



VAT RELIEF ON SUBSTANTIALLY AND PERMANENTLY ADAPTED MOTOR VEHICLES FOR DISABLED WHEELCHAIR USERS

ICAEW welcomes the opportunity to comment on the consultation paper [VAT relief on substantially and permanently adapted motor vehicles for disabled wheelchair users](#) published by HMRC on 30 June 2014.

This response of 4 September 2014 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

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MAJOR POINTS

1. We believe that there should continue to be some form of VAT relief available for the permanent adaptation of motor vehicles for disabled wheelchair use, but that restrictions should be imposed to reduce the level of fraud.
2. If a motor dealer has received an eligibility declaration in good faith, they should not then be liable for any undercharged VAT or penalties if this declaration is subsequently proved to be false, except in cases of fraud by the dealer.
3. Consideration should be given to the introduction of a scheme whereby VAT is charged as normal on all vehicles and subsequently refunded direct to the disabled claimant by HMRC.
4. It would not be unreasonable to restrict the ability to purchase a vehicle to once every three years in general, subject to a relaxation being available to cover specific issues.

RESPONSES TO SPECIFIC QUESTIONS

Q1: Do you agree that reform of the relief is needed? If not, why not?

5. Yes, we agree that reform of the relief is necessary to reduce the level of fraud.

Q2: Do you agree that, in general, VAT relief should only be allowed on one vehicle, purchased for the personal use of a disabled person, every three years? If not, please give your reasons.

6. We believe that restrictions should be imposed to substantially reduce the level of invalid claims for VAT relief. However, it should be possible for a genuinely disabled person to obtain a car more frequently than every three years, particularly if their physical mobility worsens.
7. In practice, it may be impossible for a business to establish if a purchaser has acquired a vehicle during the previous three years if it was not purchased from that business. There would therefore need to be a central record maintained, presumably by HMRC, that a dealer could access to confirm that their purchaser was not attempting to break the three year rule.
8. If HMRC were to keep a record of all vehicles where VAT relief had been given, care would be required to ensure that any release of this information did not breach data protection laws.
9. An alternative approach might be for all new vehicles to be sold with the addition of VAT, with HMRC providing refunds against claims submitted by purchasers. This might operate along similar lines to the DIY housebuilders scheme.

Q3: Under what circumstances should the rule be relaxed to allow more than one vehicle to be purchased within a three year period?

10. If a vehicle is involved in a crash, resulting in it being written off or severely damaged, the facility should be available for an affected disabled person to obtain a replacement without delay.
11. A similar arrangement should be made to replace vehicles that are stolen.
12. There may be occasions where, with practical experience, a vehicle was found to be unsuitable for the disabled person, for example where their physical disability changed.
13. If a vehicle suffered from serious faults or a manufacturer's recall, it may be appropriate for a replacement vehicle to be acquired.

Q4: Do you agree that a rule specifying a minimum cost of adaptations, of 20% of the cost of the vehicle, should be introduced?

If not, what suggestions do you have for defining the ‘substantial adaptation’ of a vehicle?

14. We do not believe that a 20% limit is appropriate, as this could result in vehicle manufacturers profiteering by overcharging on relatively minor adaptations to meet the 20% threshold. Alternatively, a 20% limit could distort competition.
15. For example, if the true cost of an adaptation was around £2,000, VAT relief would only be available on vehicles up to the value of around £10,000. This would unfairly disadvantage manufacturers whose vehicles were only available from, say, £12,000 upwards, as the adaptation would be less than 20% of the value of the vehicle. This might tempt some manufacturers to increase the price of the adaptation to a level where it met the 20% threshold.
16. It would be very difficult, if not impossible, to provide a list of adaptations that qualified for VAT relief. However, it may be easier to provide a list of adaptations that were specifically excluded from relief. For example, an adaptation might not qualify if it cost less than £1,000 and/or took less than 12 hours to reverse.

Q5: What features do you think a motor vehicle that has been substantially adapted, to enable a disabled wheelchair user to enter and drive or enter and travel in, should include?

17. This would depend upon the nature of the disability and should be tailored to the specific needs of each individual purchaser. This is not our area of expertise.

Q6: What adaptations are generally needed by wheelchair users to use a vehicle and/or carry their wheelchairs?

18. This depends upon the nature of the disability. Some people would require an electric lift to secure the wheelchair in place, whereas others might require room for storing a folded wheelchair. This is not our area of expertise.

Q7: Would motor dealers be generally supportive of supplying information on zero-rated sales to HMRC?

19. We are unable to comment on this question. This is not our area of expertise. However, it will inevitably impose additional burdens on motor dealers.

Q8: What additional administrative burden would this create for dealers?

20. To some extent, this depends upon the existing procedures adopted by particular dealers.

Q9: Do you have any alternative proposals that would enable HMRC to monitor zero-rated sales?

21. An alternative approach might be for all new vehicles to be sold with the addition of VAT, with HMRC providing refunds against claims submitted by purchasers. This might operate along similar lines to the DIY housebuilders scheme.
22. Another possibility would be to limit the VAT relief to the cost of the adaptation. For example, if the list price of a car was £15,000 plus £3,000 VAT and an adaptation cost £2,000, the car, including the adaptation, could be sold for £17,000 plus £1,000 VAT, making it no cheaper than a non-adapted car. Using the same basic car, if the adaptation cost £4,000, the car would then be sold for £19,000 with no VAT. The advantage of this method is that an adapted car

could not be sold for a lower price than a non-adapted car, so should significantly reduce the abuse experienced under the current scheme.

- 23.** It may be appropriate to apply a maximum list price for which the vehicle could be zero rated. In such cases, zero rating could be restricted to the cost of the adaptation only.

Q10: Do you agree that a mandatory eligibility declaration should be made for all purchases of zero rate adapted vehicles?

- 24.** Yes. If a dealer has received such a declaration in good faith, they should not then be liable for any undercharged VAT or penalties if this declaration is subsequently proved to be false.
- 25.** By making this mandatory, all suppliers would have the same legal obligations, which should deter purchasers from shopping around to find a dealer prepared to bend the rules.

Q11: Do you agree that a penalty should be chargeable on false declarations?

- 26.** A penalty would be appropriate, but this should be levied against the person making the declaration and not the motor dealer selling the vehicle, except in cases of fraud by the dealer.

Q12: Do users of lower limb prosthetics usually own a wheelchair?

- 27.** We are unable to comment on this question. This is not our area of expertise.

Q13: Would users of lower limb prosthetics use a wheelchair if their prosthetic limbs were not available?

- 28.** We are unable to comment on this question. This is not our area of expertise.

Q14: What adaptations are generally needed for users of lower limb prosthetics to use a motor vehicle?

- 29.** We are unable to comment on this question. This is not our area of expertise.

Q15: Other than people transported in ambulances, are you aware of any circumstances where a disabled person is usually carried on a stretcher?

- 30.** No. This is not our area of expertise.

Q16: Are people that previously needed to be carried on stretchers now able to obtain suitable wheelchairs or prosthetics that meet their needs?

- 31.** We are unable to comment on this question. This is not our area of expertise.

Q17: Have you experienced any problems using the VAT relief for adapted boats?

- 32.** We have no experience of using this relief. This is not our area of expertise.

Q18: What features do you think a boat that has been substantially adapted, for use by disabled people, should have?

- 33.** We are unable to comment on this question. This is not our area of expertise.

APPENDIX 1

ICAEW 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 icaew.com/en/technical/tax/tax-faculty/~media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)