

VAT update

Rate changes

The VAT rate will rise on 1 Jan 2010 and it is as well to ensure now that your systems can cope with the change

When VAT rates change the VAT system allows you the option of accounting for VAT at the rate that applies when the service you provide takes place rather than when it is performed. When the VAT rate fell in December 2008 this allowed membership organisations that had a membership subscription they had collected in advance to obtain a partial VAT refund. Obviously if the subscription covered a calendar year then you could only obtain a 1/12 refund as only December 2008 fell within the 15% VAT rate.

When the VAT rate rises this optional treatment is obviously not attractive. It would, for example, be open for organisations that invoice their next year's membership in December 2009 to opt to account for the higher rate of VAT that will apply throughout 2010 but although the government would welcome the money, we suspect few membership bodies will decide to be so generous!

If you do not use the optional rule then you will account for VAT in the normal way. If you issue a VAT invoice for your subscription then this will 'create a tax point' at the time of the invoice. Thus if you issue your invoice subscription invoices in December 2009 then you can account for VAT at 15%

There are two warnings:

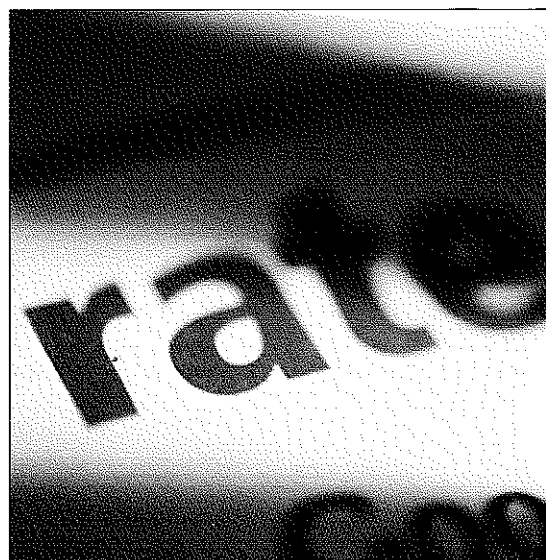
1. You must issue an invoice as opposed to a payment request which some organisations do so they have the advantage of only accounting for VAT when they are paid.
2. You must issue the invoice prior to the rate change which in many cases will mean bringing your membership invoicing forward.

This may not be practical and depending on the decision making process for subscription setting in some cases constitutionally possible.

In summary, if you do charge VAT on your subscriptions and your members cannot recover it then consider if it would be beneficial to invoice in advance. In practice we suspect few will take advantage. For the 2.5% VAT increase to be relevant you will need to have a large subscription and although there are exceptions, organisations that charge very large subscriptions often have members who can recover VAT. However, if you feel you might benefit and would like to discuss options then please contact our VAT team.

Partial exemption changes

On 1 April 2009 HMRC made some welcome changes to the partial exemption regime. This applies when a VAT registration makes a mixture of taxable and exempt supplies. In the case



of membership bodies this is likely to be the case if the subscription is regarded as falling within the VAT exemption that applies to charities or professional/representational bodies.

Partial exemption works by the body restricting a proportion of the VAT it recovers on mixed use expenditure using a partial exemption method. This calculation is undertaken provisionally on each VAT quarter with an annual calculation that confirms the deduction and adjusts the VAT recovered over the previous twelve months. Prior to 1 April a partial exemption calculation had to be carried out each quarter. For the majority of organisations that use the default standard method this meant calculating a recovery percentage with reference to taxable income obtained in that quarter. Since membership organisations tend to have a wide variation in income types throughout the year, reflecting when they receive their subscription income, this often led to roller coaster VAT recovery with some quarters being very restricted and others obtaining full recovery. Although this variation would be adjusted in the annual calculation, it made budgeting difficult.

HMRC has now introduced a rule which allows organisations to opt to apply the previous year end recovery figure to all the periods in the next VAT year. This recovery will then be adjusted at the next VAT year end. This means that because recovery will stay constant throughout the year, there is less chance of major adjustments at the end of the VAT year end and most importantly fewer complex VAT calculations that need to be undertaken.

The new approach is optional and you can continue to calculate your recovery percentage each quarter if you wish.

Another optional change is to the quarter the annual adjustment calculation must be carried out. Unless HMRC has agreed to a special VAT year this runs for twelve months up to the March, April or May VAT quarters depending on what VAT return periods you have. The adjustment must then

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be declared on the next return. Thus if you have a March return you will need to declare any adjustment on your June return. This delay was originally introduced before the age of computerised accounting when annual calculations took a lot longer. From 1 April HMRC will allow you to declare the adjustment on the return at the end of your VAT year i.e. March in the example above. Again, being optional you can decide to apply it or not. If your calculation generally results in your recovering additional VAT from HMRC then presumably it will be beneficial to carry out the calculation early.

On the subject of VAT year ends, it is worth ensuring that we have noted that many organisations adopt non standard VAT years and carry out their annual calculation based on their financial year end. It should be noted that HMRC should in theory approve this and in view of the new VAT penalty regime, if you are effected, it may be as well to get such authorisation if you can find nothing on file.



The future of subscription apportionment's

One of the most important issues for many membership organisations is whether they can apportion their membership supply to reflect the different VAT liabilities of benefits provided to members. This normally means that a subscription that would otherwise be wholly standard rated or exempt is apportioned so that an element can be treated as attributable to a zero rated supply of publications. This has been the practice since the early days of VAT when the courts found that a membership supply was in VAT terms a multiple as opposed to a single supply. This changed in 2000 when HMRC changed its policy and argued that a membership subscription is payment for a single supply of services but that it can continued be apportioned by concession.

Unfortunately HMRC is now in the process of removing the various concessions that have been allowed throughout the tax system. This is a result of a case which found that HMRC should not operate any tax system by concession and should either legislate for the reliefs they offer or withdraw them. Introducing new legislation for the concessions is rather more difficult with VAT than direct tax because of the fact that it has to be consistent with EU VAT law. In the case of the membership subscription concession it is quite likely that HMRC will not believe it possible and will withdraw. This will obviously hit membership organisations either by forcing them to account for more output VAT or restrict their input VAT. It is likely that an announcement will be made within the next year. Whether HMRC attempt to reduce the impact of the change in some way remains to be seen but unfortunately it looks as if many membership organisations may well pay more VAT in the future.