



Budget 2006

See our run down of [Budget 2006 VAT changes](#).

Your in-house VAT consultants

VATease VAT Newsletter April 2006

VATease's April newsletter includes items on the Three Year Cap, Option to Tax and Unjust Enrichment.

VAT Changes in 2006 Budget

As always, March saw the Chancellor's Budget speech. The budget contains the biggest changes to VAT this month and VATease has produced a run down of these. Anyone who didn't receive this can access [the archive copy](#).

Three year cap

Last month we [reported on a Court of Appeal ruling \(Fleming Ltd\)](#) that could see the 3 year cap on VAT reclaims overturned for periods prior to its introduction. A subsequent tribunal decision, Northampton Theatres Trust Ltd, appears to not only confirm this decision but also confirm its application to amounts other than unclaimed input VAT as was the subject of the original case.

Unfortunately, HMRC have announced that they have sought leave to appeal the Fleming Ltd decision to the House of Lords. Until leave has been refused or the case heard HMRC will not accept claims for overpaid or underclaimed for VAT.

Unjust Enrichment

In the Northampton Theatres Trust Ltd case referred to above, HMRC also refused the claim on the grounds of "unjust enrichment". The Trust wrote to a sample of customers. All of those who responded agreed that they would donate any VAT overdeclared to the Trust. The Tribunal agreed that the Trust would not be unjustly enriched and asked if "the concept of unjust enrichment is meaningful where the payers and the charity have the same interests..."

HM Revenue & Customs push the Annual Accounting Scheme

HMRC are convinced that the annual accounting scheme offers genuine advantages to businesses. Last month they were [pushing it to business advisors](#) in an attempt to improve on the 1% take up by eligible businesses.

Whilst, most businesses see the scheme as allowing them to submit a single VAT return each year. HMRC are plugging the regular equal payments as beneficial to cashflow. *VATease comment:* Surely having VAT payments that rise and fall with income levels is more beneficial than fixed regular payments. We recommend businesses look at the cash accounting. The upper limit for use of cash accounting is currently £660,000 but is likely to rise to £1,350,000 next year.

Consultation on the Powers of HM Revenue & Customs

HMRC have announced the second stage of a consultation process regarding the powers of the new department. Individuals and businesses are invited to contribute.

Details on this stage of the consultation are available on [HMRC's website](#).

VAT Exemption for Medical Services

HMRC has announced the end of a consultation on the VAT Exemption for Medical Services in [Business Brief 04/06](#). It was proposed in the original consultation that changes would be implemented from 1 April 2006. However, HMRC have accepted that it would be disruptive to implement changes so soon. Doctors and other health professionals should continue to follow the advice laid down in [Business Brief 29/03](#) until a further announcement is made.

Car Parking

We [reported last month](#) on a Tribunal case that ruled Council supplied car parking is not a business activity and not therefore subject to VAT. In [Business Brief 04/06](#) HMRC announced that they intend to appeal the decision to the High Court. In the meantime they will not entertain claims from any local authorities other than the 4 involved in the Tribunal Case.

VATease Comment: Any local authorities with VAT declared on parking approaching 3 years old should submit a protective claim to avoid amounts being capped should HMRC lose the High Court case.

New Option to Tax Form

HMRC have announced a new version of VAT 1614, the notification form for an Election to Waive Exemption, commonly called the Option to Tax. It is available from [HMRC's website](#).

Publicly Funded Research

May Universities undertake research funded by grant amounts from "public sponsors". HMRC ruled that this was not a business activity in a recent case with

University of Southampton and that the University could not therefore reclaim VAT on associated costs. The Tribunal agreed and the University appealed to the High Court. The High Court has ruled in favour of HMRC and the result will have implications for all Universities, and some other research institutions, that undertake publicly funded research.

Time Limits on ECJ Decisions

Italy has a tax, IRAP, that may be an illegal turnover tax under EU law. The tax is being tested in the ECJ and the AG has just given her opinion. If the tax is deemed to be illegal the financial consequences for the Italian government could be catastrophic. The AG has opined that the tax is illegal but, importantly, has suggested that should the ECJ rule in this fashion the change should apply from a future date only.

This claim could have profound implications for future ECJ cases, especially with the upcoming hearing regarding the [licence fees for 3G paid by the big mobile phone operators](#). The VAT at stake on that case is £3.35 billion in the UK alone.

Disclosure of VAT Avoidance Schemes

Since 1 August 2004 VAT Registered businesses that implement one of the listed VAT avoidance schemes or a scheme with a "listed hallmark" of VAT avoidance were required to notify HM Revenue & Customs. According to figures provided to VATease last month, 380 businesses notified the use of a listed and scheme and an identical number notified the use of schemes with hallmarks of avoidance.

VATEase encourages all VAT registered businesses to familiarise themselves with the listed schemes and hallmarks and ensure that any required disclosures are made. Even if schemes weren't implemented to reduce VAT costs they must still be disclosed.

VATEase produced a brief guide to the disclosure requirement in [August 2004](#) and to the updated rules in [August 2005](#).

SME Business Solutions

Last month's newsletter contained a link to [sme-business-solutions.com](#). Unfortunately a technical problem resulted in a broken link. If the link here doesn't work type [www.sme-business-solutions.com](#) into your web-browser's address bar. We apologise for the error.

VATEase prize winners

Congratulations to our 3 Clients who won a prize in our New Year prize draw for Clients engaging with us in 2005!

Further congratulations to the winner of our Crystal Anniversary survey prize draw, who won a Waterford Crystal timepiece.

You all know who you are!

If you require further information please contact us on 0121 778 4299.

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