

# **VAT UPDATE 2018/19**

## **INDEX**

**Covering quarterly update  
April 2018**

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# VAT Update April 2018 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/FS1a: General information about compliance checks</i>	Updated compliance check factsheets	Apr 18 6.9.3
<i>CC/FS1b: General information about checks by campaigns and projects</i>	Updated compliance check factsheets	Apr 18 6.9.3
<i>CC/FS38</i>	Guide to serial tax avoidance rules	Apr 18 6.9.4
<i>Notice 143</i>	Updated Notice <i>Guide for international post users</i>	Apr 18 4.3.8
<i>Notice 700/8</i>	Updated Notice <i>Disclosure of VAT avoidance schemes</i>	Apr 18 6.9.4
<i>Notice 700/56</i>	Updated Notice <i>Insolvency</i>	Apr 18 6.9.9
<i>Notice 706/2</i>	Updated Notice <i>Capital Goods Scheme</i>	Apr 18 5.3.4
<i>Notice 744B</i>	Updated Notice <i>Freight transport and associated services</i>	Apr 18 4.2.2
<i>Notice 744C</i>	Updated Notice <i>Ships, aircraft and associated services</i>	Apr 18 4.2.2
<i>Notice 799</i>	New Notice <i>Disclosure of tax avoidance schemes for VAT and other indirect taxes</i>	Apr 18 6.9.4

<i>Notice 3001</i>	Updated Notice <i>Customs special procedures for the Union Customs Code</i>	Apr 18 4.3.8
<i>R&amp;C Brief 1/2018</i>	Withdrawal of concession about affiliation fees paid by sports clubs on behalf of their members	Apr 18 2.3.3
<i>R&amp;C Brief 2/2018</i>	Clarification that student finance loans are not “grants” for purpose of education exemption	Apr 18 2.3.2
<i>R&amp;C Brief 3/2018</i>	Brief about changes to approach to Cost Sharing Groups	Apr 18 2.3.5
<i>VAT Information Sheet 8/2017</i>	Information Sheet about claims by local authorities for exemption of sporting services	Apr 18 2.3.4
<i>VAT Information Sheet 9/2017</i>	Hungarian VAT rate for internet access services reduced	Apr 18 4.1.3
<i>VAT Information Sheet 1/2018</i>	Exchange rates for VAT MOSS returns for December 2017	Apr 18 4.1.2
<i>VAT Information Sheet 2/2018</i>	Information Sheet about changes to approach to Cost Sharing Groups	Apr 18 2.3.5
<a href="http://www.gov.uk/government/consultations/alternative-method-of-vat-collection-split-payment">www.gov.uk/government/consultations/alternative-method-of-vat-collection-split-payment</a>	Consultation on split payment method of collecting VAT	Apr 18 6.9.5
<a href="http://www.gov.uk/government/consultations/online-platforms-role-in-ensuring-tax-compliance-by-their-users">www.gov.uk/government/consultations/online-platforms-role-in-ensuring-tax-compliance-by-their-users</a>	Consultation on role of online marketplaces in ensuring VAT compliance by users	Apr 18 6.9.5
<a href="http://www.gov.uk/government/consultations/vat-air-passenger-duty-and-tourism-in-northern-ireland">www.gov.uk/government/consultations/vat-air-passenger-duty-and-tourism-in-northern-ireland</a>	Consultation into impact of indirect taxes on tourism in Northern Ireland	Apr 18 6.9.5
<a href="http://www.gov.uk/government/consultations/vat-registration-threshold-call-for-evidence">www.gov.uk/government/consultations/vat-registration-threshold-call-for-evidence</a>	Consultation on possible changes to registration threshold, including alternative ways of relieving effect	Apr 18 6.2.1
<a href="http://www.gov.uk/government/news/statement-on-infraction-proceedings-on-vat-treatment-of-certain-commodity-derivatives-trading">www.gov.uk/government/news/statement-on-infraction-proceedings-on-vat-treatment-of-certain-commodity-derivatives-trading</a>	Commission takes proceedings against UK for losses arising from treatment of commodity derivatives	Apr 18 4.3.5
<a href="http://www.gov.uk/government/publications/preparing-for-a-uk-trade-policy-a-guide-to-trade-legislation">www.gov.uk/government/publications/preparing-for-a-uk-trade-policy-a-guide-to-trade-legislation</a>	Guide to Taxation (Cross-Border) Bill	Apr 18 4.3.6
<a href="http://www.gov.uk/government/publications/serial-tax-avoidance-regime-guidance">www.gov.uk/government/publications/serial-tax-avoidance-regime-guidance</a>	Guide to serial tax avoidance rules	Apr 18 6.9.4
<a href="http://www.gov.uk/government/publications/the-fulfilment-businesses-regulations-2018">www.gov.uk/government/publications/the-fulfilment-businesses-regulations-2018</a>	Tax Information and Impact Note on new fulfilment house due diligence rules	Apr 18 4.3.3
<a href="http://www.gov.uk/guidance/disclosure-of-">www.gov.uk/guidance/disclosure-of-</a>	Guidance on new DASVOIT rules	Apr 18 6.9.4

<i>tax-avoidance-schemes-overview</i>		
<a href="http://www.gov.uk/guidance/register-and-use-the-vat-mini-one-stop-shop">www.gov.uk/guidance/register-and-use-the-vat-mini-one-stop-shop</a>	Updated guide <i>Register and use the VAT Mini one-stop-shop for digital supplies</i>	Apr 18 4.1.1
<a href="http://www.gov.uk/guidance/vat-online-marketplace-seller-checks">www.gov.uk/guidance/vat-online-marketplace-seller-checks</a>	Guidance on new online marketplaces rules	Apr 18 4.3.4
<a href="http://www.gov.uk/guidance/vat-overseas-businesses-using-an-online-marketplace-to-sell-goods-in-the-uk">www.gov.uk/guidance/vat-overseas-businesses-using-an-online-marketplace-to-sell-goods-in-the-uk</a>	Updated guide <i>VAT joint and several liability for online marketplaces</i>	Apr 18 4.3.4

## 2 Statute and other Parliamentary material

<i>SI 2018/16</i>	New s.33 body specified for reclaims	Apr 18 5.8.2
<i>SI 2018/261</i>	<i>Value Added Tax (Amendment) Regulations 2018</i> introduce Making Tax Digital rules to SI 1995/2518	Apr 18 6.9.2
<i>SI 2018/298</i>	Appointed days for registration of fulfilment businesses	Apr 18 4.3.3
<i>SI 2018/326</i>	New fulfilment house due diligence rules introduced	Apr 18 4.3.3
<a href="https://tinyurl.com/y9pmkvox">https://tinyurl.com/y9pmkvox</a>	Announcement that FA 2018 is expected to curb evasion etc.	Apr 18 6.9.4
<a href="https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8269">https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8269</a>	House of Commons briefing paper on Brexit agreement as at March 2018	Apr 18 6.9.1
<a href="http://www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news-parliament-2017/vat-launch-17-19/">www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news-parliament-2017/vat-launch-17-19/</a>	Three tax inquires launched by Treasury Select Committee	Apr 18 6.9.6
<a href="http://publications.parliament.uk/pa/ld2017/19/ldselect/lddelreg/65/6503.htm">publications.parliament.uk/pa/ld2017/19/ldselect/lddelreg/65/6503.htm</a>	Lords Committee raises concerns about Taxation (Cross-Border) Bill	Apr 18 4.3.6
<a href="http://services.parliament.uk/bills/2017-19/taxationcrossbordertrade.html">services.parliament.uk/bills/2017-19/taxationcrossbordertrade.html</a>	Taxation (Cross-Border Trade) Bill introduced to Parliament	Apr 18 4.3.6

## 3 Other UK official material

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

CJEU (Case C-182/17): <i>Nagyszénás Településszolgáltatási Nonprofit Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága</i>	Limited company used for subcontracting by local authority was a taxable person because it did not operate under public law	Apr 18 2.1.2
CJEU (Case C-251/16): <i>Cussens and others v Brosnan</i>	Abusive transactions in Ireland could be ignored by tax authority without specific legislation	Apr 18 4.4.3
CJEU (Case C-396/16): <i>T-2, družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme,</i>	Compromise with creditors, reducing amount payable, was within art.185 as factor that reduced input tax after the	Apr 18 4.4.4

<i>d.o.o., (in insolvency) v Slovenia</i>	event	
CJEU (Case C-462/16): <i>Finanzamt Bingen-Alzey v Boehringer Ingelheim Pharma GmbH &amp; Co. KG</i>	Manufacturer's rebates payable through different legal mechanisms both reduced taxable amount	Apr 18 2.7.1
CJEU (Case C-463/16): <i>Stadion Amsterdam CV v Staatssecretaris van Financien</i>	Tour of stadium and museum were a single supply, to be charged at a single rate	Apr 18 2.8.1
CJEU (Case C-533/16): <i>Volkswagen AG v Finančné riaditeľstvo Slovenskej republiky</i>	Claim for input tax could not be ruled out on timing grounds based only on time of supply, where supplier issued VAT invoice much later	Apr 18 4.5.1
CJEU (Case C-628/16): <i>Kreuzmayr GmbH v Finanzamt Linz</i>	Consideration of chain of transactions: only the sale involving movement of goods was an exempt intra-community despatch	Apr 18 4.3.1
CJEU (Case C-672/16): <i>Imofloresmira – Investimentos Imobiliários SA v Autoridade Tributária e Aduaneira</i>	Non-use of opted property did not lead to clawback of input tax claimed on acquisition	Apr 18 5.3.3

## 5 Other European material

<a href="http://europa.eu/rapid/press-release_IP-18-185_en.htm">europa.eu/rapid/press-release_IP-18-185_en.htm</a> ; IP/18/185	Commission proposes relaxation of rules to help SMEs	Apr 18 4.4.1
<a href="http://europa.eu/rapid/press-release_MEMO-18-1444_en.htm">http://europa.eu/rapid/press-release_MEMO-18-1444_en.htm</a>	Commission seeking redress from UK for losses arising from fraudulent transactions	Apr 18 4.4.2
<a href="https://tinyurl.com/y8bb2svs">https://tinyurl.com/y8bb2svs</a>	Commission statement on effect of Brexit as at January 2018	Apr 18 6.9.1

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

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

Court of Appeal: <i>HMRC v Chancellor, Master and Scholars of the University of Cambridge</i>	Costs of management of university endowment fund considered: questions to be referred to CJEU about treatment of overheads	Apr 18 5.3.1
Court of Session: <i>HMRC v Frank A Smart &amp; Son Ltd</i>	Costs of acquiring Single Farm Payment Entitlements were linked to whole of farm's business, so VAT was recoverable as overhead input tax	Apr 18 5.1.1

## 8 Case law: High Court/Upper Tribunal

High Court: <i>Bilta (UK) Ltd (in liquidation) and others v Royal Bank of Scotland plc and another company</i>	Litigation privilege of documents considered by High Court	Apr 18 6.9.10
Upper Tribunal: <i>Cavendish Green Ltd v HMRC</i>	Rules for sale of partly constructed dwelling considered – appeal dismissed	Apr 18 3.3.1

Upper Tribunal: <i>Fortyseven Park Street Ltd v HMRC</i>	Rules on licence to occupy applied to timeshare: hotel exclusion did not apply, appeal allowed	Apr 18 3.1.1
Upper Tribunal: <i>HMRC v NT ADA Ltd (formerly NT Jersey Ltd)</i>	Failure to spell out right to review did not invalidate HMRC decision	Apr 18 6.8.2
Upper Tribunal: <i>Nestlé UK Ltd v HMRC</i>	Fruit-flavoured Nesquik powder could not be zero-rated	Apr 18 2.4.3
Upper Tribunal: <i>Taylor Wimpey plc v HMRC</i>	Builders' block considered in context of historical claim	Apr 18 6.4.1

## 9 Case law: First Tier Tribunal

First-Tier Tribunal (TC06282): <i>Jonathan Skuce</i>	Surcharge appeal allowed: trader had done all a reasonable trader could do to meet responsibility after default by a customer	Apr 18 6.8.1
First-Tier Tribunal (TC06283): <i>School Estates Consultancy Ltd</i>	Appeal against security notice dismissed	Apr 18 6.9.8
First-Tier Tribunal (TC06285): <i>David James Smith</i>	Appeal struck out as having no reasonable prospect of success: appellant mainly wanted to complain	Apr 18 6.8.4
First-Tier Tribunal (TC06286): <i>Lunar Missions Ltd</i>	Crowdfunding receipts were taxable as consideration for issue of retailer vouchers	Apr 18 6.5.1
First-Tier Tribunal (TC06288): <i>NSF Utilities Ltd</i>	Surcharge appeal dismissed: complaints about offsetting CIS tax not a reasonable excuse	Apr 18 6.8.1
First-Tier Tribunal (TC06296): <i>Phoenix Foods Ltd</i>	Bicarbonate of soda, sold in catering packs, was zero-rated as a food ingredient	Apr 18 2.4.2
First-Tier Tribunal (TC06305): <i>National Federation of Occupational Pensioners</i>	Branches of association were independent of the guarantee company that ran the national organisation, but rebates it paid to them were not disbursements	Apr 18 2.1.1
First-Tier Tribunal (TC06306): <i>Hastings Insurance Services Ltd</i>	Rules on place of supply of international services, establishment and fixed establishment considered in detail: appeal allowed	Apr 18 4.2.1
First-Tier Tribunal (TC06308): <i>Snow Factor Ltd</i>	Lift pass in indoor ski area did not meet conditions for lower rate	Apr 18 2.5.1
First-Tier Tribunal (TC06309): <i>The Moreton Bell Ltd</i>	Partial award of costs to HMRC; reasons for late withdrawal of appeal considered	Apr 18 6.8.3
First-Tier Tribunal (TC06310): <i>Norman Emerson Group Ltd</i>	Surcharge appeal dismissed: too little done to avoid late payment	Apr 18 6.8.1

First-Tier Tribunal (TC06311): <i>Supercar Drive Days Ltd</i>	Collision damage waiver payments were not exempt as insurance	Apr 18 2.3.1
First-Tier Tribunal (TC06321): <i>Greenisland Football Club</i>	Building was “similar to a village hall” – penalty for incorrect zero-rating certificate quashed	Apr 18 3.3.2
First-Tier Tribunal (TC06328): <i>Transpase Ltd</i>	Company did not have sufficient evidence to zero-rate exports	Apr 18 4.3.2
First-Tier Tribunal (TC06333): <i>SDL Interiors Ltd</i>	Surcharge appeal dismissed: complaints about offsetting CIS tax not a reasonable excuse	Apr 18 6.8.1
First-Tier Tribunal (TC06335): <i>Thomas O’Rourke t/a Southgates UK</i>	Assessment was a pure guess, not made to best judgement	Apr 18 6.7.1
First-Tier Tribunal (TC06342): <i>Skytone Events Ltd</i>	Surcharge appeal dismissed: complaints about offsetting CIS tax not a reasonable excuse	Apr 18 6.8.1
First-Tier Tribunal (TC06343): <i>Essex International College Ltd</i>	College did not provide evidence to support split of supply into standard and zero-rated elements; other arguments also rejected	Apr 18 2.8.2
First-Tier Tribunal (TC06345): <i>Dynamic People Ltd</i>	Special method proposed by trader was fair and produced fairer result than standard method: appeal allowed	Apr 18 5.3.2
First-Tier Tribunal (TC06350): <i>Synectiv Ltd</i>	HMRC failed to discharge burden of proving trader knew or ought to have known of connection to fraud in MTIC case	Apr 18 5.8.1
First-Tier Tribunal (TC06353): <i>Stephen Richard Hall t/a Deli-Licious</i>	Surcharge appeal dismissed: not understanding about weekend due dates was not reasonable	Apr 18 6.8.1
First-Tier Tribunal (TC06356): <i>Newcastle Under Lyme College</i>	Leave to appeal out of time granted where an earlier appeal had been stayed because HMRC had reissued the decision	Apr 18 6.8.5
First-Tier Tribunal (TC06368): <i>Clark Hill Ltd</i>	Rules for transfer of going concern of opted property considered in detail – appeal allowed in part	Apr 18 3.2.1
First-Tier Tribunal (TC06369): <i>Romano’s (a partnership)</i>	Surcharge appeal dismissed: not understanding about weekend due dates was not reasonable	Apr 18 6.8.1
First-Tier Tribunal (TC06370): <i>Homechoice Flooring (Skegness) Ltd</i>	Leave to appeal out of time refused	Apr 18 6.8.5
First-Tier Tribunal (TC06377): <i>Crown Blinds Ltd</i>	Surcharge appeal dismissed: not reasonable to believe DD in place	Apr 18 6.8.1
First-Tier Tribunal (TC06382): <i>Pegasus (Manchester) Ltd</i>	Supplies were “hot takeaways” under FA 2012 rules: assessment confirmed,	Apr 18 2.4.4

	subject to possible apportionment	
First-Tier Tribunal (TC06384): <i>St Brendan's Sixth Form College</i>	New teaching block was zero-rated as new build, not ruled out by "annexe" rules	Apr 18 3.3.3
First-Tier Tribunal (TC06385): <i>News Corp UK &amp; Ireland Ltd</i>	Digital editions of newspapers did not qualify for zero-rating	Apr 18 2.4.1
First-Tier Tribunal (TC06388): <i>Paul Shore</i>	Trader failed to provide evidence to displace best judgement assessment	Apr 18 6.7.2
First-Tier Tribunal (TC06397): <i>N M Consultants (Logistics) Ltd</i>	Appeal struck out for failure to engage with Tribunal process	Apr 18 6.8.4
First-Tier Tribunal (TC06398): <i>Scream Wholesale Ltd</i>	Appeal struck out for failure to comply with directions	Apr 18 6.8.4
First-Tier Tribunal (TC06399): <i>Philip Ashley Legg</i>	Reasonable excuse accepted for 3 of 37 periods under appeal	Apr 18 6.8.1

## 10 Other material

<i>Taxation, 11 January 2018</i>	Article about Criminal Finance Act 2017 effect on tax practitioners	Apr 18 6.9.7
<i>Taxation, 11 January 2018</i>	Article about OTS recommendations for reforming VAT	Apr 18 6.9.7
<i>Taxation, 26 January 2018</i>	Article about place of supply of B2B services	Apr 18 4.2.3
<i>Taxation, 1 February 2018</i>	Article about default surcharge in <i>Global Switch</i> case (TC06252)	Apr 18 6.8.1
<i>Taxation, 1 March 2018</i>	Article for students on treatment of international transactions	Apr 18 4.3.7
<i>Taxation, 15 March 2018</i>	Article about <i>Shields</i> decision on agricultural flat rate scheme	Apr 18 6.2.2
<a href="http://www.tax.org.uk/media-centre/press-releases/press-release-concern-over-harsh-penalties-minor-breaches-new-vat-rules">www.tax.org.uk/media-centre/press-releases/press-release-concern-over-harsh-penalties-minor-breaches-new-vat-rules</a>	CIOT raises concerns about new fulfilment house due diligence rules	Apr 18 4.3.3

## 11 Lectures

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