



Your in-house VAT consultants

VATease Monthly VAT Newsletter June 2006

June's VATease Newsletter covers a number of announcements and press releases from the European Union, some developments regarding missing trader fraud and an announcement from HM Revenue & Customs regarding Criminal Prosecutions. There are also items that will be of particular interest to opticians and pharmacies and their advisors.

EU Strategy to Combat Tax Fraud

According to **figures released by the EU**, tax fraud costs Member States up to 2.5% of GDP (Gross Domestic Product). VAT fraud specifically is thought to deprive some member states of up to 10% of their net VAT receipts.

The European Commission has proposed to increase cooperation between tax authorities through increased legislation and new IT systems. It also specifically states it is considering extending the "reverse charge" system to some, if not all, domestic transactions. This goes even further than proposal made by the UK Govt last year.

Risk to Tax Revenue from Online Retailing

The National Audit Office released a report last month into the risk to VAT revenue from online retailing. It concluded that, in general, online sales presented only a low risk to the tax. Where the risk is greater, such as low value sales from The Channel Islands, HM Revenue & Customs are considering appropriate action to protect the public purse.

Also last month, **HMRC announced a change** to their policy with regard to goods "smuggled" into the country by people who intend to supply them to others for "reimbursement only". Previously goods were seized and not returned; now HMRC will return the goods in return for the evaded duty plus a "small" penalty. The same treatment will be given to goods obtained through the post where **the appropriate rules** are broken, for example the value is deliberately understated.

Matters likely to be subject to Criminal Prosecution

HMRC has updated the section of **Public Notice 700 (The VAT Guide)** to refer to the new guidance on what actions HMRC would investigate with the intention of taking a criminal prosecution (<http://www.hmrc.gov.uk/prosecutions/crim-inv-policy.htm>). This will be of interest to all advisors who become involved in assisting clients with HMRC investigations for VAT fraud.

Place of Supply of Electronically Supplied Services - EC Extends Rules

On 1 July 2003 the EC introduced rules governing the place of supply of electronically supplied services. They stopped EU suppliers having to account for VAT on supplies made overseas and non-EU suppliers from being able to make supplies VAT free. The nature of the changes meant that the Commission wanted to put a finite time on the application of these rules and they were due to finish on 30 June 2006.

This month **the Commission concluded** that the new rules are working satisfactorily in creating a level playing field and should be extended to 31 December 2008.

Proposed timetable for the change to the place of supply of services

The Austrian presidency of the European Council has proposed a definite timetable for the change to the place of supply rules for intra-EU services. It is intended that changes, already proposed, will be implemented by 1 January 2008 for business to business services and non-ecommerce business to consumer services. Ecommerce business to consumer services will likely change in 2010.

Burden of VAT in Europe increasing, but decreasing in UK

Another **recent press release from the EU** shows that the overall tax burden in the EU fell from 39.7 of GDP in 1995 to 39.3% in 2004. However, tax on consumption (VAT and other direct taxes) rose from 21.1 to 21.9%.

Over the same period, the comparative burdens from indirect tax in the UK fell from 19.6 to 18.7%.

Missing Trader Fraud - Security and Joint & Several Liability

In 2003 the UK Govt. introduced legislation to counter the rising level of missing trader fraud. It aimed to make purchasers of mobile phones or computer parts jointly liable for VAT due from their suppliers in cases of fraud.

The ECJ recently ruled that this new law was permissible under EU law. However, HMRC must show that the purchaser had knowledge that the supplier was not going to declare or pay the VAT.

Missing Trader Fraud - Losses higher than previously estimated?

The Civil Servants Union, PCS has recently published an estimate of missing trader fraud as high as £7bn per year, much higher than any previous estimate. The estimate was announced as part of a claim that union members working for HMRC are struggling to tackle the fraud due to staff cut backs and resource constraints. According to a report in [the Guardian](#), the disquiet at HMRC may be causing problems within management.

Missing Trader Fraud - Group Action against HMRC

150 companies who traded in mobile phones and computer chips without knowledge that they were caught up in fraudulent activities are seeking damages from HMRC over the way in which it sought to tackle the fraud.

Firms who bought phones and/or computer chips for export or dispatch were denied input VAT claims following the UK VAT Tribunal's decision in the "Bond House" case. Many subsequently went out of business due to the large amounts withheld by HMRC. The ECJ recently reversed the ruling in the Bond House case.

Opticians - Partial Exemption Method

HMRC has recently been undertaking a review of the calculations used by opticians to determine how much input VAT they can reclaim on purchases and overheads. This has led to difficult negotiations for many businesses. A recent High Court decision will have swung the balance of power in the favour of HMRC.

In [Banbury Visionplus Ltd v Revenue and Customs Commissioners](#) the Judge ruled that HMRC were correct to withdraw the special partial exemption method used and impose the standard method. It is likely now that HMRC will try to apply this ruling to all high street opticians giving a much reduced recovery rate.

Booking Fees

In a recent ruling, the Court of Appeal agreed with the VAT & Duties Tribunal's decision that a booking fee charged by an online and telephone cinema ticket booking system could be treated as a VAT exempt "card handling" fee.

This may apply to all such booking charges but, in practice, is likely to be interpreted by HMRC as applying only where the business acts as an agent (as in this case) and not where a business buys and sells the tickets itself.

Pharmacies

On 1 April 2005 a new contract for pharmacies came into effect. Under the contract the "practice payment" pharmacies receive is apportioned between the different activities they are required to carry out.

Where as the payment has previously been treated as wholly zero-rated it must now be treated as part zero rated, part exempt, part outside the scope and part standard rated. Any VAT returns ending after 1 April 2006 must take account of the differing liabilities of the activities to which the payment must be attributed.

Pharmacies will now not only have to account for VAT on part of the practice payment but will also become partly exempt. Subject to the de minimis rules, they may no longer be entitled to recover all of the VAT they incur on their purchases.

Despite HMRC not having issued guidance on how the payment must be treated until March 2006 it has not yet decided whether it will require all pharmacies to adjust VAT returns submitted since 1 April 2005.

VATease Comment: It is recommended that any pharmacies or accountancy practices with pharmacy clients seek assistance to ensure future VAT returns are completed correctly.

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

Newsletter management and distribution is done for VATease by **Ezine Director**. Anyone wishing to **subscribe** can do so online.

This newsletter is designed to keep readers abreast of current developments. No liability is accepted for errors, omissions or opinions it contains or for any reliance placed on this newsletter. This newsletter is intended for general guidance only. No responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication can be accepted by the authors or publishers. On any specific matter, reference should be made to the appropriate advisor.

© Copyright 2006 VATease Ltd. VATease actively encourages you to copy, distribute and display this newsletter for both commercial and non-commercial purposes. However, it must be clearly attributed to VATease Ltd and must not be altered, transformed, or built upon (including this paragraph) without the express permission of VATease.



(including acquisitions from the EC)

Lift the weight to our shoulders and contact us.