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Revenue & Customs Brief 68/09

VAT: Return of standard rate to 17.5 per cent on 1 January 2010 - measures to help business

This Brief explains two HMRC measures designed to assist businesses in implementing the return of the standard rate of VAT to 17.5 per cent. It also includes details of the consultation currently being carried out by the Department for Business, Innovation and Skills (BIS) about a proposal to amend the Price Marking Order 2004.

Background

On 1 December 2008 the standard rate of VAT was temporarily reduced to 15 per cent. It reverts to 17.5 per cent on 1 January 2010. HMRC recognises that the date of the change may cause problems for certain businesses at a particularly busy time of year so we have introduced two measures to help business to implement the change. These are:

- | special accounting arrangements for businesses operating beyond midnight on 31 December 2009;
- | the 'light touch' to be operated by HMRC audit staff in dealing with errors arising out of the rate change.

Further details on each of these are provided below.

1. Special accounting arrangements for businesses operating beyond midnight on 31 December 2009

Retailers

The temporary reduction of the standard rate of VAT to 15 per cent ends on 31 December 2009. As is normal with changes to the VAT rate, the return to 17.5 per cent will be effective from midnight on 31 December. However, HMRC recognises that making the necessary changes to account for VAT at 17.5 per cent may cause particular problems for certain businesses operating after midnight at what can be a particularly busy time of year. For example, it would not be practical for a pub, club, restaurant or hotel hosting a New Year's Eve celebration to stop serving customers at midnight in order to adjust their tills to account for VAT at 17.5 per cent and to amend their prices accordingly.

In order to assist businesses in this position HMRC will allow them to account for VAT at 15 per cent on takings received up to the earlier of:

- | the end of trading of the 31 December session or
- | 6am on the morning of 1 January 2010.

This treatment is subject to the following conditions:

- | It is restricted to those businesses open at midnight on 31 December 2009 that account for VAT at the point of sale such as businesses on a retail scheme - pubs, shops, restaurants etc. It will not apply to:
 - mail order or on-line retailers;
 - businesses that account for VAT on the basis of VAT invoices issued; or
 - pre-payments for supplies of goods or services to be provided after 6am on 1 January 2010.
- | It will not apply to sales made through coin operated or similar machines (vending, amusement or gaming machines etc). In these cases businesses must follow the normal rate change rules as set out in section 10.1 of the detailed [rate change guidance](#)

([PDF 248K](#)) and account for VAT based on the date that the machine is used or by apportionment if the machine does not record the date of usage.

- | It will not apply to transactions made after midnight on 31 December that would have been caught by the rate change anti-forestalling legislation (Finance Act 2009, Schedule 3) had they been made before midnight. Any such supplies will be liable to VAT at 17.5 per cent. Further guidance on the [anti-forestalling legislation \(PDF 79K\)](#) is available.
- | HMRC may withdraw or restrict the application of this treatment in individual cases.

Telecommunications Providers

As the hours around midnight on New Year's Eve are traditionally the busiest time of year for voice calls and text messages, it may similarly be difficult for telecommunications service providers to change their accounting and billing systems to take account of the change in the rate. HMRC will therefore allow VAT to be charged at 15 per cent on charges for voice calls and text messages that take place and are billed up to 6am on 1 January 2010.

2. The Light Touch

The following guidance has been given to HMRC VAT audit staff about the approach to adopt in relation to errors discovered in relation to the rate change:-

What if businesses make mistakes implementing the change of rate (light touch)?

- | HMRC wants to encourage and assist businesses as they make the changes necessary to deal with the change in the standard rate.

If a business discovers that it has made material mistakes, it should correct them through the normal error correction process.

- | HMRC will however be operating a 'light touch' in terms of errors made in the first VAT return after the change (where the error relates to a change of rate issue). This means that in our audit plans we will not target change of rate errors that are unlikely to lead to any material net revenue loss. And if we find errors which relate to a change of rate issue we will not seek an adjustment unless we have reason to suppose that there is an overall revenue loss.
- | For example, consider a fully taxable business which supplies standard-rated goods to a fully taxable customer and incorrectly charges 15 per cent rather than 17.5 per cent. As the detailed guidance makes clear, the customer should treat only 15 per cent of the tax exclusive (net) price as input tax. If the customer does this there will be no overall loss of tax. When auditing the supplier, HMRC will assume that the purchaser has followed the accounting documents unless there is good reason to suppose otherwise.
- | However, if the supply is or may be to a customer who is not able to recover VAT in full, then there is likely to be an overall loss of tax and HMRC will seek to adjust (issue an assessment) in the normal way.
- | In situations where HMRC do need to adjust (and issue an assessment) we will take into account the difficulties the business has faced in adjusting to the change in considering whether penalties apply.

3. BIS Consultation on proposal to amend the Price Marking Order 2004

Traders are required to display clearly their prices inclusive of VAT. For a period up to 14 days, they are permitted under the Price Marking Order 2004 (SI 2004/102) to let consumers know, by way of a general notice, that an adjustment in price, to take account of the VAT change, will be made at the till.

BIS is consulting on its proposal to extend the length of time that traders can display a general notice, from 14 days to 28 days. Full details of the [consultation \(Open new window\)](#), which closes on Monday 23 November 2009, can be obtained. at the link above.

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