

Errors and penalties

Errors that are up to the greater of £10,000 or 1% of turnover, subject to an upper limit of £50,000 can be adjusted on your subsequent return. Larger errors must be separately notified on Form VAT 652 or by letter.

New penalty regime

On 1 April 2008 a new system for penalties was introduced that is linked to the reasons why the errors have occurred, and linked to potential lost revenue and the culpability of the trader.

This system applies in the same way to most taxes.

Under the new system, if you send in a document that contains a mistake, HMRC will charge a penalty if the error is:

- Because of a lack of 'reasonable care'
- Deliberate - such as intentionally sending incorrect information
- Deliberate and concealed - such as intentionally sending incorrect information and taking steps to hide the error

The penalties are geared to the "potential lost revenue" (PLR). The table shows how the penalties relate to your culpability.

Penalised behaviour	Maximum penalty, without disclosure, based on PLR	Minimum penalty, with prompted disclosure, based on PLR	Minimum penalty, with unprompted disclosure, based on PLR
Careless	30%	15%	Nil
Deliberate but not concealed	70%	35%	20%
Deliberate and concealed	100%	50%	30%

There is also the concept of a suspended penalty but only for the "careless" category. HMRC mentions, as an example, a tennis club that sold its land to the local authority but omitted to disclose the gain on its tax return. They say that such a penalty cannot be suspended because the club is unlikely to have future gains.

A fact sheet of this type is, by necessity, of a brief and summarised nature. Kingston Smith LLP cannot accept liability for any losses incurred as a result of reliance thereon. Professional advice should be sought for more detailed information on specific technical points. Minimal reference to the VAT implications on construction, land and property has been made due to its extensive nature: greater detail is considered inappropriate for a fact sheet of this type. All information was correct at the time of going to press: July 2010.

VAT Advice helpline: If you need practical VAT advice, contact Adrian Houstoun (ajh@kingstonsmith.co.uk), Kevin Woolridge (kwoolridge@kingstonsmith.co.uk) or Mahtab Clark (mclark@kingstonsmith.co.uk).

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VAT Facts

2010

Registration

Standard rate = 17.5% from 4 January 2011 due to be 20%

Registration threshold from 1 April 2010: £70,000

Deregistration threshold from 1 April 2010: £68,000

Accounting

Tax point

Tax point is the earliest date that the goods/services are supplied, an invoice is raised or payment is made/received.

The date of the invoice becomes the tax point if the invoice is raised within 14 days of basic tax point.

Annual accounting

Annual accounting (one annual VAT return) is available when turnover for next year is anticipated to be no more than £1,350,000. Nine interim payments are required, or three quarterly ones. You are requested to leave the scheme when your taxable turnover has exceeded £1,600,000.

Cash accounting

Cash accounting is available when taxable turnover is no more than £1,350,000. You are required to leave the scheme when your taxable turnover has exceeded £1,600,000.

Flat-rate scheme

Businesses with VAT exclusive turnover of up to £150,000 and total VAT inclusive income of less than £187,500 are permitted to calculate their net tax by applying a percentage for their industry to their turnover. If your business income exceeds £225,000 you have to leave the scheme. On 4th January 2011 the latter two are due to change to £191,500 and £230,000.

Special schemes

Special schemes are also available, for example: second-hand goods, tour operators, retailers and motor traders.

Groups

Eligibility

Two or more corporate bodies are eligible to be treated as a VAT group if each has a fixed establishment in the UK. One of them must control the other, or one person control all of them, or two or more individuals in partnership control all of them.

Intra VAT group supplies

Intra VAT group supplies are normally disregarded for VAT purposes. In cases of deliberate avoidance, HMRC may direct that:

- Intra VAT group supplies are liable to VAT.
- An associated company is to be treated as part of the group.
- A member of the VAT group is to be treated as removed from the group.

Holding companies

Input tax on professional fees incurred in connection with the acquisition and disposal of shares in a subsidiary is recoverable in so far as the company incurring the cost is fully taxable, otherwise partial exemption restrictions will apply.

Applications

An application for a company to join or leave a VAT group is effective from the day it is received by HMRC, or such other time as is agreed.

Additional anti-avoidance provisions apply where third parties receive the majority of economic benefits and the group is not fully taxable.

VAT schemes – avoiding or saving VAT

The use of VAT mitigation schemes has to be disclosed within 30 days of the due date for submission of the returns. It is important to take advice if you believe you might be affected.

Property

Option to tax

- An option to tax at the standard rate of VAT is available to those persons who make otherwise exempt supplies of land and buildings, other than dwellings and relevant charitable or residential buildings or a pitch for a residential caravan or facilities for the mooring of a residential houseboat.
- All options are revocable after 20 years. From 1 June 2008 an option is also revocable within six months of notification to HMRC subject to meeting certain conditions. All the forms are on the HMRC website under VAT 1614.

Capital goods scheme

Where the cost of a building is £250,000 or more and VAT has been incurred, then any amount of exempt use within ten years of completion will give rise to an adjustment under the capital goods scheme. In certain situations, the option to tax is not effective for land or buildings, including those that are, or will become, covered by the capital goods scheme either by the grantor or the recipient and will be used other than for a fully taxable business.

Input VAT initially claimed on IT equipment costing £50,000 shall be adjusted in accordance with the fluctuations in the taxable person's recovery rate, over 5 years.

Trade with EU

There are special procedures and returns for trade with other EU states. The main requirements are:

- A quarterly EU sales list is required for goods sold to member states, and from 1st January 2010 the sales list is required for services supplied to business customers in other EU states who account for VAT under the reverse charge.
- A monthly intrastat form is required both for arrivals and dispatches over the cumulative threshold which is £250,000 for dispatches and £600,000 for arrivals.
- Goods and many services sold to an EU trader are zero-rated where the VAT number of the customer is shown on the supplier's sales invoice.
- VAT on goods acquired from the EU is self-assessed but recovered subject to the normal rules. Businesses selling by mail order to private customers must register in the other state if the threshold is reached.

- If trade involves three countries it may be necessary to register in other member states.
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Bad debts

A business may reclaim output tax, as bad debt relief, on any debts that are unpaid after six months. However businesses that have not paid their liability to suppliers within six months are required to repay any input tax that they have claimed.

Partial exemption

Input VAT can be claimed only to the extent that it relates to a taxable supply, either directly or on an apportioned basis. Where residual input tax is substantial anti-avoidance provisions to prevent distortion must be considered.

A business can be treated as fully taxable in any accounting period if its input VAT attributable to exempt supplies is:

- £625 or less per month on average and
- the VAT incurred on purchases relating to the making of exempt supplies is no more than 50% of the VAT on purchases for taxable and exempt supplies.

From the 1st April 2010 a simplification has been introduced. If your exempt input tax is less than either test i or ii above you may, on your periodic VAT returns, recover all your exempt input tax as you go and perform the detailed calculation at the year end and then account for exempt input tax for the year in the usual way if you exceed the limits.

Input tax on cars

- Businesses can recover the VAT that they pay on the purchase of cars bought wholly for business purposes. This primarily benefits leasing companies. In these cases they will have to charge VAT when they sell the car.
 - A business that rents a car from a lessor who has reclaimed the input VAT can reclaim 50% of the VAT on the rental charge where there is both business and private use. If there is no business use no input VAT can be recovered. If you recover only 50% you do not have to account for VAT on the employee's private use.
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VAT fuel scale charges

VAT is chargeable on the private use of fuel and is based on the vehicle's CO₂ emissions. The tables are updated regularly and are on HMRC's website.