

Covid 19 - Where are we now?

(Lecture B1210 – 16.41 minutes)

Background

There have been a number of important VAT changes announced by HMRC and the government in recent months. These changes have not been as extensive as for other taxes but are still very important for many businesses. This session reviews some of the changes and addresses areas of uncertainty.

E-publications – zero-rating brought forward by seven months

The March budget announced that e-publications would be zero-rated from 1 December 2020, deliberately timed to coincide with the Christmas buying period. The change in law means that they will be taxed at the same rate as printed publications. But the financial pressures on publishers caused by the Covid-19 crisis encouraged the Chancellor to bring forward the start date by seven months to 1 May. This was very welcome to both publishers and customers. The zero-rating applies to e-sales of books, booklets, newspapers, brochures, pamphlets, leaflets, journals and periodicals (which include magazines), children's picture and painting books.

HMRC's initial guidance on the new zero-rating rules, dated 30 April 2020, included the following sentence: "The extension only applies to the supply of electronic versions of books already zero-rated in UK law". The word 'version' invites the question: Does zero-rating therefore only apply to, say, a kindle book, if there is an equivalent print version available to purchase as well? This seemed an unnecessary and worrying complication but it was consistent with the decision in the Upper Tribunal case of News Corp Ltd [2019] UKUT 0404, which zero-rated fees for online newspapers that had the same content as the printed versions.

The Statutory Instrument that became law on 1 May did not mention the word 'version' which was reassuring. SI2020/459. The SI amended the zero-rating schedule for printed matter by adding the list of e-publication products to Group 3, Sch 8, VATA1994. But the Treasury press office has provided important clarification with the following reply:

"The guidelines quoted refer to the nature of the e-book, not the specific book in question. The extension of the zero rate applies to kindle books irrespective of whether that specific book is published in a physical format, as long as they fulfil the criteria outlines in HMRC's guidance e.g. they are not supplies of intellectual property and not more than half of the e-publication is devoted to advertising, audio or video content."

Temporary VAT reduction for supply of personal protection equipment (PPE)

Supplies of PPE will be temporarily zero-rated between 1 May and 31 October 2020. VAT collected from sales in earlier months have been donated by the government to charity.

In some cases, customers (e.g. care homes) might have paid for PPE in April and received the goods after 1 May. The advance payment creates an 'actual tax point' – when VAT is due according to invoice or payment date, whichever happens first. The goods were still standard rated in April 2020 VAT Notice 700, para 14.2.2.

However, a supplier can opt to choose the 'basic tax point' as relevant for VAT purposes in accordance with VAT Notice 700, section 30. The basic tax point depends on when the goods are supplied to the customer i.e. May rather than April in this situation. So, zero-rating is again available when the goods are supplied - see VAT Notice 700, para 30.7.4. However, any VAT credit note raised to adjust an earlier VAT charge must have been raised within 45 days of 1 May as per para 30.7.5 of the VAT Notice 700.

Care is needed for PPE suppliers that use the cash accounting scheme. Assuming the special provisions considered above are not utilised, standard rated invoices raised before 1 May will not be included on a VAT return until they are paid, which is likely to be May or later in some cases. Output tax is obviously payable on these sales, whereas other receipts in May might be zero-rated. Extra care is needed to make sure that the cash accounting scheme calculations are correct.

Construction industry reverse charge delayed by five months

In contrast to the publishing trade, the construction industry welcomed a delay being put backwards rather than forwards as a result of Covid-19. The new reverse charge rules for most supplies between VAT registered builders will take effect on 1 March 2021 rather than 1 October 2020. This is the second time delay, the first being from 1 October 2019 to 1 October 2020 due to the impact of Brexit and also because the construction industry was not properly prepared for the changes. The latest five-month delay is welcome but there are two issues that it is worth thinking about now rather than later:

Cash flow – VAT deferred in the holiday payment window of 20 March to 30 June 2020 must be paid by 31 March 2021. The problem here is that the new reverse charge rules effective from 1 March will take away important working capital from many builders at a time when they need it most, i.e. near the 31 March payment date. See Subcontractor Steve – impact of reverse charge. The double cash flow hit is a ticking time bomb that needs to be considered sooner rather than later. Perhaps an overdraft extension will be needed, or clients should be encouraged to pay the holiday window VAT ahead of schedule, i.e. to ease the blow so to speak.

Training time – a lesson that building companies learned in 2009 is that preparing for the new rules requires time and effort from many different parties involved in the business e.g. to amend accounting systems and be clear about which transactions are covered by the new rules. What is the best date to start getting ready for 1 March 2021? The reply of 'now' is unrealistic because there are bigger issues to worry about. Early January gives a two-month lead time but is the month when accountants and business owners are focusing on self-assessment tax returns. The beginning of February will be too late so, in reality, the best date is probably 1 December 2020. Consider making a note in your diary now and stick to an action plan!

Subcontractor Steve – impact of reverse charge

Steve is a plumber and invoices the contractors he works for about £40,000 plus VAT at the end of each month on average. He is paid on the 10th day of the following month and uses the cash accounting scheme for his VAT returns. So, for example, the £8,000 VAT he is paid on his December 2020 invoice on 10 January 2021 will not be paid to HMRC until 7 May 2021, i.e. the due payment date for his March 2021 return. This is a useful source of working capital. But his March 2021 and later invoices will be for £40,000 and no VAT because his customer will deal with the VAT instead with the reverse charge calculation. Steve will lose working capital of £8,000 from 10 April 2021 to 7 August 2021.

Online fundraising events

Can an online fundraising still qualify for VAT exemption on the proceeds in the same way as a live event? To summarise the legislation, income from a fundraising event organised by a charity and most not-for-profit organisations is exempt from VAT as long as it is promoted as a fundraiser and there are less than 15 events of the same type of event and in the same location held during its financial year. The aim of the event must be to make a surplus.

Example – a live event was cancelled by Covid 19 but will instead take place online. There will be a 20-minute talk given by a celebrity followed by an auction of various items that would have been sold at the live event.

The good news is that HMRC recognises the scope for VAT exemption here – see VCHAR9300 in its VAT and Charity Manual. The key requirement for it to be classed as a 'single event' is that there must be a specific closing date for the auction bidding and no sales are made before this date. The charity's website address is classed as the 'location.'

Option to tax notifications - extension to 90 days

HMRC has announced a temporary extension from 30 to 90 days for notifying it about an option to tax election. How will this work in practice?

Two stages. If a person or business decides to opt to tax a property in which they have an interest, there are two stages in the process:

1. they decide to do it;
2. they tell HMRC about the decision.

There has always been a 30-day window after the decision stage to tell HMRC's Option to Tax Unit in Glasgow about it. But due to the Covid-19 crisis, and the problems with employees being furloughed plus social distancing rules, HMRC has temporarily extended that period to 90-days. It applies to decisions taken between 15 February and 30 June 2020. So, if a business decided to opt to tax a property on 31 May, it has until 29 August to notify HMRC rather than 30 June.

You can email notifications to optiontotaxnationalunit@hmrc.gov.uk

Electronic signatures

An option to tax form can be submitted to HMRC with an electronic signature but HMRC will need evidence that the signature is from a person authorised to make the option on behalf of the business, i.e. a business owner or director etc. Examples of supplementary evidence include emailing the form:

- with an email from the authorised signatory to the sender within the business, giving authority to use the electronic signature;
- from the authorised signatory with their sign off in the email and the form;
- with an email chain or scan or correspondence showing the authority given by an authorised signatory.

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