

VAT REGISTRATION – REVISED FORM AND NEW GUIDANCE NOTES

Memorandum submitted in September 2006 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales to HM Revenue & Customs in response to an invitation to comment in a limited consultation issued in July 2006.

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VAT REGISTRATION – REVISED APPLICATION FORM AND NEW GUIDANCE NOTES

INTRODUCTION

1. We are pleased to participate in the limited consultation on the revised application form and new guidance notes issued for comment in July 2006 by HM Revenue & Customs (HMRC).
2. Details about the Tax Faculty and the Institute of Chartered Accountants in England and Wales are set out in Annex A. Our ten tenets for a better tax system are attached as Annex B. These are the benchmarks against which we measure the effectiveness of tax systems.

KEY POINT SUMMARY

3. In brief:
 - We welcome the efforts being made to make the process for registering for VAT easier. We note that the longer-term transformational changes being planned will further improve the picture.
 - We think that the new form is an improvement on the old one, will be easier to fill in correctly and will save time. In addition the guidance notes are useful and will also save the applicant's time.
 - We welcome the change of practice in relation to the evidence required of intending traders. We recommend the inclusion of additional information on the registration of intending traders in the guidance notes. We also recommend the inclusion of links to other useful information such as the leaflets, 'The Ins and Outs of VAT' and 'Should I be registered for VAT.'
 - Although largely outside the scope of this consultation, we are very concerned about the continuing and increasing delays in VAT registration more generally.

GENERAL COMMENTS

4. Whilst this limited consultation is concerned with the revised Registration Form, it is necessary to look briefly at the current position on VAT registration generally.
5. HMRC's target for applications since April 2006 has been to process or contact the business for further information within 21 calendar days. Performance against this 21 day target in May 2006 was 58%, but there is a wide degree of variability - 11% of applicants were registered within 7 days, while 15% of applications took more than 56

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days. A note is now included with every VAT pack (and on the HMRC website) asking applicants not to chase up their registration application within 8 weeks. This is to manage 'customer expectations' and reduce the volume of enquiries in order to focus on the processing work.

6. HMRC's relevant PSA target is to increase the proportion of complete and accurate applications to at least 50%. The figure for 2006-07 is under 24%, although it rose to over 27% in June 2006. One of the main causes of delay is that the forms submitted are either incorrect or incomplete.
7. Whilst we recognise that HMRC are taking steps to improve the situation, this is a highly unsatisfactory picture. Delays to VAT registrations generally are however beyond the scope of this consultation, although we shall return to the issue at a later date.
8. The first time a new business comes into contact with HMRC for VAT matters will usually be at the time of registration. The applicant's experience of dealing with HMRC at that stage could colour his thinking about the relationship from then on. We think it is vitally important that businesses should be treated well from the outset. An efficient and courteous registration service will increase levels of confidence in the system and will improve compliance.
9. Conversely, serious delays or difficulties in obtaining a VAT registration hamper businesses, particularly new ones, who are effectively prevented from starting to trade. They cannot print invoices and letterheads, and more importantly, cannot bill their business customers with any real expectation of payment until they can issue a VAT invoice.
10. We welcome the work that has been done to make the process of registering for VAT purposes easier. The proposed improvements to the form and guidance notes and the relaxation relating to evidence from intending traders should be of particular assistance to traders. We are pleased to note that HMRC are planning a number of strategic changes for the longer term to improve the registration service.
11. The prevalence and extent of missing trader fraud has influenced our thinking on the registration process. Questions about previous involvement in VAT-registered businesses are important even though fraudulent applicants may not answer the questions truthfully. If the checks to reduce the risk to the revenue can be carried out in a way which minimises the inconvenience for honest applicants so much the better. We also recognise the importance of questions relating to previous involvement in VAT-registered businesses in order to assess whether a deposit should be sought. However, we do note that, in both Germany and Spain, countries also suffering from MTIC fraud, VAT registrations are normally processed within a few days.
12. We think the new form will be easier to fill in than the old form and will take less time to complete. However, completing the registration form is only part of the process. The relaxation relating to the submission of evidence from intending traders is likely to save more time than the improvements in the form.

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13. We have received a number of complaints about the VAT registration process from our members. The length of time it takes to register a business for VAT purposes is the most common complaint. We are encouraged by the recognition in HMRC that the standards of service in relation to registration have been falling well short of what business expects. This is the first step in the transformation of the registration service. We think that a reasonable target for a VAT registration where all the requested information has been supplied should be 10 days except for those registrations in the higher risk category. We are aware for example of a number of registrations completed in less than two weeks by the Wolverhampton Registration Unit.
14. In our comments on the earlier form some years ago we suggested having different forms for different legal entities. The applicant is almost always clear about the type of entity he is trying to register. Separate forms would ensure that questions relevant to say companies need not appear on a form for the registration of sole traders. We understand the electronic version effectively follows this route by asking the applicant what type of legal entity is being registered. The questions that follow are then relevant to that type of legal entity. In the case of companies where group registration is relevant and partnerships there are other forms to complete. These forms could be dispensed with if there is a specific form for registering partnerships for example. The additional information required could be included in a combined form.
15. It is possible to come close to separate forms for different legal entities by grouping all the questions relating to (say) companies together and putting a note at the top telling the applicant to ignore these questions if he is not seeking to register a company. We recommend that this be given further consideration.
16. We referred above to HMRC's statistics that only some 27% of application forms are currently completed correctly. We understand that most errors are made with the effective date of registration, and that the new form has been designed to reduce these. We recommend that HMRC classify the most common errors and publicise them, as was done some years ago. We would be happy to assist by publicising them to our members.

SPECIFIC COMMENTS ON THE DRAFT REGISTRATION FORM

17. **Question 1. Name of the business.** Should this not be 'Name of the person or legal entity carrying on the business?' It is clear that it is not the name of the business that is required here. It is the name of the person or legal entity carrying it on.
18. **Question 2. Trading name.** We assume that trading name and business name are synonymous. If that is correct it might be better to be consistent and only use one of those terms. We can see the need for separate treatment for a partnership but there may be difficulties with the form where a partnership carries on more than one business under different trading names. It might be better to delete the reference to partnerships from question 2. Partnerships carrying on just one business would then repeat the trading name shown in question 1. It is quite common for sole proprietors to carry on more than one business and the fact that all of them are covered by the same registration is a frequent cause of confusion and error. This is a topic suitable

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for the guidance notes. Question 2 should perhaps ask for the trading name (or business name) of each business carried on.

19. **Questions 3 and 4.** As in the case of question 1, question 3 gives the impression that it is the business being registered not the person carrying on the business. Questions 3 and 4 could usefully be combined so that it is clear that they both relate to corporate bodies only. Unincorporated associations on the other hand should have a separate question because they are different types of entity. However, sole traders and partnerships should be asked to skip the question otherwise some will attempt to fill it in.
20. **Question 5.** If more than one separate business is being carried on do you need the contact details? If so a small note at the bottom of the page is required. Foreign businesses should be asked to include details of an agent if one has been appointed.
21. **Question 7.** The term running a business could be misinterpreted. Most people would take it to mean only a person who has responsibility for the conduct of the entire business. In the case of a company it could be taken to mean the managing director only. We think that it may be better to ask whether the applicant has been involved in any way in another business. You may wish to exclude persons who acted solely as employees in another business where they or anyone connected with them did not have any financial interest in the business.
22. **Question 8.** It is possible that an applicant may not have arranged a bank account for a new business at the time of the VAT application. A sole trader starting-up may well continue to use his existing bank account. If this is going to delay registration the guidance note should provide an explanation. Overseas companies may not have a UK bank account and therefore a tick box to confirm that will be useful.
23. **Question 9.** This question asks about changes in the 'legal status of a VAT registered business.' The guidance note says 'by change of legal status we mean a change of ownership, for example, from a sole proprietorship to a partnership or limited company.' It might be clearer to ask about 'changes of ownership or legal status.' This will cover the applicant who is changing from a sole trader to a limited company but who does not think that there has been a change of ownership because he owns all the shares in the company.
24. **Questions 9 to 12. Taking over a going concern.** Although we do not wish to increase the length of the form we ask whether there should be questions about the nature of the business before the change and whether a change in the business or in the products dealt in is planned in the future. It is possible of course that separate enquiries will be made to deal with this if this part of the form is filled in.
25. **Question 22.** For most sole traders the information here will be the same as the contact details in question 5 (with the exception of the applicant's date of birth and national insurance number). We suggest that the address and telephone number should only be filled in if it is different from the answer in question 5. The previous home address appears superfluous except perhaps in the case of those who own or control the business. For many applications the information relating to the date of

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birth and national insurance number of the applicant appears to be superfluous. Where the application relates to a company and the applicant is not a controlling shareholder these details do not appear to be relevant. For example they are not relevant for registrations relating to quoted companies.

26. **Question 23.** To cater for applicants who do not read the guidance notes it may be better to include the checklist on page 6 of the guidance notes in the application form itself rather than simply refer to the checklist.

Other comments on the form

27. When designing the registration form it is difficult to predict what information may be important for specific businesses. Often the trader will be aware of information that is relevant. We wonder whether there should be a white space on the form where the applicant could be invited to add any other information he thinks may be relevant. We have in the past received complaints that HMRC do not read letters accompanying a VAT registration form with the result that further correspondence ensues. A white space on the form should also deal with this problem.
28. It may help traders to include a question in the form about aligning VAT return periods with the financial year end. Also a tick box to allow traders to opt for monthly returns would be helpful. This could be included in question 18.
29. Registration is a good time to prompt for an authorisation letter to be completed where an agent has been appointed. This could be dealt with in the guidance notes if there is no room for it on the form.

SPECIFIC COMMENTS ON THE GUIDANCE NOTES

30. We think that there should be some guidance that all the businesses carried on by sole traders are included in the VAT registration.
31. At the start of the guidance we think there should be a reference to the two most useful booklets for new businesses – ‘The Ins and Outs of VAT’ and ‘Should I be registered for VAT.’
32. In the case of a transfer of a going concern we think that a warning note should be added about responsibility for VAT liabilities relating to periods before the date of the transfer where the transferee wishes to take over the existing VAT registration number of the transferor. There is a note relating to question 12 but we do not think it goes far enough nor does it deal with all the possible liabilities. Before taking on an existing registration number the applicant should seek advice.
33. Questions 13 to 16 are quite complex and difficult for the layman. At the time of registering for VAT purposes the proprietor may not have taken advice from a specialist VAT adviser. In general these notes are well written but the applicant should also refer to the material referred to above.

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34. The map showing where the application form should be sent is far from clear. London appears to be cut in half and the layman living there would not intuitively expect to have to send his form to Northern Ireland. We appreciate that these matters cannot be changed quickly but it would make sense to have just one address for all registrations.
35. We think that more guidance is needed on voluntary registration in addition to the material in the notes on question 13.

INFORMATION AVAILABLE ON THE HMRC WEBSITE

36. If you type into the search line in the website 'VAT registration form' the first result is about pension schemes. None of the other results appears to provide the actual form. New businesses probably do not know that the VAT registration form is VAT 1. However, if 'VAT 1' is put into the search line the actual form is the tenth result in the search. If the trader does not wish to use online filing he may find it difficult just obtaining the form (that is the existing VAT 1 form). There is a useful list of frequently asked questions about VAT registration but the potential applicant is only likely to be able to find it by accident.
37. It is important for businesses to be able to find VAT registration forms quickly and to find related information that will help with the registration process. Access to the online registration service is clearly mapped. We think it should be made easier to access the registration form for those wishing to make a 'paper' application.

ANSWERS TO SPECIFIC QUESTIONS IN THE CONSULTATION DOCUMENT

38. **(a) Is the layout of the form user-friendly?** There is no doubt that the new form is more user friendly than the old form. It contains fewer questions and the information required is clearer.
39. **(b) Do you understand the questions?** The questions are clear and readily understandable to a professional, but please note our comments above.
40. **(c) Are you able to navigate easily through the form?** Yes the form is only four pages long and the order of the questions is broadly logical.
41. **(d) Do you identify particular problems?** Yes we have mentioned a number of particular problems above.
42. **(e) Do you have any views or suggestions on how we could further improve the form?** We have made a number of suggestions above.
43. **(f) Do you find the notes helpful?** Yes the notes are helpful. We have made a number of comments on the guidance notes above. Also we suggest that there should be cross references to where the trader will be able to find booklets and further

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information. For example where the registration relates to the transfer of a going concern a cross reference to further information would be useful.

- 44. **(g) Have we explained the technical terms properly in the notes?** Yes. Also we think that the glossary is a useful addition to the notes.
- 45. **(h) Do you have any views or suggestions on how we could further improve the notes?** Yes see our specific suggestions above.
- 46. **(i) and (j) Compliance cost.** We broadly agree that the draft form will take less time to complete and we think 15 minutes less time is a reasonable estimate. It is more likely that the new form will be completed properly than the old one and that will save far more than 15 minutes for those whose application form would have been rejected as incomplete. However, it is important to remember that filling in the form is only one part of the registration process. Significant time is likely to be spent in obtaining the necessary information before beginning to complete the form, and HMRC may request further information following submission.

KM.
08.09.06

ICAEW AND THE TAX FACULTY: WHO WE ARE

1. The Institute of Chartered Accountants in England and Wales ('ICAEW') is the largest accountancy body in Europe, with more than 128,000 members. Three thousand new members qualify each year. The prestigious qualifications offered by the Institute are recognised around the world and allow members to call themselves Chartered Accountants and to use the designatory letters ACA or FCA.
2. Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department of Trade and Industry through the Accountancy Foundation. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members and students, to provide services to its members and students, and to advance the theory and practice of accountancy, including taxation.
3. The Tax Faculty is the focus for tax within the Institute. It is responsible for tax representations on behalf of the Institute as a whole and it also provides various tax services including the monthly newsletter 'TAXline' to more than 11,000 members of the ICAEW who pay an additional subscription.

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ANNEX B

THE TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. **Certain:** in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
4. **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. **Properly targeted:** when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. **Constant:** Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. **Subject to proper consultation:** other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. **Regularly reviewed:** the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. **Fair and reasonable:** the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. **Competitive:** tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99; see http://www.icaew.co.uk/taxfac/index.cfm?AUB=TB2I_43160,MNXI_43160.