

2010 VAT changes



A series of changes in VAT law start with effect from 1st January 2010, although some are not due to be fully implemented until 2015. This brief highlights the major changes that come into force in 2010.

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1. Change of VAT rate

VAT reverting to 17.5%

The standard VAT rate reverts to 17.5% from 1 January 2010. This follows the temporary reduction to 15% from 1 December 2008 to 31 December 2009.

Supplies after 1st January 2010

The VAT rate that businesses charge depends on the date that goods physically change hands; that a service is completed; that payment is received; or that an invoice is issued – whichever is the earliest. The rules are modified in certain situations, including when there is a change in the standard rate of VAT.

For sales of standard-rated goods or services on or after 1 January 2010

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businesses should charge VAT at 17.5%. This means that businesses currently calculating their VAT using the VAT inclusive fraction of 3/23 should use the new fraction of 7/47 from 1 January 2010.

Supplies prior to 19th December 2009, or paid for before 1st January 2010

A business should use the 15% rate if:

- it provides goods or services more than 14 days before issuing a VAT invoice (e.g. issuing a VAT invoice on 1 January 2010 for goods or services provided before 19 December 2009);
- or it receives payment before 1 January 2010.

HMRC provide guidance on rate change, and supplies straddling 1st January 2010. They will allow 45 days for the issuing of credit notes. They give the following example:

You deliver a computer to a customer on 22 December 2009 when the VAT rate is 15%. On 2 January 2010 you issue a VAT invoice in respect of the sale. What rate of VAT do you charge?

Under the normal tax point rules, 17.5% VAT is due as the invoice was issued after the increase and within 14 days of the supply of the computer. However, under the special rules you may decide to charge the 15% rate which was in effect when the computer was delivered. This will reduce the VAT you are liable to account for on the sale. If your

customer is VAT registered and can recover the VAT in full your use of the special rules will not save them any tax.

Continuous Supplies of Services

Where a business makes continuous supplies of services, such as leasing of equipment, it can normally choose to issue regular invoices during the year, or to issue one invoice covering up to a year ahead, setting out the amounts due (including VAT) and payment dates. Any invoices issued or payments received on or after 1 January 2010 should be subject to 17.5% VAT. This means a business must replace any annual invoices with a new invoice, detailing the revised payments due after 1 January 2010 at the new 17.5% rate. It should specifically refer to and cancel that part of the old invoice which has been superseded.

Anti Avoidance

Specific new legislation prevents artificial arrangements seeking to benefit from the reduced 15% standard rate in respect of supplies made after the standard rate returns to 17.5%.

This measure imposes an extra 2.5% charge on certain transactions payable on the date the standard VAT rate reverts to 17.5%, where the supply spans that date. It will affect arrangements entered into after 31 March 2009. The charge will apply to the amount on an invoice, the amount paid, or the consideration for the grant of a right if:

- 1) the supply, grant of a right or series of supplies which spans the date of the VAT change attracts the standard rate of VAT; and
- 2) the customer cannot fully recover the VAT charged on the supply; and
- 3) either:
 - a. the supply is between connected persons; or
 - b. the consideration for the supply exceeds £100,000; or
 - c. a prepayment in respect of the supply is funded by the supplier (or a connected person); or
 - d. full payment for the supply is not due within six months of the date of the VAT invoice.

2. Place of supply of services

From 1st January 2010, changes to the VAT rules will implement EU law to modernise and simplify cross-border supplies of services and recovery of input tax.

For business-to-business (B2B) supplies, the new basic rule will be that services are supplied where the customer is established. This will affect many businesses that supply or receive cross-border B2B services. For example you will not be charged VAT on visiting trade fairs in other EU states.

For example many UK businesses have outsourced call centre operations to non-EU locations. Currently, such services are treated as supplied where the supplier is established (e.g. India), so no VAT is charged. From 1st January 2010 the basic rule is that such services are supplied where the customer is established, so the UK recipient business will account for VAT under the reverse charge procedure. This will give rise to an increase in costs to exempt or partially exempt businesses such as banks.

3. EU sales lists (ESL)

Any UK VAT-registered business supplying goods (and, from 1 January 2010 certain services) to a VAT-registered customer in another EU country, must report it to HMRC on an ESL. This must show details of each EU customer and the sterling value of the supplies made to each in the period.

From 1 January 2010, if you supply services to EU businesses where the place of supply is your customer's country, you must complete an ESL using either the ESL Online service (ECSL) or form VAT 101 EC Sales List (ESL). These show your customers' VAT registration number; their country code; and the value of the goods and services that you have supplied.

There is no threshold for ESLs - you must list every supply, no matter how small. ESLs are usually quarterly but can be monthly or yearly.

4. Electronic submission from April 2010

From 1st April 2010 all newly VAT registered businesses and those with turnover of £100,000 or more will have to file VAT returns online.

5. VAT and foreign entertaining

As a result of a case involving Denmark, at the time of printing this bulletin HMRC in the UK are reviewing whether VAT on foreign entertaining should be recoverable. Watch this space!

6. What you need to do now

Review your IT systems to ensure you have the VAT number of all your customers and clients in other EU states. You may also require IT changes to be able to prepare ESLs. You also need to register with HMRC to be able to file VAT returns online.

Lastly, you will need to seek advice in connection with foreign entertaining.

| Type of Service | Treatment From 1 st January 2010 |
|--|---|
| The General Rule | |
| B2B Services not specifically excepted; see below. | Under the general rule B2B services are treated as supplied in the country of the customer. The recipient therefore accounts for VAT under the reverse charge procedure. Supplies to non-business-people in the EU remain subject to VAT. |
| The Main Exceptions | |
| Services relating to land including those of estate agents, auctioneers, architects, surveyors and engineers | An exception to the new rule and remain treated as supplied where the land is situated. |
| Restaurant and catering services | An exception to the new rule and are treated as supplied where the services are physically carried out i.e. where the restaurant is located. |
| Cultural, artistic, sporting, scientific, educational, and entertainment, and similar services together with those that are ancillary thereto. | An exception to the new rule and are treated as supplied where the performance takes place. Some of these services may change from 1 st January 2011 and be subject to the general rule. |
| Hire of short term means of transport i.e. up to 30 days, or 90 days for vessels | An exception to the new rule and treated as supplied where the means of transport is made available to the customer. |
| Hire of long term means of transport i.e. more than 30 days, or 90 days for vessels | Not an exception to the new rule and treated as supplied where the customer is based. Note further changes are due 1 st January 2013. |
| Passenger Transport | An exception to the new rule and treated as supplied where the transport takes place and if in more than one country in proportion to the distance covered in each. |
| Hire of goods | There are several rules covering these supplies so you should consider each situation based on the facts. |

Specific Services supplied to Clients outside the EU from 1st January 2010

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| Specific services such as those of consultants, engineers, lawyers, accountants, data processing, the provision of information, banking, financial, insurance, the supply of staff, and others with restrictions. | There is no change to these supplies. Such supplies when made to clients or customers outside the EU, whether in business or private , are supplied where the client or customer is based and are not subject to UK VAT. |
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