strength disclosure of VAT avoidance scheme rules	Apr 17 6.9.4
<i>Northern Ireland Affairs Committee 21 March 2017</i>	Commons committee calls for VAT changes following Brexit	Apr 17 6.9.1
<i>www.gov.uk/government/consultations/draft-legislation-the-value-added-tax-refund-of-tax-to-museums-and-galleries-amendment-order-2017</i>	Draft order on new list of museums qualifying for VAT repayment	Apr 17 5.8.3
<i>www.gov.uk/government/consultations/vat-fraud-in-labour-provision-in-construction-sector</i>	Proposals for long-term changes announced for consultation in March Budget	Apr 17 6.9.3
<i>www.gov.uk/government/consultations/vat-tackling-fraud-on-goods-sold-online-update-on-split-payment</i>	Government "call for evidence" on possibility of collecting VAT on internet sales by "split payments"	Apr 17 4.3.1
<i>www.gov.uk/government/consultations/withdrawal-of-extra-statutory-concessions-2017</i>	Consultation on enactment of extra statutory concessions	Apr 17 6.9.5
<i>www.gov.uk/government/publications/vat-refund-scheme-for-museums-and-galleries</i>	Explanation of new list of museums qualifying for VAT repayment	Apr 17 5.8.3

## **3 Other UK official material**

<i>www.gov.uk/government/publications/ots-publishes-interim-paper-on-review-of-value-added-tax;</i> <i>www.gov.uk/government/collections/ots-review-of-value-added-tax</i>	Office of Tax Simplification publishes areas for review of VAT system	Apr 17 6.9.6
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#### 4 Case law: Court of Justice of the European Union

CJEU (A-G) (Case C-26/16): <i>Santogal M-Comércio e Reparação de Automóveis Lda v Autoridade Tributária e Aduaneira</i>	A-G considers rules for exemption of new means of transport	Apr 17 4.3.3
CJEU (Case C-21/16): <i>Euro Tyre BV v Autoridade Tributária e Aduaneira</i>	Despatches satisfied substantive conditions for exemption, even if recipient was not registered as international operator in Spain	Apr 17 4.3.2
CJEU (Case C-28/16): <i>Magyar Villamos Művek Zrt. (MVM) v Nemzeti Adó- és Vámhivatal Fellebviteli Igazgatósága</i>	Holding company that did not charge subsidiaries for management services was not entitled to claim related input tax	Apr 17 5.1.1
CJEU (Case C-344/15): <i>National Roads Authority v The Revenue Commissioners</i>	Public authority operating toll roads was not in direct competition with businesses operating different roads, so distortion would not arise	Apr 17 2.1.1
CJEU (Case C-37/16): <i>Minister Finansów v Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych SAWP</i>	Statutory levy on recording media was not consideration for any supply	Apr 17 4.4.2
CJEU (Case C-471/15): <i>Sjelle Autogenbrug I/S v Skatteministeriet</i>	Cars bought for breaking up into spare parts were within the scope of the second hand margin scheme	Apr 17 2.10.1
CJEU (Case C-493/15): <i>Agenzia delle Entrate v Identi</i>	Italy was not in breach of EU regulations where VAT debts were written off in bankruptcy	Apr 17 4.4.3
CJEU (Case C-573/15): <i>Etat belge v Oxycure Belgium SA</i>	Oxygen compressors did not qualify for lower rate in Belgium, even though oxygen tanks did	Apr 17 4.4.4
CJEU (Case C-592/15): <i>HMRC v British Film Institute</i>	Cultural services exemption was not sufficiently certain to have direct effect	Apr 17 2.3.1
CJEU (Reference) (Case C-499/16): <i>AZ v Minister Finansów</i>	Questions about fiscal neutrality and lower rate for food with short or long shelf life	Apr 17 4.4.5
CJEU (Reference) (Case C-500/16): <i>Caterpillar Financial Services Poland sp. z o.o. v Dyrektor Izby Skarbowej w Warszawie</i>	Questions about effectiveness of rights where delay by authorities meant trader was out of time to claim a repayment	Apr 17 4.4.6

#### 5 Other European material

<a href="http://ec.europa.eu/taxation_customs/consultations-get-involved/tax-consultations/public-consultation-functioning-administrative-cooperation-and-fight-against-fraud-">ec.europa.eu/taxation_customs/consultations-get-involved/tax-consultations/public-consultation-functioning-administrative-cooperation-and-fight-against-fraud-</a>	Consultation on updating the rules governing administrative co-operation in tackling cross-border VAT fraud in the EU	Apr 17 4.4.1
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## **6 Case law: Supreme Court**

Supreme Court: <i>Jetivia SA and another v Bilta (UK) Ltd and others</i>	Directors of company that engaged in MTIC fraud could not avoid liability to the liquidator	Apr 17 6.9.10
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## **7 Case law: Court of Appeal/Court of Session**

Court of Appeal: <i>Associated Newspapers Ltd v HMRC</i>	Upper Tribunal's decisions upheld on gifts of vouchers: no output tax under SI 1993/1507, and input tax in principle deductible as overhead, but no input tax on vouchers issued by retailer	Apr 17 2.12.1
Court of Appeal: <i>R v Chada and others</i>	Appeal against sentence for involvement in VAT fraud dismissed	Apr 17 6.9.8

## **8 Case law: High Court/Upper Tribunal**

High Court: <i>Ahmed v Swedish Economic Crime Authority</i>	Extradition to Sweden in relation to VAT fraud prosecution confirmed	Apr 17 6.9.9
High Court: <i>Bilta (UK) Ltd (in liquidation) and others v SVS Securities plc and others</i>	Pre-trial procedures in relation to emissions trading fraud case	Apr 17 6.9.10
Upper Tribunal: <i>Adecco UK Ltd and others v HMRC</i>	Full consideration paid by clients for temp workers was subject to VAT	Apr 17 2.9.1
Upper Tribunal: <i>Gala 1 Ltd v HMRC</i>	Only representative member could claim repayment of overpaid VAT; claim by subsidiary was not valid	Apr 17 6.1.1
Upper Tribunal: <i>HMRC v TGH (Commercial) Ltd</i>	HMRC could not insist on an Upper Tribunal hearing where the taxpayer had withdrawn from the case	Apr 17 6.8.5
Upper Tribunal: <i>HMRC v Wheels Private Hire</i>	Taxi firm made separate supplies of car hire and insurance to drivers	Apr 17 2.8.1
Upper Tribunal: <i>NHS Greater Glasgow and Clyde Health Board v HMRC</i>	FTT decision to refuse repayment claim by health board was upheld	Apr 17 6.4.1
Upper Tribunal: <i>Oak Tree Motor Homes Ltd v HMRC</i>	FTT had not erred in deciding that motor homes were not "caravans"	Apr 17 2.4.1
Upper Tribunal: <i>Swanfield Ltd and others v HMRC</i>	Trader is entitled to allocate current payments to current liabilities in order to reduce surcharges; case remitted to FTT to consider consequences	Apr 17 6.8.1
Upper Tribunal: <i>Synectiv Ltd v HMRC</i>	MTIC case remitted to FTT for rehearing	Apr 17 5.8.2
Upper Tribunal: <i>Taylor Wimpey plc v HMRC</i>	Upper Tribunal sets out principles for historic repayment claim in relation to	Apr 17 6.4.2

	input tax subject to “builder’s block”	
Upper Tribunal: <i>U-Drive Ltd and others v HMRC</i>	Car hire company did not receive services from garages when it paid for third party vehicles to be repaired	Apr 17 5.2.1
Upper Tribunal: <i>Westminster Trading Ltd and others v HMRC</i>	FTT had not acted unreasonably in refusing an adjournment in a MTIC case	Apr 17 6.8.5

## 9 Case law: First Tier Tribunal

First-Tier Tribunal (TC05554): <i>Doran Bros (London) Ltd</i>	Company payment to advisers for tax avoidance scheme qualified for input tax deduction	Apr 17 5.6.1
First-Tier Tribunal (TC05555): <i>Wheels Common Investment Fund Trustees Ltd and others</i>	Trader allowed to change grounds of appeal – different legal argument did not fundamentally change the nature of the claim	Apr 17 6.8.4
First-Tier Tribunal (TC05559): <i>Shafiq Rehman</i>	Company’s dishonesty penalty was validly allocated to director	Apr 17 6.8.2
First-Tier Tribunal (TC05560): <i>Linwest Ltd</i>	Appeal against security notice rejected	Apr 17 6.9.11
First-Tier Tribunal (TC05561): <i>Stephen McPartlin Plumbing &amp; Central Heating Ltd</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05567): <i>Turner Electrical &amp; Alarm Ltd</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05571): <i>Nigel Williams</i>	Retrospective planning permission could not validate zero-rating of construction	Apr 17 3.3.1
First-Tier Tribunal (TC05573): <i>Assista Consulting (UK) Ltd</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05576): <i>Cottingham Park Lodges Ltd</i>	Taxpayer’s apportionment of income from caravans and pitch rentals was fair; pitch on its own was VATable	Apr 17 2.8.2
First-Tier Tribunal (TC05578): <i>Francis Anthony White</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05579): <i>Morrella Ltd</i>	Extrapolation in assessment was “to best judgement”	Apr 17 6.7.2
First-Tier Tribunal (TC05587): <i>Link Distribution (UK) Ltd</i>	Trader succeeds in 30 of 32 deals in missing trader case – similar to other deals where no fraud alleged, so no “means of knowledge”	Apr 17 5.8.2
First-Tier Tribunal (TC05589): <i>Dharex Ltd</i>	Penalty for failing to point out inadequate assessment upheld	Apr 17 6.8.2
First-Tier Tribunal (TC05591): <i>Anthony Treanor; Mrs Philippa</i>	Condition was prohibition on separate use or disposal, so DIY claim refused	Apr 17 3.4.1

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First-Tier Tribunal (TC05598): <i>Gravel Road Records Ltd</i>	HMRC were wrong to deregister a company that never made any supplies: it was in business	Apr 17 6.2.2
First-Tier Tribunal (TC05604): <i>Branded Garden Products Ltd</i>	HMRC were entitled to decide that edible flowers were not “food”	Apr 17 2.4.2
First-Tier Tribunal (TC05607): <i>Fashionizer Ltd</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05608): <i>Hortus Blackheath Ltd</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05610): <i>XG Concept Ltd</i>	Appeal struck out for failure to engage with process	Apr 17 6.8.6
First-Tier Tribunal (TC05611): <i>Avalaya.com Partnership</i>	Receipts for Amazon sales were repayment of a loan to the supplier, not proceeds of sale in hands of recipient	Apr 17 2.9.2
First-Tier Tribunal (TC05612): <i>Taylor Construction Ltd</i>	Company’s failure to respond to letters lost it the benefit of 100% mitigation of late registration penalty	Apr 17 6.8.2
First-Tier Tribunal (TC05613): <i>JTS Plumbing &amp; Mechanical Services Ltd</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05617): <i>Arthur Edwyn Turner t/a Wicked Wang Promotions</i>	Administrative mess in dispute about whether a business was registrable and could recover input tax	Apr 17 6.2.2
First-Tier Tribunal (TC05619): <i>Tarn-Pure AG Ltd</i>	Repayment supplement not due as HMRC had issued internal instruction to pay within the 30 days allowed	Apr 17 6.4.3
First-Tier Tribunal (TC05621): <i>Jason Campbell</i>	Condition was prohibition on separate use or disposal, so DIY claim refused	Apr 17 3.4.1
First-Tier Tribunal (TC05622): <i>Terence Patrick Brady</i>	Payment by owner of company to liquidator was a refund of rent, not a legal claim outside the scope of VAT	Apr 17 2.7.1
First-Tier Tribunal (TC05624): <i>Master Wishmakers Ltd</i>	Retrospective planning permission could not validate zero-rating of construction	Apr 17 3.3.1
First-Tier Tribunal (TC05626): <i>Richard Swindell</i>	Condition was prohibition on separate use or disposal, so DIY claim refused	Apr 17 3.4.1
First-Tier Tribunal (TC05634): <i>Marriott Rewards LLC and another</i>	Hotel rewards points scheme considered: redemption payments not land related after 1 January 2010, but US company did receive a supply	Apr 17 5.2.2
First-Tier Tribunal (TC05636): <i>Grange Shipping Ltd</i>	Import agent did not qualify for any special relief from import duty paid on behalf of insolvent customer	Apr 17 4.3.5

First-Tier Tribunal (TC05639): <i>University of Newcastle Upon Tyne</i>	Student recruitment fees were fully subject to reverse charge from 1 January 2010, with no input tax recovery	Apr 17 4.2.1
First-Tier Tribunal (TC05643): <i>Marsh (Bolton) Ltd and others</i>	FTT considers lawfulness of road fuel input tax regulations, and concludes that HMRC are entitled to insist on retention of VAT invoices	Apr 17 5.8.1
First-Tier Tribunal (TC05648): <i>JTC Environmental Ltd</i>	Application to appeal out of time refused	Apr 17 6.8.3
First-Tier Tribunal (TC05649): <i>M &amp; M Management Ltd</i>	Temporary importation did not satisfy conditions for “samples relief”	Apr 17 4.3.4
First-Tier Tribunal (TC05654): <i>Promo International Ltd</i>	Substantial errors committed by company’s accountant were “careless” rather than deliberate from the company’s point of view; could be suspended	Apr 17 6.8.2
First-Tier Tribunal (TC05661): <i>Chun Wah Lok</i>	Extrapolation in assessment was “to best judgement”	Apr 17 6.7.3
First-Tier Tribunal (TC05663): <i>Mohamed El-Baghdadi</i>	Furnished holiday letting was subject to output tax	Apr 17 3.1.1
First-Tier Tribunal (TC05670): <i>Fogarty (Filled Products) Ltd</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05671): <i>Gullane Golf Club</i>	Failure to appeal refusal of <i>Bridport</i> claim meant that claim failed	Apr 17 6.8.3
First-Tier Tribunal (TC05672): <i>MOC (Scotland) Ltd</i>	HMRC administrative muddle, combined with other difficulties, constituted reasonable excuse for surcharge	Apr 17 6.8.1
First-Tier Tribunal (TC05681): <i>Anthony Mullan and others</i>	Northern Ireland car dealer held to have means of knowledge in relation to cars sold to missing traders	Apr 17 5.8.2
First-Tier Tribunal (TC05687): <i>James Redman</i>	Condition was prohibition on separate use or disposal, so DIY claim refused	Apr 17 3.4.1
First-Tier Tribunal (TC05689): <i>The Baker Street Kitchen</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05690): <i>Keith Allen</i>	Trader produced no evidence to displace best judgement assessments	Apr 17 6.7.4
First-Tier Tribunal (TC05691): <i>Deezer Ltd</i>	Business had been acquired as a going concern so was registrable from the outset	Apr 17 6.2.1
First-Tier Tribunal (TC05693): <i>Anthony Mullan and others</i>	Northern Ireland car dealer held not to satisfy zero rating conditions for sales to Irish customers	Apr 17 5.8.2
First-Tier Tribunal (TC05694): <i>Quitie</i>	Satisfaction of planning conditions	Apr 17 3.3.2



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First-Tier Tribunal (TC05695): <i>Right International Ltd</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05701): <i>Composite Technologies Ltd</i>	Surcharge appeal dismissed	Apr 17 6.8.1
First-Tier Tribunal (TC05702): <i>Nicholas Gayle t/a Photogen Promo Music Adverts Ltd</i>	Individual who had attempted to register for VAT five times was not entitled to registration of a company; penalty was confirmed	Apr 17 6.2.2
First-Tier Tribunal (TC05704): <i>Philip Hargreaves</i>	DIY claim refused where VAT wrongly charged by builders	Apr 17 3.4.1
First-Tier Tribunal (TC05707): <i>Hilden Park LLP</i>	Case management directions in case about VAT avoidance arrangements	Apr 17 6.8.5
First-Tier Tribunal (TC05713): <i>The Royal Bank of Scotland Group plc</i>	Assessment was issued within 12 months of HMRC having sufficient information to justify its issue	Apr 17 6.7.1

## 10 Other material

<i>Taxation, 12 January 2017</i>	Article about changes to the Flat Rate Scheme	Apr 17 6.3.1
<i>Taxation, 26 January 2017</i>	Article considers importance of clear contracts in tripartite situations	Apr 17 2.12.2
<i>Taxation, 9 February 2017</i>	Basics article about VAT on property	Apr 17 3.5.1
<i>Taxation, 16 February 2017</i>	Article about <i>Water Property Ltd</i> (TC05450) case on option to tax	Apr 17 3.2.1
<i>Taxation, 2 March 2017</i>	Article about changes to the Flat Rate Scheme	Apr 17 6.3.1
<i>Taxation, 16 March 2017</i>	Article about changes to the Flat Rate Scheme, including catches for those choosing to deregister	Apr 17 6.3.1

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