

VAT - Matters for the Smaller Business

This factsheet focuses on VAT matters of relevance to the smaller business. A primary aim is to highlight common risk areas as a better understanding can contribute to a reduction of errors and help to minimise penalties. Another key ingredient in achieving that aim is good record keeping, otherwise there is an increased risk that the VAT return could be prepared on the basis of incomplete or incorrect information. This aspect is not considered further here but useful guidance can be found in www.hmrc.gov.uk/factsheet/record-keeping.pdf

Input VAT matters

Only registered traders can reclaim VAT on purchases providing:

- the expense is incurred for business purposes and
- there is a valid VAT invoice for the purchase.

Only VAT registered businesses can issue valid VAT invoices. VAT cannot be reclaimed on any goods or services purchased from a business that is not VAT registered. Proforma invoices should not be used as a basis for input tax recovery as this can accidentally lead to a duplicate VAT recovery claim.

Most types of supply on which VAT recovery is sought must be supported by a valid VAT invoice. This generally needs to be addressed to the trader claiming the input tax. A very limited list of supplies do not require a VAT invoice to be held to support a claim, providing the total expenditure for each taxable supply is £25 or less (VAT inclusive). The most practical examples of these are car park charges and certain toll charges.

The following common items however never attract input VAT and so no VAT is reclaimable - stamps, train, air and bus tickets, on street car parking meters and office grocery purchases like tea, coffee and milk!

Business purpose

This is often an area of contention between taxpayers and HMRC as VAT is not automatically recoverable simply because it has been incurred by a VAT registered person.

In assessing whether the use to which goods or services are put amounts to business use (for the purpose of establishing the right to deduct input tax), consideration must be given as to whether the expenditure relates directly to the function and operation of the business or merely provides an incidental benefit to it.

Private and non-business use

In many businesses, personal and business finances can be closely linked and input tax may be claimed incorrectly on expenditure which is partly or wholly for private or non-business purposes.

Typical examples of where claims are likely to be made but which do not satisfy the 'purpose of the business' test include:

- expenditure related to domestic accommodation
- pursuit of personal interests such as sporting and leisure orientated activities
- expenditure for the personal benefit of company directors/proprietors and
- expenditure in connection with non-business activities.

Where expenditure has a mixed business and private purpose, the related VAT should generally be apportioned and only the business element claimed. Special rules apply to recover input tax claimed on assets and stock (commonly referred to in VAT as goods) when goods initially intended for business use are then put to an alternative use.

Example

Three laptops are initially bought for the business and input VAT of £360 in total is reclaimed.

One is then gifted by the business owner to his son so VAT will have to be accounted for to HMRC of £120 ($1/3 \times £360$)

Business entertainment

VAT is not reclaimable on many forms of business entertainment but VAT on employee entertainment is recoverable. The definition of business entertainment is broadly interpreted to mean hospitality of any kind which therefore includes the following example situations:

- travel expenses incurred by non employees but reimbursed by the business, such as self employed workers and consultants
- hospitality elements of trade shows and public relations events.

Business gifts

A VAT supply takes place whenever goods change hands, so in theory any goods given away result in an amount of VAT due. The rule on business gifts is that no output tax will be due, provided that the VAT exclusive cost of the gifts made does not exceed £50 within any 12 month period to the same person.

Where the limit is exceeded, output tax is due on the full amount. If a trader is giving away bought-in goods, HMRC will usually accept that he can disallow the tax when he buys the goods, which may be more convenient than having to pay output tax every time he gives one away.

Routine commercial transactions which might be affected include such things as:

- long service awards
- Christmas gifts
- prizes or incentives for sales staff.

Cars and motoring expenses

Input tax errors often occur in relation to the purchase or lease of cars and to motoring expenses in general. Some key issues are:

- Input VAT is generally not recoverable on the purchase of a motor car because it is not usually exclusively for business use. This prohibition does not apply to commercial vehicles and vans, provided there is some business use.
- Where a car is leased rather than purchased, 50% of the VAT on the leasing charge is not claimed for the same reason.
- Where a business supplies fuel or mileage allowances for cars, adjustments need to be made to ensure that only the business element of VAT is recovered. There are a number of different methods which can be used, so do get in touch if this is relevant to you.

Output VAT issues

Bad debts

Selling on credit in the current economic climate may carry increased risk. Even where credit control procedures are strong there will inevitably be bad debts. As a supplier, output VAT must normally be accounted for when the sale is initially made, even if the debt is never paid, so there is a risk of being doubly out of pocket.

VAT regulations do not permit the issue of a credit note to cancel output tax simply because the customer will not pay! Instead, where a customer does not pay, a claim to recover the VAT on the sale as bad debt relief can be made six months after the due date for payment of the invoice.

Example

A trader supplies and invoices goods on 19 October 2011 for payment by 18 November 2011 (ie a normal 30 day credit period). The earliest opportunity for relief if the debt is not settled would be 18 May 2012. The relief would be included in the return into which this date fell, depending on the return cycle of the business.

The amount of the claim

The taxpayer can only claim relief for the output tax originally charged and paid over to HMRC, no matter whether the rate of VAT has subsequently changed. The claim is entered as additional input VAT - treating the uncollected VAT as an additional business expense - rather than by reducing output VAT on sales.

The customer

A customer is automatically required to repay any input VAT claimed on a debt remaining unpaid six months after the date of the supply (or the date on which payment is due if later). Mistakes in this area are so common that visiting HMRC officers have developed a programme enabling them to review Sage accounting packages and to list purchase ledger balances over 6 months old for disallowance.

Preventing the problem?

Small businesses may be able to register under the Cash Accounting Scheme, which means you will only have to account for VAT when payment is actually received.

How we can help

Please contact us if you require any further guidance on VAT issues for your business.

For information of users: This material is published for the information of clients. It provides only an overview of the regulations in force at the date of publication, and no action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a result of the material can be accepted by the authors or the firm.