

VAT Registration

LEGAL

The requirement for a taxable person/business to register for VAT in the UK is included in the Value Added Tax Act 1994 (VATA 94).

The administration of VAT and registration is performed by HM Revenue & Customs (HMRC). For a simple VAT registration, form VAT1 (form VAT2 for partnerships) needs to be completed and submitted to HMRC. Details of registering and completing the registration form can be found in the VAT Notice 700/1, titled "Should I be registered for VAT?"

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_PublicNoticesAndInfoSheets&propertyType=document&columns=1&id=HMCE_CL_000086

TYPES OF REGISTRATION

There are a number ways of registering for VAT, each one has been detailed below with a small example to help you decide the timing of your effective date of registration.

Compulsory VAT registration: The current VAT registration threshold is £85,000 from 1 April 2017 (previously £83,000). VAT registration threshold is usually increased annually, therefore to see if the threshold has been exceeded the annual change must be taken into account. There are two prescribed methods of determining the obligation to compulsorily register for VAT.

When working out a person's taxable income, all income must be aggregated to determine the liability to register for VAT. There is anti-avoidance provision, known as disaggregation, which prevents businesses being artificially separated. In these circumstances HMRC looks at financial, economic or organisational links.

The first method can be simply described as the 'looking back' rule. Essentially, you look back at the previous 12 months to see if the taxable turnover has exceeded the registration threshold. Once the VAT registration threshold has been exceeded, HMRC must be notified by the end of the following month and registration by the beginning of the following month or earlier by mutual agreement.

Example 1

A business commenced 1 April 2017 and supplies of £11,000 per month are made. The business does not wish to register for VAT until it is obliged to do so.

The registration threshold is exceeded in month eight, i.e. November 2016 ($8 \times £11,000 = £88,000$). As the requirement to register was exceeded at the end of November, the business would therefore need to notify HMRC by 31 December 2017 and will be registered for VAT from 1 January 2018.

The second method can be simply described as the 'looking forward' rule. If you know that within the next 30 days that you will exceed the registration threshold you will have an obligation to register for VAT.

Example 2

A business commenced 1 April 2017 and supplies of £11,000 per month. On the 21 June 2017 an order of £88,000 is placed and needs to be completed by the end of the month. As the registration threshold is exceeded notification needs to be made to HMRC by 20 July and the business needs to be registered from 21 June.

Voluntary VAT registration: There are a number of advantages for voluntarily registering for VAT. This is a way of improving the status of a company and for growing businesses registering for VAT earlier than required avoids any later registration penalties. This also allows a business to claim input tax on initial expenditure.

Intending trader registration: This method of registration is used by businesses prior to beginning to trade. HMRC need to be satisfied that a business intends to make taxable supplies and is entitled to be registered for VAT. If there are changes to the intention once the business is registered, the business must notify HMRC if its intention is no longer to make taxable supplies.

Exemption from VAT registration: An exemption is available for businesses that only make zero-rated supplies. Though not regularly used, these businesses are usually in a net VAT repayment situation. This exemption may be useful in situations where the administrative burden and cost would be greater than the actual VAT recovered.

Group Registration: Group companies under common control can apply for a group VAT registration. There are a number of advantages; intra-group transfers are ignored for VAT purposes. The group registration has to elect a representative member, who must account for the group Output tax and Input tax. This does not vindicate other group members of any liability as all members are held as jointly and severally liable.

To be included within a VAT group, members must be “bodies corporate”, establishments or fixed establishments in the UK and be under “common control”.

Further details can be found in VAT Notice 700/2

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_PublicNoticesAndInfoSheets&propertyType=document&columns=1&id=HMCE_CL_000094

Divisional Registration: This type of registration is adequately described in the title, a divisional registration. This is a special type of registration available that provides some administrative advantages, though due to complexities it is not often used.

Further details can be found in VAT Notice 700/2

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_PublicNoticesAndInfoSheets&propertyType=document&columns=1&id=HMCE_CL_000094

Non-established taxable person

There has been a significant change to the VAT registration threshold applying to Non-established taxable persons (NETPs). What is a NETP?

“An NETP is any person who is not normally resident in the UK, does not have a **UK establishment** and, in the case of a company, is not incorporated here.”

A UK establishment exists if:

“The place where essential management decisions are made and the business’s central administration is carried out is in the UK ... or ... the business has a permanent physical presence with the human and technical resources to make or receive taxable supplies in the UK.”

The change is in reference to the threshold, from **1 December 2012** if you are a NETP business and do not have an establishment in the UK and make any taxable supplies in the UK it must register for VAT in the UK. This is a significant change and will catch NETP businesses that are trading below the currently VAT registration threshold and thus are not required to register for UK VAT. This brings the UK’s NETP requirement for registration in line with many of its European counterparts as many countries have a registration limit of nil, i.e. you need to register as soon as you make any taxable supplies.

HMRC have issued Revenue & Customs Brief 31/12, it provides further details about the changes:

<http://www.hmrc.gov.uk/briefs/vat/brief3112.htm>

DEREGISTRATION

Though this guide is about registering for VAT, it is important to know the two main types of deregistration, compulsory deregistration and voluntary deregistration. There are a number of circumstances that will force a trader to be compulsorily deregistered. For current voluntary deregistration the threshold is £81,000 from 1 April 2016 (previously £80,000). Please note that the VAT deregistration threshold is usually increased annually.

TAXABLE SUPPLIES

Taxable turnover includes standard rated, zero rated, private use, reverse charge, self-supplies and acquisitions from other EU member states. Exempt and outside the scope supplies do not need to be included.

Another category of sales that would bring a supplier to become liable to UK VAT is ‘Distance Selling’. This is where supplies are made from another EC country directly to a non-VAT registered entity, a typical example is a mail order business. The threshold to note here is £70,000 (since 1 January 1993), distance sales to the UK exceeding this threshold will require the business to register for UK VAT, the option of earlier voluntary registration is also available.

PRE-VAT REGISTRATION EXPENSES AND ADMINISTRATION

Pre-registration expenses

One of the key questions businesses ask in VAT registration situations is regarding pre-registration input tax recovery.

There are separate rules for goods and services. For goods to qualify for input tax recovery they must have been purchased for the purposes of the business and not supplied onwards or consumed before the date of registration, and finally the VAT must have been incurred within three years of the date of registration.

For services to qualify, the cost must have been incurred for business purposes and the VAT must have been incurred within six months of the date of VAT registration.

In both situations the input tax recovery is subject to being supported by an appropriate VAT invoice. Also, the input VAT would be claimed through the businesses first VAT registration.

Administration

Output VAT only needs to be accounted for from the date of VAT registration. VAT invoices cannot be issued until a VAT registration number has been issued. This can present businesses that are waiting for their VAT registration number with an administrative issue. The general practice is to issue invoices 'gross' with the legend 'VAT registration number applied for'. The invoice must not show a VAT amount on the invoice.

Once a VAT number is attained, invoices issued with the legend mentioned above would need to be re-issued correctly displaying the VAT amount.

FAILURE TO NOTIFY

Failure to register your business on time or to notify HMRC of your liability will result in a penalty. The penalties regime has been reconstructed and is effective for periods commencing 1 April 2009.

A trader may wish to challenge the penalty with a reasonable excuse. However, HMRC has stated that a lack of funding or reliance on a third party will not be accepted as reasonable excuses.

This information is provided for general guidance only. Please contact us if you require advice on any specific part thereon.