VAT:alert

BLICK ROTHENBERG

Welcome to Blick Rothenberg's VAT:alert. This briefing contains timely information on VAT issues that may affect your business.

Making Tax Digital ("MTD"): What is it all about?

The first stage of MTD comes into effect on 1 April 2019. It will affect all VAT registered businesses trading above the £85,000 annual threshold.

New legislation will be introduced to require VAT records to be kept in digital format and for VAT returns to be filed electronically via 'functional compatible software'. In practice, this means businesses must have software capable of providing VAT information to HM Revenue & Customs ("HMRC") and receiving information from HMRC digitally via their Application Programming Interface platform.

Business records can be kept in a range of compatible digital formats (including spreadsheets), but there must be a digital link between all the different software used.

With little more than eight months to go before its introduction, businesses need to consider the implications of this change now. Larger businesses should already be discussing this with their IT departments. Smaller businesses may need to consider what additional software support is required. Firms of accountants, tax advisors, bookkeepers and tax agents, whose services include the preparation and submission of their clients' VAT returns, will be significantly affected by MTD. They will need to sign up to a new 'Agent Service Account' in order to continue acting for their clients under MTD.

HMRC has confirmed that they will not be providing any software but has put together a list of software providers that do so, which you can access here.

HMRC has stated that they are not considering any postponement to the planned launch date even if this coincides with the UK exiting the European Union ("EU") without an agreement on trade.

Brexit and VAT

No update on VAT would be complete at this moment in time without mentioning Brexit.

Unfortunately, all the attention to date has been on the Customs Union and whether a hard border will be required in Ireland. The Government's latest proposals are being considered by the EU and it is unlikely that any real progress will be made on confirming any detailed VAT arrangements until a wider trade deal has been reached.

It has been announced that a transitional arrangement on VAT would not force any significant changes until 31 December 2020. However, this transitional arrangement is yet to be ratified as it is dependent upon the wider trade agreement.

Regardless of whether a transitional period is implemented, there is the obvious impact that Brexit will have on the import and export procedures for the movement of goods from third countries (both for VAT and Customs Duty purposes). In addition, there will be a number of issues involving intra-EU cross border transactions in goods and services that will need to be considered. By way of examples, these could involve:

- Triangulation movements between EU VAT registered businesses – currently, a UK business can buy goods from a VAT registered supplier in one EU country and sell them

to a VAT registered customer in another EU country without the need to register in either of the countries concerned. However, this simplification (known as triangulation) only applies to business registered for VAT in the EU. There is a question of whether the EU will continue to allow UK business to avoid a raft of additional registration requirements post Brexit.

- Distance selling of goods to EU consumers – at present, a UK business selling goods to EU private consumers only needs to consider registering for VAT in the customers' country if the distance selling thresholds are exceeded (i.e. €35,000 in some EU countries and €100,000 in others). Post Brexit these rules may not apply to the UK and multiple VAT registration could be compulsory throughout the EU regardless of the value of sales.

These examples are only two issues of where the UK's VAT treatment may need to change. There are likely to be many more procedural changes unless an agreement can be reached for the UK to retain the benefits and simplifications of the EU system of VAT. Until then it continues to be a 'watch this space' for ministerial announcements from Westminster (or Brussels).

Fulfilment House Due Diligence Scheme ("FHDDS")

The FHDDS is a new legal requirement for UK businesses that store and distribute goods in the UK for sellers that are established outside of the EU. This includes not only the Amazon and eBay type businesses but also any third party logistics providers and UK-based warehouse keepers that store and distribute goods on behalf of their overseas clients.

The aim of the scheme is to ensure that VAT is being accounted for on goods sold by overseas sellers (i.e. mainly through online sales). The scheme requires an existing fulfilment house to have registered under the scheme before 30 June 2018 and to ensure that detailed information relating to their overseas customers is obtained and their UK VAT status is confirmed and available for inspection by HMRC before 1 April 2019.

Failure to comply could mean that the UK fulfilment house will not be allowed to trade after 1 April 2019 and could risk a £10,000 penalty and/or a criminal conviction.

Should you require further information on the registration process or the record keeping requirement that will need to be put in place before 1 April 2019, please contact Alan Pearce or Simon Sutcliffe.

Proposed changes being considered to the UK VAT grouping rules

The UK Government has announced a consultation paper on whether to extend the current VAT grouping provision to non-corporate entities. This would include sole proprietorships and general partnerships provided the necessary control tests are met.

This is a departure from the long-held rule that only corporate entities (including LLPs) can be included in a VAT group. We await the results of the consultation process and further announcements by HMRC.

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