

**TAXREP 5/01**

**VAT REGISTRATION FORM VAT 1**

***Memorandum sent in March 2001 to Customs by the Tax Faculty of the  
Institute of Chartered Accountants in England and Wales in response to an  
invitation to comment issued in January 2001***

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# VAT REGISTRATION FORM VAT 1

## GENERAL COMMENTS

### Introduction

1. We welcome the opportunity to comment on draft revised form VAT 1. You asked for our comments on the user-friendliness of the revised form, as well as our estimates of the costs to business of providing the additional information Customs intends to require.
2. We have a number of concerns with the proposed form and think that it needs to recast radically. First, we think that Customs is confusing two issues, namely the need to ensure that traders register properly for VAT and the need for Customs to obtain information about a particular business.
3. The principal purpose of the form should be ensure that traders register for VAT and thus enter into Customs' system. . The current VAT registration form VAT 1 achieves this purpose and is simple and straightforward. We so no particular reason why it should be changed, certainly not for a form such as the proposed one, which goes far beyond what is required and which will be merely a further burden on businesses.
4. Secondly, we question whether Customs has the authority to request this sort of information. We would welcome confirmation that the form is compatible with the Human Rights Act 1998 and Data Protection Act 1998 requirements.
5. We support efforts made by Customs to combat fraud and appreciate that Customs needs to obtain better information if it is to combat fraud successfully. We are not adverse to Customs gathering more information for this purpose. However, we think that Customs should first consider at what stage it requires that information and then how that information should be gathered, rather than adopting this unfocused approach at the outset. The first few weeks following the birth of a business is a critical time and what is needed at that time is official help which will set a new trader on the right path, not draconian forms that for the majority of traders are out of all proportion to their requirements under the law.
6. Thirdly, many of the questions in the draft form are ambiguous and are likely to result in responses that are inconsistent even between similar businesses. There should also be provision to cross refer to existing information held by Customs so that further details need not be supplied for changes in or additional registrations.

### Costs and benefits

7. We believe the current registration process is too cumbersome and the proposed form will result in some traders incurring substantial costs in dealing with a matter that should be straightforward. We estimate that it will take a professional adviser a number of hours to gather the information required in order to complete the form. We would expect that a typical fee would be between £500 and £1,000. We think that this cost is too much for what should be a straightforward matter.

8. We understand that the reason why Customs wishes to replace the existing VAT registration form is due to traders fraudulently registering for VAT purposes. Whilst it is vital that Customs takes action to prevent VAT fraud, the proposed approach is misconceived. The strategy of relying on a more detailed registration form assumes that those wishing to register to commit a VAT fraud will provide truthful answers to the questions asked. We think that this assumption is wrong, with the result that the form will not deter fraud but merely penalise the honest trader.
9. Taking the trouble to register for VAT as a first step in a fraud suggests a reasonably sophisticated fraud which will not be easily detected. We think that the people Customs is trying to catch are unlikely to be deterred by the new form. The answers they are likely to give will be plausible but not necessarily truthful. The benefits of catching a few of the less sophisticated criminals are simply not worth the additional costs that would have to be borne by honest traders.
10. Not only will the strategy will inconvenience the majority of applicants who are honest, it also puts barriers in front of those trying to set up new businesses. Some new traders are likely to spend a great deal of time in providing much more detailed information than is really necessary. There is a declaration at the end of the form requiring confirmation that the information given on the form and contained in any accompanying document is “true and complete”. We question what is complete for these purposes and what documents need to be supplied to guarantee completeness.

### **Recommendations**

11. We propose the following alternative approach to registration procedures which we believe will encourage and speed up the registration process whilst at the same time reduce fraud.
12. Customs should register traders by return of post on the basis of a simple form. All additional information should be sought later. For example, the question: “is your accounting system computerised?” is not relevant to registration. Indeed, in its present form the question is not likely to elicit a particularly helpful answer for assurance purposes, as many small traders these days use software for their accounting systems, even if it is just a spreadsheet.
13. The registration forms should be designed to require minimal information from applicants for whom registration would be granted without doubt. Fast-tracking could be used on the forms where appropriate, for example for subsidiaries of quoted companies which are already registered. Another example is an existing registered partnership registering as a limited liability partnership.
14. The VAT 1 should be tailored to the legal entity being registered. Thus, there should be separate forms for companies, for partnerships, for unincorporated associations, for limited liability partnerships, for trusts and for sole proprietors. Separate forms would enable fewer but better-targeted questions to be asked which should result in Customs receiving more information because all the questions are likely to be relevant ones.

15. There are two points that add weight to our recommendation. First, the VAT Act 1994, Schedule 1, paragraph 13(2) allows the Commissioners to cancel a registration from the date registration was granted if the registered person was not registrable. Secondly there would be time to make further enquiries after registration but before any tax is repaid by Customs to a newly registered trader. We appreciate that Customs is concerned to collect tax charged by a newly registered trader or due on acquisitions, and safeguarding this revenue needs to be addressed.
16. Where an additional registration is required Customs is likely to assess the risk as low. For example, if a company already registered for VAT purposes forms a subsidiary which applies for registration there is less likelihood that the company will be used in a missing trader fraud. Also it may be possible to avoid asking for information which Customs already has.
17. We think explanatory notes should accompany the form explaining how to fill in the form and what information is required. The paragraph numbers in the explanatory notes should follow numbers of the questions on the form in the style the Inland Revenue has adopted for Tax Returns. We would also welcome confirmation of whether the booklet "Should I be registered for VAT?" will be sent out with the form VAT 1.
18. We suggest that it should be possible to register electronically via a secure portal on the web. This would encourage prompt registration and be more convenient for many people and would have the advantage that context-sensitive help could be incorporated in more detail than is possible on the face of a paper form or in accompanying notes which would it easier for individuals to ensure that they do not make any innocent incorrect disclosures.

#### **SPECIFIC COMMENTS ON THE FORM**

19. In **question 2** we recommend placing the "Yes" and "No" closer to the appropriate boxes. We also suggest that the words "if different from the name given at question 1" be added (as is done at question 2 of the existing VAT 1).
20. The present form states: "Give details from your certificate of incorporation." This is more helpful than "Please give incorporation details" as proposed in **question 3** on the new form.
21. In **question 4**, the explanation of "principal place of business" is unhelpful. We also suggest that the form asks where the VAT records will be kept and where correspondence on VAT should be sent (if these addresses are different from the principal place of business).
22. We note that you no longer ask, as in question 5 on the existing VAT 1: "Who owns the business?" Whilst the existing form does not provide a space to enable the question to be answered, we consider that this question should be retained and expanded in the case of companies to ask the name of the ultimate holding company where the applicant is a subsidiary.

23. **Question 5** of the new form is less clear than the existing form which simply states “describe your main business activity.” We accept that this may not result in the provision of enough information about intended activities or about other activities. However, if you need information these issues then we suggest that you add separate questions.
24. Proposed question 5 appears also to be asking for a breakdown of total sales for each activity of the business. Presumably this relates to future as well as current sales, although it is not clear. Some traders will have little idea what their future turnover will be. Applicants on behalf of new companies may be intending to issue shares or loan stock to raise capital, and may not be aware that this creates exempt outputs. It is not clear whether you wish to ascertain details simply of the core business (eg selling widgets) or other activities (such as issuing shares). It is surely unnecessary to raise all these complications at the registration stage. Given that for some new traders the figures may be little more than guesses, some traders may be worried needlessly that there are penalties for errors in estimating future turnover.
25. **Question 6** should be redrafted. This is a good example of why separate forms for each type of legal entity would help. We think that you need to know who controls the business in some cases only. The words “involved in running” and “exercise some control” are too vague. A manager may have no interest in the ownership of a business.
26. Directors and partners may be unable to obtain the answers to questions about other people in the business, for example, whether a fellow director or partner has “some control” of another business. In the light of Human Rights and Data Protection legislation it is questionable whether Customs has the right to more information than is held on a company’s statutory books.
27. In the case of companies you need to know the name of the ultimate holding company where the applicant is a subsidiary but not who controls the company if it is quoted. If the company is controlled by five or fewer participators (all connected persons counting as one, to borrow the Revenue’s definitions relating to close companies) you need details of the names of the directors and the controlling shareholders.
28. In the case of small companies you need to know the names of the directors. With regard to directors we consider that you also need to know the names of shadow directors (any person who is not a director but who acts like one) and in practice runs the company. In this regard we refer you to sections 168(8) and 417(5) of the Income and Corporation Taxes Act 1988. These provisions may help you to describe better a person who exercises “some control in the running of a business.” The definitions of director include “any person occupying the position of director by whatever name called and any person in accordance with whose directions or instructions the directors are accustomed to act.” If the form is sent out with accompanying notes (like an income tax return) there will be space to describe in more detail the information you need.
29. In **question 7**, the same comments apply as for question 6. Also the question about previous VAT registrations is not relevant in the case of quoted companies and “additional registrations”. The need to provide details about VAT registrations over

the previous five rather than two years adds considerably to the work that will be needed to complete the form.

30. We suggest that it would be more logical for **Part 2** (questions 10-12) to follow Part 3 (questions 13-21).
31. The explanatory notes in **Part 3** (questions 13-21) should be redrafted (preferably in separate explanatory notes). Whilst this section of the form provides some guidance for traders, in places the questions assume a certain knowledge of VAT and understanding of technical terms such as in question 14 “going concern” which the average trader may not be familiar with. In the note before question 13, it is not clear what “VAT-rated” means, especially in the context of exempt supplies or supplies of services to overseas traders. The note before question 15 would be better located before question 13. This note fails to make clearly the point that the act of registration does not itself give rise to taxable supplies, merely the right to issue tax invoices and the requirement to comply with administrative requirements.
32. Overseas supplies are not addressed at all: we assume that applicants will include overseas supplies in taxable supplies. Also there are no notes on reverse charges which could trigger a requirement to register.
33. In **question 13** there are two questions and they are actually different but a single yes/no answer is required. Starting to trade is not the same as making taxable supplies.
34. **Question 17** does not appear to cover the trader who has, say, £100k zero-rated turnover but has currently obtained exemption from registration. We suggest that there be a third “yes” box to cover such situations.
35. In **questions 18 and 22** the date from which the annual turnover is estimated should be specifically requested.
36. The notes after question 19 do not make it entirely clear that turnover should be monitored on a month-by-month basis rather than a running annual total.
37. In **question 22** there should be more detailed notes pointing out that traders can apply for exemption from registration if they make some zero-rated supplies and explaining the consequences, including the inability to claim input tax relief. This is important because the tribunal has said that a person cannot de-register retrospectively unless he was not entitled to be registered in the first place.
38. We understand that **questions 23 and 24** are required to detect potential frauds. However, it may be possible to deal with this using tick boxes rather than requiring precise figures. In the absence of guidance we question whether most traders will be able to provide more than guesstimates in response to these questions.
39. Regarding **question 25**, it may prima facie seem sensible to seek National Insurance numbers in connection with certain types of legal entity. However, we understand that there are more National Insurance numbers than UK population and so suggest that National Insurance numbers of themselves are not a foolproof check. We also

question the usefulness of asking a major company for the National Insurance number of its company secretary when it is simply registering another subsidiary. We also question whether the company secretary's home address is relevant in these circumstances. More generally we see no need for both types of information in the case of quoted companies. The same applies to partnerships with more than 10 partners and to additional registrations connected with existing registered traders. We suggest the form should explain when National Insurance numbers are necessary.

40. The "true and complete" **declaration** on the form is onerous bearing in mind that you are requesting estimates of future turnover, details about fellow directors/partners, and other particulars about which in most reasonable-sized businesses the individual completing the form may not be able to be certain. For example, the form asks new traders about exempt supplies. Most new traders have no knowledge of exempt supplies and the form refers traders to the leaflet "Should I be registered for VAT?". In that leaflet the examples of exempt supplies exclude raising capital by issuing shares and the only financial service mentioned is providing credit.
41. Whilst we acknowledge the fact that the declaration is the same as on the existing VAT 1, we consider that in view of the difficulty of completing a "true and complete" declaration in these circumstances, individuals completing the form should instead have to declare that it is complete "to the best of my knowledge and belief".

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