

## Practical VAT registration issues (Lecture B1345 – 23.37 minutes)

### *Compulsory registration*

When considering the £85,000 registration threshold we only consider taxable income, so that's standard rated, zero rated and reduced supplies. Income that is exempt or outside the scope of VAT is excluded.

Non-UK established traders do not have access to the £85,000 threshold. This means that as soon as they have any taxable income, they must register for UK VAT.

### *Voluntary registration*

Traders are allowed to register on a voluntary basis provided they have, or expect to have, taxable income. So long as HMRC is satisfied that the business is intending to trade and make taxable supplies, it can register on a voluntary basis from the date requested. Registering on a voluntary basis should mean the business can start to recover input tax.

Where a business has only income that is outside the scope but that would be taxable if the supply was made in the UK, it is possible to register on a voluntary basis. B2B consultancy services would fall into this category. Once registered, the services would be recorded in Box 6, but no VAT will be recorded in Box 1. This will enable the trader to recover input tax on UK costs incurred.

### *Registration and transfers of a going concern (TOGC)*

When the trade and assets are sold by a taxable person as a going concern, the buyer will inherit the seller's turnover for registration purposes. As a result, where the seller was registered on a compulsory basis, the buyer will also be registered on a compulsory basis from the purchase date. The transfer will be outside the scope of VAT.

If the seller is registered on a voluntary basis, the buyer will still inherit the seller's turnover, but they can choose not to register for VAT, particularly if they are dealing with unregistered customers. By choosing not to register, the buyer will breach the TOGC rules, meaning that the seller must charge VAT on the sale of the trade and assets. The buyer must monitor their turnover going forward and must register if they exceed the registration threshold. If at a future date they do register, any input tax on the assets purchased as part of the TOGC may be recovered under to pre-registration input tax recovery rules providing the assets are still held at the date of registration.

### *Pre-registration input tax*

Pre-registration input tax is recoverable on the first VAT return as follows:

- VAT on goods acquired in the previous four years still owned at registration;
- VAT on services incurred in the six months prior to VAT registration with a link to the post-registration period;

When a business registers, it is possible to ask for an earlier date so it is important to think about the most beneficial registration date.

### *Impact of reverse charges*

When a UK established business buys in services from a non-UK established business, the reverse charge mechanism applies. This is even the case if the non-UK established supplier has a UK VAT number.

If this UK business is not VAT registered, the reverse charge income will count as taxable income and be relevant when checking the £85,000 VAT registration threshold.

### *VAT group registration applications*

This has been subject to exceptional delays over the last year, leading to uncertainty over how traders should account for VAT. The Chartered Institute of Taxation has published some guidance from HMRC about action that traders can take while waiting for their applications for grouping to be processed.

The guidance states that businesses should treat their application as provisionally accepted on the date it was submitted. VAT should be charged on sales but not shown separately on the VAT invoice. Once the group VAT number is received, invoices can be re-issued, and the output tax accounted for on the group VAT return. This may well not be practical. Some businesses have continued to invoice clients through their separate group companies and then process a cross-charge through the group once the application process is complete. Although not strictly correct, provided there is no VAT loss, HMRC should be flexible in their approach.

Businesses that are awaiting to receive their group registration number may, in the meantime, receive assessments for failure to submit returns. These should be ignored as HMRC will automatically cancel them once the group registration application is fully processed.

### *Deregistration*

Where a trader expects their next 12 months of taxable income to fall below £83,000, they can apply to deregister for VAT.

Deregistration can also be used in a 'liable not liable' late registration situation. For example, in November 2022, a trader realises that they breached the registration limits at the end of February 2020 and should have been registered from 1 April 2020. The business should notify HMRC of the late registration and apply for deregistration at the same time if they knew they were going to be below the £83,000 threshold going forward. This may well be the case during COVID lockdown.

### *Misleading HMRC on deregistration*

What if a trader deregisters because they think their taxable income will fall below £83,000 but they are still trading at over £85,000, HMRC will seek the trader's consent to restore the old registration.

What happens if the client's consent is not forthcoming? Let us assume that HMRC deregistered the trader from 22 April 2022. If still trading at above the £85,000, if HMRC's request to restore the old registration, the trader would become liable to be registered again from 30 April 2022., triggering a new registration from 1 June 2022. If this is what

happens, this could well lead to the business being high up on HMRC's attention list. Is this something that a business would wish for?

### *Legitimate deregistration*

In this case, the trader must continue to monitor their turnover going forward.

When looking back 12 months, they should exclude their turnover when they were previously registered (VATREG18150). That means that you effectively start with a clean slate.

### *Impact of an opted property*

When a trader opts to tax land and/or commercial property, their option to tax remains in place for at least 20 years, with income derived from the property taxable for next 20 years, including rent charged. Obviously, VAT is only charged if the trader is VAT registered.

If the person's taxable income falls below £83,000, they could de-register but remember rental income is still taxable for registration purposes. Taxable income must be monitored going forward for future registration purposes.

Note, it would be unwise to deregister with an opted property, where the trader has recovered VAT on its purchase or construction. There is a deemed supply on assets held at the date of registration, which would result in a large output tax bill

### *Aggregation*

Be wary of aggregation if a person artificially separates one business to avoid one or two VAT registrations.

To be able to register separately, the key is having a commercial reason for keeping the businesses separate and operating the businesses separately.

Where HMRC seek to aggregate businesses, the aggregation direction cannot be backdated

*Created from the online session presented by Dean Wootten*