

HMRC's Alcohol Wholesaler Registration Scheme (AWRS) – Effective from 1st October 2015

The Alcohol Wholesaler Registration Scheme (AWRS) is being introduced by HMRC on 1st October 2015 to combat alcohol fraud. The scheme is a further attempt by HMRC to eliminate fraud from alcohol supply chains. Alcohol supply chains may not only be vitiated by excise diversion frauds but also by illicit production, counterfeited product and stolen consignments.

AWRS will apply to existing, and new wholesalers of alcohol, trading at or after the point at which excise duty has become payable. In addition all businesses that trade in, or retail alcohol will in future need to ensure that any UK wholesalers from whom they buy are registered with HMRC. HMRC may remove a business's right to wholesale alcohol at any time during the introduction of the scheme. HMRC has said that going forward new criminal and civil sanctions are to be introduced for wholesalers and trade buyers detected purchasing alcohol from non-registered wholesalers.

HMRC is asking alcohol traders to review supply chains in order to satisfy themselves they are doing all they can to source genuine tax paid alcohol. Traders should ensure their own wholesalers are aware of the scheme, so they too can prepare for the changes.

HMRC has announced the following timetable for implementation of the scheme:

- **From 1st October 2015** - All alcohol wholesalers must apply online to HMRC to register for AWRS.
- **From 1st January 2016** - HMRC will commence reviewing all AWRS applications to decide whether businesses are 'fit and proper' to be accepted onto the register. For a business to be considered 'fit and proper' HMRC may if necessary, carry out a pre-registration visit. HMRC will scrutinise all applications and carry out site visits between 1st January 2016 and

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31st March 2017. Therefore wholesalers will hear the outcome of their applications at different times, but all will be advised by 1st April 2017. Where a business fails the 'fit and proper' test, HMRC will remove the right to trade in wholesale alcohol.

- **From 1st April 2017** - All businesses that trade in, or retail alcohol will need to make sure that any UK wholesaler from whom they buy is registered with HMRC. HMRC will provide an online look-up service so that trade buyers can ensure wholesalers from whom they purchase are registered with HMRC.

Additionally alcohol trade buyers (for example brokers, auctioneers, alcohol retailers) must also source alcohol only from HMRC approved businesses (unless they are buying direct from abroad or from another retailer whose wholesale sales are purely incidental to their retail business).

HMRC says for a business to be registered for the scheme it must be 'fit and proper'. HMRC will assess the business' application and then, if necessary, carry out a pre-registration visit. HMRC will seek to establish that:

- there is no evidence of illicit trading
- the applicant, or any person with an important role in the business has not previously been involved in any significant revenue non-compliance or fraud
- there are no connections between the business, or key persons involved in the business, with other known non-compliant or fraudulent businesses
- key persons involved in the business have no unspent criminal convictions which HMRC consider relevant - for example offences involving any dishonesty or links to organised criminal activity
- the application is accurate and complete and there has been no attempt to deceive
- there has not been persistent or negligent failures to comply with any HMRC record keeping requirements

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- the applicant has not previously attempted to avoid registration and traded unauthorised
- the business has provided sufficient evidence of its commercial viability and, or, its credibility
- there are no outstanding, unmanaged HMRC debts or a history of late tax payment
- the business has in place satisfactory due diligence procedures to protect it from trading in illicit supply chains

HMRC explains that these criteria are not exhaustive and they may refuse approval of a wholesaler for reasons other than those listed if they have concerns that the applicant is a serious risk to the revenue.

Wholesalers should review their processes and supply chains to ensure they are sourcing only legitimate alcohol. When HMRC officers review the applications for registration they will look for evidence that applicants maintain a good standard of record keeping and have in place robust safeguards to avoid exposure to the illicit trade. This includes effective due diligence on their suppliers and, where appropriate, their customers.

The quality of counterparty due diligence and supply chain integrity will be closely scrutinised by HMRC and potentially by the Courts. The requirement to conduct due diligence and test supply chain integrity was first employed by HMRC to combat missing trader intra community (MTIC) fraud.

The Court of Appeal gave guidance to the First Tier Tribunal as to how to approach the matter of due diligence and said that the ultimate question is not whether the trader exercised due diligence but rather whether they should have known that the only reasonable explanation for the circumstances in which his transaction took place was that it was connected to the fraudulent evasion of VAT. A similar interpretation is anticipated in respect of alcohol supply chains tainted by fraud.

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HMRC has said that new penalties will be introduced to encourage compliance but also deal with serious offenders. Consequently, on and after 1st January 2016, wholesalers who are found to be either trading without having applied for registration before 1st January 2016, or trading beyond the conditions of their fit and proper approval, will be liable to a possible penalty. From 1st April 2017, new offences will also apply for those who buy from an unapproved wholesaler.

Comment

Although the final decision to trade with a counterparty lies with the business, it is important that businesses in the alcohol sector undertake effective due diligence of their counterparty's and their supply chains and that those checks are made by a credible representative who if required would be prepared to present their findings in any judicial proceedings. **4 Eyes Ltd's** team of former leading HMRC investigators have extensive court experience and provide due diligence reviews proportionate to the identified risk by testing the veracity of supply chains.

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