



## **Update on Business VAT 24 April 2018**

The webinar will begin shortly...

# *Update on business VAT*



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# What are the big issues in VAT at the moment?

- Brexit impact
- VAT registration threshold frozen at £85,000 for next three years – deregistration at £83,000
- New rules for online sales of goods – now law!
- Treasury Committee review of VAT – due to HMRC's failure to "collect around £12.6bn of VAT in 2015/16 – will VAT be abolished?
- New legislation – penalty for transactions connected with VAT fraud

# Today's session.....

- VAT tribunal decisions – two practical cases
- Issues with freezing registration threshold
- Brexit challenge – triangulation?
- MTD
- New penalty for transactions connected with VAT fraud
- Flat rate scheme – where are we now?



# Queens Club Ltd (TC6119).....partial exemption - input tax on cost of refurbishing cafe.

- Partial exemption – input tax allocated to three different categories: Taxable (fully claim), Exempt (no claim), Residual (partly claim).
- Queens Club – international tennis club – exclusive membership with ten year waiting list (playing fees are exempt from VAT – bar/catering income is standard rated)
- Input tax on cost of refurbishing cafe – was it wholly linked to taxable sales or a ‘benefit of membership’ and therefore residual?
- Court agreed with taxpayer – no direct and immediate link to playing facility – no ‘use’ link between café expenditure and tennis courts. Members and potential members were only interested in playing facilities when they joined.
- Bedale Golf Club (TC4619) – different outcome on bar expenditure – different business model – local club v international playing facility.

# Graham and Christine Belcher (TC5891)....one or two businesses?

- Mr Belcher – sole trader barber shop from 1991; wife as ladies hairdresser 1997 onwards – also sole trader. HMRC treated both entities as a single partnership that exceeded VAT registration threshold from 1 January 2006.
- Arrears of VAT = £136,691 plus late reg penalty £15,829
- Trading arrangements – completed partnership SA returns; one trading name (Crewe Cuts); shared premises; one set of accounts in name of partnership; one business bank account and single insurance policy, telephone line and music licence.
- Mrs Belcher claimed two sole trader entities – separate tills, hiring and firing of staff done independently, each part of business could be sold separately, separate decision making
- Taxpayer victory – against the odds !

# Freezing VAT registration threshold until 1 April 2020 at earliest

- Pre-budget speculation that threshold would be reduced to £26,000 – no way !
- Example – sole trader caterer (hot take away food) – annual sales = £83,000. VAT would be a 'sales tax' for John (minimal input tax to claim).
- Can he increase his prices each year by rate of inflation?
- $£83,000 + 3\% = £85,490$ ;  $£83,000 + 2\% = £84,660$  but what about 2019?
- Rethink trading strategies? Business splitting?
- Example – three shows each year – sales £4,500 and NP £1,500. Could John hire out his unit to another caterer for £250 x 3 and share profit? Taxable sales reduced by £3,750.....now scope for price increase.
- Example – bed and breakfast in Blackpool – partnership between wife and husband – daughter to manage bar as sole trader?
- Key issue with business splitting – “financial, economic **and** organisational links” – direction issued by HMRC from current date - advisers need to also consider professional conduct guidelines.

# Brexit – unknown territory

- EU countries will become third countries – so important and exporting goods from/to France will be the same as trading with Norway.
- Challenge is for a business to consider potential impact on supply chains.
- **Example** – UK business secures order from German business for goods – but goods go directly from Poland where they are manufactured to the German customer in Berlin.
- Triangulation – above arrangement can be carried out using 'triangulation' concession – avoids need for UK business to get a German VAT number. VAT Notice 725, section 13.
- After UK leaves EU.....UK business will need a German VAT number? It is no longer VAT registered in the EU – so condition of triangulation is not met.
- Less problem with services (hopefully) – reverse charge payable on 'services from abroad' by customer not 'services from EU'

# Making tax digital – April 2019

- Affects VAT registered businesses trading above the registration threshold – effective from first VAT quarter starting on or after 1 April 2019.
- Information must be kept in a digital format (referred to as 'the electronic account') – 'functional compatible software' – enables information to be sent to HMRC using the API platform (including API-enabled spreadsheets).
- Information to be kept in the electronic account: Designatory information – name and address of business owner, VAT number, schemes used eg FRS; sales and purchases (split between different rates); input tax being claimed; VAT account.
- What do HMRC actually receive? Answer – same as now – only the figures recorded in the nine boxes on the VAT return.
- Outcome/purpose? Reduced VAT errors by business owners (tax gap £3.6bn).



# New penalty for transactions connected with VAT fraud

- **VATA1994, para 69C to 69E** – new legislation – a business or person could be liable to a penalty if it “should have known” that a transaction was fraudulent.
- “Should have known” is different test to “knew”
- New legislation works on the “knowledge principle – main concern.....naive or inexperienced people might be captured ie innocent people with no intent to defraud public purse.
- 30% penalty of potential lost VAT – for companies, penalty could be attributed to an individual manager, director or secretary.
- 69E = ‘naming and shaming’ by HMRC – but no mention of individuals if lost VAT is less than £50,000.
- Denial of input tax where there has been fraud in a supply chain – *Axel Kittel v Belgian State* (case C-430/04). “Kittel principle”

# Flat rate scheme update

- **Limited cost trader category** 16.5% rate for a business spending less than 2% of gross sales or £250 in a quarter on 'relevant goods' - £200 input tax for business with sales of £100,000 + VAT.
- **Options** – deregister (voluntary registration); withdraw from FRS (notify HMRC in writing); pay extra tax and take advantage of time saving benefits.

Neil Warren



Thank you for listening.....



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