

VAT: Increase of Standard Rate - 1 January 2010



Supplies made before
31 December 2009

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Our VAT Team

The return of the UK standard rate of VAT to 17½% on 1 January 2010 has been widely criticised, not least because it is New Year's Day! Many businesses found the administrative requirements of the reduction in the rate to be quite onerous and face similar problems when it reverts to 17½%. This article highlights some of the finer points and further information is available from your usual Shipleys contact or the VAT team (contact details overleaf).

A great deal of guidance is also available on the HMRC website (www.hmrc.gov.uk) and we have also been reassured that a 'light touch' approach will be taken when VAT records for this period are inspected.

Supplies made before 31 December 2009

Where goods or services were delivered before 31 December 2009 but are invoiced or paid for after that date the supplier can opt to apply VAT at 15%. Strictly speaking the supplier ought, in most cases, to apply VAT using the rate in force when raising the invoice or receiving payment i.e. 17½%, but can opt to apply VAT at 15%.

Work in Progress

Where a supply of services is invoiced or paid for after 1 January but was started before 31 December 2009 and is due to be finished after that date the supplier can choose to apportion his invoice so as to apply VAT at 15% to the work physically performed in the pre 31 December period and apply VAT at 17½% to the work performed after that. If, however, the

services are either invoiced or paid for before 31 December VAT should apply at 15% to all the work, subject to the rules below about anti-forestalling.

Continuous Supplies of Goods or Services

The tax point for continuous supplies of goods or services is normally fixed on the earlier of date payment is received or the date of issue of the VAT invoice. However, businesses that wish to do so can opt to override the normal rules and apply VAT at 15% to goods or services actually supplied before 31 December.

Businesses making a continuous supply of goods or services often issue an annual invoice schedule detailing payments, dates etc. Any such schedules covering the period both before and after the rate change will have to be reissued to reflect the change of rate.

Retailers and Telecoms Providers

Some retail outlets will be open for business both before and after midnight on 31 December. Strictly speaking these businesses ought to account for VAT at 17½% on all takings after midnight. However HMRC recognises how difficult that will be and is allowing VAT to continue to be accounted for at 15% by affected business up to the earlier of:

- End of trading of the 31 December session; or
- 6 am on 1 January 2010.

Telecoms providers will also be allowed a

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few hours grace to make the switchover to 17½% but only until 6 am on 1 January 2010.

Anti-Forestalling

As noted above the tax points for supplies of goods or services can be fixed at an earlier date by receiving payment or issuing a VAT invoice. It is therefore theoretically possible to make arrangements enabling VAT to apply at 15% even where goods or services are delivered after 1 January 2010.

The possible dangers of this type of activity have been recognised and some anti-forestalling legislation has been enacted to require additional VAT of 2 ½% to apply where one of the conditions noted below is met, but only if the recipient of the affected supply will not be able to fully recover the input VAT:

- The goods or services are supplied to a connected person; or
- The supplier provides or arranges funding of the customer's payment; or
- The VAT invoice issued to the customer does not have to be paid in full within 6 months; or
- The payment or VAT invoice is for more than £100,000 and this is not normal commercial practice.

This legislation can also apply to a supply of rights or options to receive goods or services after 1 January 2010 free of charge or at a discount. Where this supplementary charge arises the recipient can treat it as input VAT and recover it in accordance with the normal partial exemption rules.

Cash Accounting

Any business that uses the VAT Cash Accounting Scheme will need to ensure

that its VAT records are sufficiently detailed to enable it to differentiate between payments received that relate to supplies made at 15% and those made at 17½% so as to account for VAT at the correct rate.

The date the supply was made, in accordance with the normal tax point rules, determines what rate of VAT applies rather than the date when payment is received.

Flat Rate Scheme

HMRC has said that most of the VAT rates in the flat rate schemes will revert to their pre 1 December 2008 levels. However, the rates are being reviewed and a new list should be available soon.

Credit Notes

The VAT rate to apply when issuing a credit note is the same rate as applied on the invoice being credited.

Our VAT Team

Our specialist VAT team has a reputation for clear, practical advice to clients in a range of business sectors with everything from the basics of compliance, through to complex VAT planning.

The team can also provide assistance with queries relating to excise, inland customs, import, export and intra-EU dispatch, and arrival procedures and formalities.

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