



Reversion of VAT rate to 17.5% on 1 January 2010

4 August 2009

As you will be aware, the VAT rate is due to revert to 17.5% with effect from 1 January 2010.

There may be opportunities to benefit from the existing 15% rate, but you need to take into account the “anti-forestalling” legislation introduced by HM Revenue & Customs (HMRC) in the 2009 Budget.

These rules are designed to prevent purchasers of goods and services from taking what HMRC considers to be unfair advantage of the rate change.

There are two situations where a supplementary VAT charge might apply.

Situation 1

Where the following conditions are met, the supplier will have to make a supplementary charge of 2.5% VAT on 1 January 2010, if they have issued a VAT invoice with VAT of 15% prior to that date.

Conditions:

The customer cannot reclaim the VAT it incurs, AND one of the following conditions applies:

- *The supplier and the customer are “connected” (e.g. associated companies) OR*
- *The supplier funds the purchase (e.g. by loaning money to the customer), OR*
- *A VAT invoice is issued and payment is not due for at least 6 months.*

Situation 2

Where the following condition is met, the supplier will have to make a supplementary charge of 2.5% VAT on 1 January 2010, if they have issued a VAT invoice with VAT of 15% prior to that date.

Condition:

A pre-payment of more than £100,000 is made before the rate change (i.e. before 1 January 2010) for goods or services to be provided after the rate change.

- *The above rule will not apply if the pre-payment is in accordance with normal commercial practice.*

Practical implications for NHS bodies - purchases

If NHS bodies follow their normal practice in buying goods and services then it is unlikely that these rules will affect you. The following are some examples of how the rules will apply.

Example 1

If you have an annual contract for the lease of equipment or other services and an invoice is issued before 1 January 2010, then VAT should be charged at 15%. As long as this is normal practice for this contract and payment is due within 6 months there will be no supplementary VAT charge.

Example 2

If goods are ordered, invoiced, delivered and paid for by 31 December 2009 there will be no supplementary VAT charge. This means that the purchase of goods could be advanced to obtain a VAT saving before the rate reverts to 17.5%.

Example 3

For on-going construction contracts (where VAT recovery is relatively low), it will be beneficial to ask contractors to issue invoices for work carried out up to December 2009 by 31 December 2009 so that it can be charged at the 15% rate. A level of advance payment for future works could also be made (up to £100,000), subject to the rules outlined above.

Alternatively, you can ask a supplier who raises an invoice after 31 December 2009 to split the invoice between the two rates, based on the value of the work undertaken before and after the rate change.

Practical implications for NHS bodies – sales

In the run up to 31 December 2009 we would strongly recommend that you seek to ensure that your invoicing is as up to date as possible. Complications can arise when invoices are issued some time after goods or services are supplied, so when a VAT rate change is in prospect it is particularly important to ensure that invoices are issued at the correct time. This will of course ensure you get paid sooner so is generally best practice anyway.

Conclusion

If you would have any queries on this matter please contact your usual VAT Liaison adviser or our free VAT Helpline on 0800 700 652.