



VAT Rate Change

The Chancellor announced a temporary reduction in the standard rate of VAT to 15% between 1 December 2008 and 31 December 2009. The standard rate of VAT returns to 17.5% on 1 January 2010 and you should therefore charge VAT at the rate of 17.5% on the provision of your legal services on or after 1 January 2010.

HMRC Special Rules pertaining to the forthcoming rate change

Under the normal rules, standard rated supplies with tax points created by payments received or VAT invoices issued on or after 1 January 2010 will be liable to the 17.5% rate.

However, there are **optional** change of rate rules that you may be interested in applying. You can apply the rules selectively to different customers. Also, you can adopt them without notifying HMRC. The special change of rate rules are **optional** – you do not have to apply them and you are unlikely to want to if your customer can recover all the VAT you charge them (unless it is administratively more convenient for you). Adopting one of the optional change's will only benefit those clients who are not VAT registered.

The change of rate rules may be used where you perform services before 1 January 2010 and raise a VAT invoice and, in some cases, receive a payment after the rate change.

So, for example, if you issue a VAT invoice after 1 January 2010, for services that you completed before 1 January 2010, you can, if you wish, apply the 15% rate.

You can decide to apply these rules even after you have issued a VAT invoice showing 17.5% VAT. If you do, you must issue a special credit note giving credit for the extra 2.5% VAT, within 45 days of the rate change (i.e. by 14 February 2010). You should not cancel the original invoice. A credit note should contain the following details:

- the identifying number and date of issue of the credit note;
- your name, address and VAT registration number;
- your client's name and address;
- the identifying number and date of issue of the VAT invoice;
- a description which identifies the services supplied; and
- the amount of VAT being credited.



It will happen that a service commences before 1 January 2010 and is still in progress after that date. The normal rule is that where an invoice is issued or a payment received after 1 January 2010 VAT is due at 17.5% even if part of the supply was undertaken before that date.

Often this is a result of a single supply of a service which is merely carried out over a period which commences before 1 January 2010 but is not completed until after that date. Unless you have received payment or issued a VAT invoice before 1 January, the whole supply should be charged at the 17.5% rate under the normal rules. However, you may if you wish, charge VAT at 15% on the work done up to 31 December 2009 and 17.5% on the remainder. You will have to be able to demonstrate that the apportionment between the two amounts accurately reflects the work done in each period

Information which has been issued to Solicitors

If you are a solicitor most of your supplies are covered by the normal tax point rules including a tax point on completion of the work. Where you issue a VAT invoice or receive a payment on or after 1 January 2010 for work that was completed before 1 January 2010 you may use the special rules and account for VAT at 15% (see section 3.3). Where work commenced before 1 January 2010 but will not be completed until on or after 1 January you can apportion the supply between that liable to 15% and that liable to 17.5%, as detailed above.

If you receive Standard Monthly Payments (SMPs) from the Legal Services Commission for legal aid work, the VAT treatment under the agreed procedures depends on the extent to which each payment relates to completed cases. The special change of rate rules can be applied to cases in progress at 1 January 2010 which have not already been partly paid for through an earlier SMP. In other words, an SMP received after 1 January that relates to work on a case partly performed up to the date of the change, can be apportioned in accordance with the information detailed above. Where this applies you can declare VAT at 15% on that element of the work.

Please also refer to the updated ILCA VAT guidance issued on legal aid work which can be downloaded from the ILCA website.



Information which has been issued to Barristers and Advocates by HMRC

If you are a barrister or advocate and you follow the arrangements under which fee notes do not become VAT invoices until they are receipted, then the tax point for your fees is normally the date you receive payment. Fees received on or after 1 January 2010 will be liable to VAT at 17.5%. If you receive fees after 1 January for cases completed before that, date you can declare VAT at 15%. Similarly, if a fee received after 1 January 2010 includes services partly performed while the 15% VAT rate applied, you can apportion your fees as previously described.

Mistakes

If a business discovers that it has made mistakes, it should correct them through the normal error correction procedures, either in its current VAT return or, for larger mistakes, by submitting a form VAT 652 (see Notice 700/45 - How to correct VAT errors and make adjustments or claims).

HMRC will be operating a 'light touch' in dealing with errors made in the first VAT return after the change, where the error relates to a change of rate issue. This means that in planning our audit work 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.

A more detailed HMRC guidance note can be found at the following website address:
<http://www.hmrc.gov.uk/VAT/forms-rates/rates/rate-rise-guidance.pdf>