

Driving Facts

VAT news

Demonstrator Claim Update

HM Revenue and Customs are continuing to process the remaining demonstrator VAT claims. However, aspects of certain claims for VAT overpaid on demonstrator bonuses are being rejected on the grounds that taxpayers cannot provide physical evidence that they actually declared VAT on some bonuses. We consider that this rationale is flawed and our partners in this exercise, Barnard Atkins Limited, are in the process of preparing a number of appeals to the VAT Tribunal in relation to this issue.

If we are not already handling your demonstrator VAT claim and you are facing problems evidencing certain aspects of your claim, then we recommend that you contact us with a view to resolving the issue.

Compound Interest Claims

As we have discussed in previous editions of VAT News, following the settlement of VAT claims taxpayers should be pursuing separate claims for compound interest. If we acted for you in relation to the VAT claim itself, then we will immediately take action to protect your interests from a compound interest perspective at the point that the VAT claim is settled, however, if we did not act on your behalf in relation to the settlement of the original VAT claim then we would urge you to contact us in the event that a compound interest claim has not yet been submitted on your behalf.

The Court of Appeal has recently issued its judgment in relation to the earlier decisions of the High Court to refuse common law claims for compound interest submitted on behalf of a number of our clients. The Court upheld the original decision of the High Court and confirmed that the claims were brought out of time. It is unlikely that this decision will be appealed and therefore the common law claims submitted on behalf of the Motor Trade are unlikely to proceed any further.

However, as regular readers of this publication will be aware, parallel action (known as the compound interest project or CIP) is also being pursued on behalf of a number of our clients in the VAT Tribunal. Although the Tribunal initially ruled that taxpayers did not have a statutory right to compound interest following repayment of overpaid VAT, we are pleased to confirm that the Court has now granted leave to

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appeal this decision to the Court of Appeal. The Court is due to hear the first aspect of this appeal in June of this year.

In due course we will write to each of our affected clients with a detailed summary of the impact of the above cases on your individual claim.

To summarise, the compound interest issue is still some way from being resolved one way or another. The key is for all dealers to protect their position as soon as possible in order to ensure that they will benefit from a successful outcome of the litigation discussed above. If you would like further information in relation to the compound interest issue then please do not hesitate to contact us or Barnard Atkins.

Budget – All Quiet on the VAT Front

The Budget contained very few VAT changes although as outlined elsewhere in this newsletter a number of other new measures will take effect in April. Here is a summary of what the Budget held from a VAT perspective.

Fuel Scale Charges

New rates of fuel scale charges have been announced and must be used from the start of your next return period starting on or after 1 May 2010.

See www.hmrc.gov.uk/budget2010/bn44.pdf for the new rates.

On a related matter, new demonstrator scale charge rates were due to be published in January this year but so far this has not happened. Until the new tables have been released you should continue using the old rates. We will publish updated tables on our website as soon as they have been announced.

Registration and Deregistration Thresholds

The VAT registration threshold will increase to £70,000 and the deregistration threshold to £68,000 with effect from 1 April 2010.

VAT on Postal Services

A change to be introduced from 31 January 2011 will affect those of you who use the services of Royal Mail/Parcel Force. Broadly speaking, from this date



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standard rated VAT will apply to postal services which are not social mail. You should ensure the standard settings in your DMS are updated to reflect this and allow input VAT recovery.

Cheque Your Timings

From 1 April 2010, all cheque payments by post (but not Bank Giro) for VAT will be treated as being received by HM Revenue and Customs on the actual date that the cleared funds reach HMRC's bank account and not on the date that the cheque is received.

You should ensure that you allow enough time for your cheque to reach HMRC's bank account so that it is no later than the due date shown on your VAT Return. A cheque takes three bank working days to clear and if your cheque does not clear by your due date, you may be liable to a surcharge for late payment.

To avoid possible late payments it is recommended that you make your VAT payments electronically as this is secure and could also give you up to seven extra days to pay, or if you pay by Direct Debit, at least ten extra days.

VAT Returns Are Moving Online – Are You Ready?

On the subject of electronic payments, by 2012 it is likely that paper VAT returns will be a thing of the past and all businesses will be required to file returns online and pay liabilities electronically. As the first stage in this process, from 1 April 2010 VAT registered businesses with an annual turnover of £100,000 or more, and all businesses newly registered for VAT must file their VAT Returns online, including nil and repayment returns, even if their turnover subsequently drops below the £100,000 threshold. An approved electronic payment method must also be used.

Affected businesses should have received a letter from HMRC last month but what does this mean for you?

The online VAT Return is very similar to the paper version and there have been no changes to the rules on how to complete your return or calculate your VAT.

You should take the following steps to ensure you meet the new rules:

Register and enrol for VAT online services – you can view a demonstration of how to do this as well

as filing a return at HMRC's online services demonstrator

- Consider any changes that need to be made to your business processes for checking and signing off your VAT Return
- Identify your preferred form of electronic payment and set up the necessary arrangements – if your business has to pay VAT by cheque, make sure you order from HMRC the necessary Bank Giro paying-in slips which you will need to use when paying in your cheque at participating bank and building societies. (Although involving cheque payments Bank Giro is still classed as an electronic payment method).
- You may also want to set up the email reminder service which is a free service to remind you when your next online return is due.

Businesses who do not comply with the rules will face penalties but there are actually several advantages to online filing and electronic payments, such as having longer to submit the return and pay your liability, therefore aiding cash flow.

Partial Exemption – Changes to De Minimis

Those of you who perform partial exemption calculations will be familiar with the concept of the de minimis rules. Optional changes are being introduced for periods commencing on or after 1 April 2010 to enable some businesses to avoid performing full calculations each quarter.

The first change involves applying two tests to your input VAT but both tests are unlikely to be met by most dealers. Test One will only apply if your total input VAT in a quarter is £1,875 or less and Test Two can be met if the input VAT directly attributable to exempt supplies plus input VAT on your overheads is less than this amount.

A new annual test may be more useful however. Using these rules, if you passed the de minimis test in your previous partial exemption year and have reasonable grounds for not expecting to incur more than £1m input tax in the current year, you can treat your business as de minimis in the current year. You would therefore not need to perform partial exemption calculations each quarter. An annual adjustment would be performed at the end of your VAT year as normal.

If you have any queries on any of the subjects covered in this newsletter or on any other VAT matters please email us at vat@ase-global.com or call our helpline on 0161 493 1930.

These articles are of a general nature and specific advice should be obtained before they are acted upon. To subscribe to our Email alerts system please Email us at alerts@ase-global.com.



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