

Summary of changes from 1 April

Four year time limit for assessments and claims

FA 2009 has introduced a new normal four year time limit for assessments and claims. For VAT, this comes into full force from 1 April 2010. A practical summary of how this impacts on making claims is below:

VAT

Output Tax s80 claims

The time limit for claiming over-declared output tax is now four years from the end of a prescribed accounting period (i.e VAT quarter). Under the transitional rules in SI 2009/403 paragraph 6, the four year limit does not apply where the relevant date (end of prescribed accounting period) is on or before 31 March 2006.

As the old three year limit applies to any VAT period ending on or before 31 March 2006, these periods would already have fallen out of time. The first output tax to fall out of time will be for periods ending 30 April 2006 which will fall out of time after 30 April 2010. For businesses with calendar quarters, the first output tax to fall out of time will be for the periods ending 30 June 2006; the deadline for such claims would be 30 June 2010.

Input Tax reg 29 claims

The time limit for under-claimed input tax is now four years from the due date for the return period during which the entitlement to input tax arose. Under the transitional rules in SI 2009/586 paragraph 3(d), input tax claims are precluded where the return for the period in which the person was entitled to claim that input tax was due on or before 31 March 2006.

Therefore input tax claims for periods ending February 2006 (due before the end of March 2006) are out of time. The earliest input tax to drop off will be that incurred in March 2006 (which will be claimed on a return due post 31 March 2006). This VAT will go out of time after four years on 30 April 2010.

Other Indirect Taxes

The four year cap is being extended to Aggregates levy, Climate Change Levy, Insurance Premium Tax and Landfill Tax. The extension to these taxes is essentially a year behind VAT. The changes have been made to legislation to bring into effect the four year limit with transitional provisions for amounts prior to 31 March 2007. For these taxes, the time limit will extend over the next year to four years with periods not dropping off until 2011.

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Online filing

The compulsory electronic submission will apply to registered businesses with an annual VAT exclusive turnover of more than £100,000 and new businesses registered on or after 1 April 2010. The rules on the seven day extension to electronic VAT return submission and payment will continue unchanged.

To read HMRC's guidance, click [here](#).

Extension of new inaccuracy penalties to IPT, Environmental taxes and Excise Duties

The new behaviour based penalty regime which has been applicable to VAT since April 2009 is being extended to a number of other taxes. These include Insurance Premium Tax, Aggregates Levy, Climate Change Levy, Landfill Tax and Excise Duty. This will apply to documents with return periods on or after 1 April 2010. HMRC's leaflet has been updated accordingly – click [here](#).

New 'failure to notify' penalty

The Finance Act 2008 Sch 41 (click [here](#)) detailed legislative changes for a new failure to notify penalty and VAT & Excise wrongdoing penalty. These have effect from 1 April 2010. The failure to notify is essentially a new late registration penalty for all indirect taxes with the exception of Customs Duty. It also covers off other failures to notify. For example, for VAT this includes the obligation to give notification of acquisition of goods from another Member State under paragraph 2(4) of Schedule 11 to VATA 94. The amount of penalty is calculated on the tax due. The bands of percentages are very similar to that of the penalty inaccuracy regime introduced last year for VAT and are being extended to other indirect taxes this year. For 'not deliberate' failures account is taken to reflect the time elapsed since the tax was due. For example, unprompted disclosures within twelve months will carry a penalty of 0-30 percent. Beyond this, the minimum penalty is 10 percent. For prompted disclosures the band is 10-30 percent within twelve months. Beyond twelve months the minimum penalty is 20 percent. In terms of VAT this compares to the current penalty of 5 percent up to nine months, then 10 percent up to eighteen months and 15 percent thereafter.

HMRC's leaflet provides a useful table detailing the penalty bands. This can be accessed [here](#).

Certain VAT & Excise wrongdoing penalty

1 April also sees the new VAT & Excise wrongdoing penalty. This new penalty applies where a person:

- Issues an invoice that includes VAT which the person is not entitled to charge

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- Handles goods on which Excise Duty has not been paid or deferred
- Uses a product in a way which means more Excise Duty should have been paid
- Supplies a product at a lower rate of Excise Duty knowing that it will be used in a way that means a higher rate of Excise Duty should be paid. Again there are bands of penalties depending on the reason for the wrong doing and type of disclosure. For non deliberate wrong doing the band for unprompted penalty is 10-30 percent and for prompted it is 20-30 percent. The percentage is applied to the potential lost revenue, for example the amount of VAT shown on an unauthorised invoice.

HMRC's leaflet on this penalty can be accessed [here](#).

Publishing names of deliberate tax defaulters

HMRC can publish the names of any taxpayer (including businesses) who are penalised for deliberately understating tax of more than £25,000. This only applies where the loss is deliberate and businesses who make unprompted or full prompted disclosure will not be named. This measure was originally announced in the 2009 Budget – click [here](#).

Penalties on third parties

From 1 April 2010 HMRC will be able to apply penalties to third parties. This will only be applied where a third party deliberately falsified or deliberately withheld information from the taxpayer who has to complete the return, and where HMRC is able to demonstrate that the third party intended to cause a document to be inaccurate.

VAT payments by cheque – cleared funds rule

From 1 April 2010 all cheque payments by post will be treated as being received by HMRC on the date when cleared funds reach HMRC's bank account. This means enough time needs to be allowed for HMRC to receive the cheque and for the money to clear into the account (which takes three working days) by the due date on the VAT return. Click [here](#) to read HMRC's Brief on this.

Partial exemption simplification

Two simplifications to the partial exemption process will be introduced from 1 April. The first is the annual test, which allows a business to apply the de minimis test on an annual rather than quarterly basis. This will not be available to businesses that expect their total input tax to exceed £1m per year, or to newly registered businesses.

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The second is the simplified test, which gives VAT registered taxpayers the opportunity to use a simple test with which to judge whether they are de minimis, rather than perform the full partial exemption calculation. The test requires total input tax (minus input tax that relates exclusively to taxable supplies) to be no more than £7,500 and the value of exempt supplies to not exceed 50 percent of the value of all supplies.

Click [here](#) to read HMRC's info sheet detailing the changes.

Enforcement of Judgments in litigation

Where a Tribunal or Court finding is subject to a further appeal HMRC currently, in the event of a taxpayer win, have to repay overpaid taxes before the appeal is heard before the higher courts. However, where the Judgment is in favour of HMRC, they do not consistently collect the taxes from the taxpayer before the appeal. Going forward, a new policy will require the payment of taxes in all cases and will take effect in relation to all decisions made by the Tribunals or Courts from 1 April 2010.

Under the new policy, where the appeal is in relation to VAT, excise, environmental taxes and other indirect taxes, the taxpayer may apply for the tax to be held over if they feel they would suffer hardship by being forced to pay the tax before the appeal.

To read HMRC's announcement in full, click [here](#).

Simplification of the Option to tax and changes to definition of a housing association

A number of changes have been made to the liability of supplies of land and buildings as well updating legislative definitions of a 'relevant housing association'. The first change is a simplification of the option to tax. This excludes certain transactions from the anti avoidance provision and will allow developers to tax supplies of buildings where persons financing the construction are only in minor occupation of the building. There is also a simplification of the six month 'cooling-off' period to revoke an option to tax. This involves the removal of the condition that a taxpayer, having opted to tax the land, must not have used it if he is to revoke the option. Changes were also made to the definition of a relevant housing association to reflect the new Housing and Regeneration Act 2008 which replaces the existing system in England – currently Schedule 10 refers to the Housing Act 1996 which only now applies in Wales. A similar definition change was also made to Group 5 Construction of buildings.

HMRC have released a supporting Brief and Information Sheet. Click [here](#) to access the Brief and [here](#) for the Information Sheet.

Increase in VAT Registration and Deregistration Thresholds

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The recent Budget announced increases to the VAT registration and deregistration thresholds. The threshold, which determines whether a person must be registered for VAT, will increase from £68,000 to £70,000 with effect from 1 April. More details can be found in Budget Note 45 (click [here](#)) and secondary legislation (click [here](#)).

EMCS Implementation

The UK EMCS system will go live on 1 April 2010 and will be able to receive and store all messages relating to movements submitted by EMCS. HMRC have released an article giving an update on what will happen as EMCS is implemented. Click [here](#) to read the article.

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