Business & Management

Update on business VAT

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The webinar will begin shortly…

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Update on business VAT

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What are the big issues in VAT at the moment?

- Brexit impact
- Major VAT review by OTS to look at how VAT can be simplified
- Delay in legislation to introduce a new penalty if a business ‘should have known’ that a transaction was fraudulent
- Budget 2017 – increased thresholds for registration/deregistration and tightening of rules for sales of vehicles to disabled people

Today's session…..

- VAT tribunal decisions – two practical cases
- Common VAT mistakes
- Buying and selling goods and services abroad – tips and pitfalls
- Flat rate scheme – limited cost trader category

Durham Cathedral case (TC5477)…..input tax on cost of repairing a bridge

- Sveda case – CJEU case - C126/14 – was a path in a park linked to taxable sales of a café?
- Direct and immediate link between input and output – but what about overheads?
- Durham Cathedral – could input tax be partly claimed on cost of repairing a bridge leading to the cathedral? (35/65 business/non-business split)
- Always look at the 'purpose' of an expense and the outcome it achieves for a business.

Zone Contractors Ltd (TC5330)….input tax on new cars

- Input tax is blocked if car 'is available for private use'
- Employment contract prevented private use – mention of 'disciplinary procedures'
- Commercial reality – vehicles left on site or overnight at offices of company; directors also had separate cars for private use.
- Second case – Jane Borton (TC5224) – specific exclusion for social, domestic and pleasure use on vehicle insurance - conclusion of courts – ignore 'minor' private use

Common VAT mistakes

- Partial exemption de minimis limits – potential VAT windfall of up to £7,500 each year
- Bad debt relief rules – and need to adjust input tax as well as output tax – invoice date or six months overdue for payment
- Option to tax – forgetting to tell HMRC about an option
- Export evidence – Angela McCamley case (TC5433)- £125k tax plus £25k penalty – related to sales of tyres between Northern Ireland and Ireland – warning about indirect exports (VAT deposit?)

Option to tax elections

- Two stages to making an election:
- Stage 1 - DECISION – input tax gains
- Stage 2 - NOTIFYING HMRC – this must be done within 30 days of decision date – usually form VAT1614A
- If 'decision' has been made it is possible to retrospectively notify HMRC – see VAT Notice 742, para 4.2.1 – evidence needed to support decision eg sales invoices charging VAT on rent
- Not possible to retrospectively opt if 'decision' was not made – the horse has bolted !

Partial exemption de minimis rules - example

- Sole trader hairdresser who owns a buy to let flat in his own name – VAT registered
- Rental income = £10,000; Hairdressing income = £90,000 excluding VAT.
- Input tax on flat costs = £2,000; Input tax on hairdressing costs = £6,000; Input tax on mixed costs/overheads = £500.
- Standard method – input tax on mixed costs/overheads is apportioned based on income – T/T+E
- De minimis test – exempt input tax is less than £625 per month on average and 50% of total input tax
- Exempt input tax = £2,000 + £50 = £2,050 ie input tax can be claimed in full

Place of supply.....general rules – VAT or no VAT?

- B2B (business to business) sale – key issue is where the customer is based – so outside UK means no VAT charged – outside the scope of VAT
- B2C (business to consumer) sale – key issue is where supplier is based – ie 20% VAT charge in most cases
- Exception – B2C service in VATA1994, Sch 4A, para 16 – place of supply is where customer is based if customer outside the EU

Examples of errors

- **Motor bike repairer** working for professional UK speedway rider at races in EU and outside EU. He charged VAT on UK races only – **incorrect under general B2B rule**

- **Land services** – estate agent selling London property owned by Russian in Moscow – key issue is where the land is located – **B2B and B2C exceptions.**

Triangulation example

- UK business sells goods to French business – bought from Belgian supplier – goods go straight from Belgium to France.
- Features of triangulation: three different EU countries; all three businesses are registered for VAT; VAT is accounted for by final customer on his own VAT return ie France in this example.
- UK business will record sales on EU sales list (code 2) but not VAT return or Intrastat
- VAT Notice 725, section 13.

Reverse charge…..buying services from abroad

- Key point – include non-EU countries as well as EU countries eg bookkeeping services from India
- VAT return – Box 1/Box 4; Box 6/Box 7.
- Common errors – ensure no entries are made in Boxes 8 and 9 (goods and EU only); Box 4 input tax must take into account partial exemption and non-business use.

Flat rate scheme – limited cost trader

- New FRS category for limited cost traders with 16.5% rate – if 'relevant goods' bought by the business are less than £1,000 a year
- A 16.5% rate means limited input tax credit for any business that adopts this rate.
- Example - £10,000 + VAT = £12,000 x 16.5% = £1,980 VAT payable
- Introduced on 1 April 2017 –VAT Notice 733

Neil Warren

Thank you for listening…….

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