



VAT: consultation on the next steps for moving VAT online

Consultation document

Publication date: 8 August 2011

Closing date for comments: 31 October 2011

Subject of this consultation:

This consultation covers changes to the operation of VAT to move further transactions online, and the assistance into digital that will support those moves. HMRC proposes that from 1 April 2012 for VAT registered businesses with a turnover below £100,000 it will be compulsory to file VAT returns online and make electronic payment of any VAT due. In support of the digital by default agenda, online will also become the default channel for all businesses for VAT registration, deregistration and changes to registered details but will not be mandated at this stage. Assistance into digital for those who need it is an integral part of the Government's digital agenda. This consultation seeks views on where digital assistance will be required, and what form that assistance should take.

Scope of this consultation:

Since 2006 HMRC has been moving business taxes online – responding originally to Lord Carter of Coles' Review of HMRC online services, and now the Government's policy of making online the default channel for business tax. This consultation considers the next steps for moving two areas of VAT online.

VAT Returns

Lord Carter identified that legislation requiring online filing for VAT returns would be needed to overcome inertia. He indicated that this should be done in stages. During 2009 HMRC introduced a much enhanced online service and from 1 April 2010 **online filing of VAT returns and electronic payment** became compulsory for newly established and larger businesses. HMRC reviewed the case for a similar requirement for the remaining VAT businesses (those with turnover less than £100,000) and the decision to mandate these customers was confirmed as part of the Budget 2011 announcements on the Government's Digital Default agenda. This consultation document includes (as is usual) the proposed legislation to enable mandatory filing and electronic payment of VAT returns for these customers. It also seeks views on how we can ensure and enhance assistance for those who may have difficulty moving online.

VAT Registration

In 2012 HMRC will be introducing an enhanced and streamlined online service for **VAT registration, deregistration and variations** of business details (for example changes of address). This will offer much quicker and more accurate processing that should appeal to businesses. We have concluded that mandation is not appropriate at this point. The consultation document gives early notification of the likely features of the new online VAT registration system and seeks views on these and on how to promote its use. It also outlines proposals for simplifying the process for prescribing VAT forms, and to remove the UK VAT registration threshold for non-established businesses (following the Schmelz ECJ decision).

Digital Assistance

This consultation looks to improve HMRC's understanding of how digital services will affect our VAT customers and how to improve assistance for those who may have difficulty moving online. We particularly want to understand which customer groups will need assistance; what assistance might be appropriate to meet those needs; and how to publicise these to ensure it is taken up.

This consultation sits alongside a parallel consultation being undertaken for Direct Taxes, also published today.

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| Who should read this: | All VAT registered or to-be-registered businesses, their agents and other advisors. |
| Duration: | 8 August 2011 to 31 October 2011 |
| How to respond or enquire about this consultation: | <p>Responses and enquiries concerning this consultation should be directed to: John Nawbatt HMRC, Business Tax SME Programme 7th Floor, Bush House (SW Wing), The Strand, London WC2B 4RD</p> <p>Tel: 0207 438 4494 e-mail: john.s.nawbatt@hmrc.gsi.gov.uk</p> |
| Additional ways to be involved: | HMRC are happy to meet and speak to interested parties. Please channel requests for such meetings through John Nawbatt, above. |
| After the consultation: | Subject to Ministerial approval, a summary of responses will be published on the HMRC website. |
| Getting to this stage: | <p>Filing of VAT returns: Since 1 April 2010, Tranche 1 businesses (turnover of £100,000 or more, and all newly registering businesses, whatever their turnover) have had to file VAT Returns online and pay electronically. Existing businesses with a turnover below £100,000 (Tranche 2) could choose to continue filing on paper, or voluntarily file returns online and pay electronically. HMRC has previously announced that it will mandate the Tranche 2 customers, with effect from 1 April 2012. In this document HMRC is publishing the draft regulations which will make filing online a legal requirement. It is also consulting on the nature and extent of support (assistance into digital) that some customers may need to successfully meet their online filing requirements.</p> <p>Online Registration: currently all businesses may register for VAT using HMRC's existing online system, or by making an application on paper. There has been no previous consultation on encouraging businesses to use the online channel.</p> |
| Previous engagement: | HMRC undertook extensive user-testing and engagement while developing Tranche 1 mandate for VAT return filing, and has drawn upon experience of the roll out of Tranche 1 in developing Tranche 2. There has been no previous engagement on the online registration proposal. |

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On request this document can be produced in Welsh and alternate formats including large print, audio and Braille formats

1. Introduction

Background

- 1.1 HMRC's strategy for administering business taxes, particularly for small and medium enterprises (SMEs) has focussed increasingly on moving contact from a paper/manual procedure, to one that is automated and online. Online provides speed, security, and convenience for customers, as well as efficiency benefits for HMRC.
- 1.2 Moving transactions online as the default channel is part of wider Government policy. Responding to a report by the Government's digital champion Martha Lane Fox, the Minister for the Cabinet Office, on 23 November 2010 announced a decisive shift from a neutral 'multi-channel' approach toward one where people are actively encouraged to use digital online channels for public services - Digital by Default, underpinned by assistance into digital for those who need.
- 1.3 In line with the Government's commitments, this consultation sets out the next steps in moving VAT online in two areas
 - VAT Return filing and electronic payment
 - VAT Registration, Deregistration and Variations of business details.
- 1.4 This continues a process begun in 2006 with Lord Carter's review of HMRC's online services. As that stage, Lord Carter identified the need for legislative requirements to overcome a level of inertia and give impetus to the necessary behavioural change. In response, HMRC has already mandated online in several areas:
 - PAYE
 - CT
 - The first Tranche of VAT customers: since 1 April 2010 all existing VAT customers with a turnover of £100,000 or more, and all new customers registering for VAT, have been legally required to file VAT returns online and pay any VAT due electronically.
- 1.5 Within the Digital by Default approach, the Government has been clear that appropriate 'assistance into digital' must be provided for those customers who need that support. This consultation seeks views on the design of the proposed services; practical implementation issues; and the scope and type of support that may be needed.

- 1.6 This consultation sits alongside a parallel consultation on the next stages for moving Direct Taxes online - also published today. Both of these represent the next step on a journey moving to Digital by Default. HMRC is also working - under the 'One Click' Programme to transform other tax services for customers online. That includes new information and transactional services specifically designed for start-up and SME businesses. Customer and stakeholder groups have been closely involved in the design and testing of One Click products – and these will start to come on stream from the autumn.

VAT Return Filing and Electronic Payment

- 1.7 The introduction of the legal requirement for online filing of VAT returns and electronic payment has been staged – in line with the approach recommended by Lord Carter. Those recommendations included reviewing by 2012 the approach for all remaining 'paper filers' (Tranche 2: the smallest VAT businesses with a turnover below £100,000). HMRC has now reviewed the case for a legislative requirement to file online for those customers - and Ministers have determined that we should proceed.

- 1.8 Experience so far shows that:

- Compliance amongst the Tranche 1 of customers was good – there were few practical problems and take-up happened considerably faster than forecast.
- Voluntary take-up amongst the Tranche 2 group who are not yet mandated has been considerable; almost 400,000 – or 50% of the 785,000 Tranche 2 businesses - have chosen to go online already.

- 1.9 So – in line with the Budget 2011 announcement - HMRC intends to make online filing of VAT returns and electronic payment a legal requirement from 1 April 2012 for those businesses with a turnover below £100,000 - with appropriate digital assistance provided for those who need it.

VAT Registration

- 1.10 Within the 'One Click' Programme, HMRC is transforming business tax registration. As part of this, HMRC is planning to introduce a new online VAT registration, variation and deregistration service. This was originally scheduled for launch in August 2012 but to allow full development and testing of the secure system it will now be available from October 2012.
- 1.11 This will make registration quicker and easier for businesses and will drive down costs for both customers and HMRC. Smart forms will also reduce

the scope for making mistakes when completing forms and improve tax yield by helping HMRC improve its risking.

- 1.12 Automating the VAT registration process is the lead part of the programme. The new online service will allow businesses to register and deregister for VAT, and to notify HMRC of changes to their details (e.g. address or bank account). This will contribute to the UK's goal of improving its international ranking in terms of 'ease of doing business'. All businesses will have a much quicker registration service courtesy of the online system.
- 1.13 Also, as announced in Budget 2011, HMRC will remove the UK VAT registration threshold for non-established businesses (following the Schmelz ECJ decision) and take the opportunity to remove the requirement for the design of VAT forms to be included in legislation. These changes will take effect from October 2012.

Assistance into Digital

- 1.14 In line with the Government's Digital by Default agenda, HMRC aims to enhance their digital services and significantly improve their take-up. But we recognised that there are those who will need help and support in making the shift to online – 'assistance into digital'. HMRC wants to put in place appropriate support to enable customers to use online successfully. Views on groups and/or circumstances where assistance into digital may be necessary will be very much welcomed – as well as views on what appropriate assistance might look like, to meet those needs.

Customer input into service design

- 1.15 HMRC recognises that we cannot design new services for customers in isolation and that the views of businesses, individuals and their representatives are crucial to successful implementation of new systems. Views on design of the new VAT registration service and on practical implementation issues for both Tranche 2 and the new VAT registration service are very much welcomed as part of this consultation.

2. Compulsory online filing of VAT Returns

Background to the draft regulations

- 2.1 In March 2006 Lord Carter of Coles recommended, as part of his strategy to promote wholesale adoption by businesses of online services, that HMRC should:
- mandate (that is, make compulsory) online filing/ electronic payment of VAT due for existing VAT businesses with a turnover of £100,000 or more, plus all newly registering businesses (regardless of turnover); and
 - review the case for mandating the remaining VAT businesses (that is, those existing businesses with a turnover under £100,000) by 2012.
- 2.2 HMRC brought in regulations to achieve mandation of Tranche 1 (all newly registering businesses and all existing ones with a turnover of £100,000 or more) with effect from 1 April 2010. In accordance with the second half of the recommendations above, HMRC has concluded that all remaining VAT registered businesses (that is, those with a turnover below £100,000 as of 31 December 2009) should be mandated with effect from 1 April 2012. The intention to mandate these businesses (known as Tranche 2) from that date was announced in Budget 2011.
- 2.3 Accordingly, HMRC has prepared draft regulations (attached to this Consultation Document) which will make online filing and electronic payment a legal requirement for these 785,000 Tranche 2 businesses (half of whom have already, voluntarily, gone online).

Who is affected, how and the exemptions

- 2.4 The draft regulations require all VAT – registered businesses with a turnover below £100,000 (as at 31 December 2009) to:
- file their VAT returns online, for all accounting periods starting on or after 1 April 2012; and
 - pay any VAT due electronically, from the same date. (There are various ways of paying electronically – see para 2.17 below).
- 2.5 There is **no change** to the way that the VAT due or repayable is calculated, or to the rates of VAT charged, or to the way in which businesses must keep their business or VAT records.
- 2.6 As with Tranche 1, there will be exemptions for those Tranche 2 businesses which are:
- subject to insolvency procedures

- run by people who are practising members of religious societies or orders whose beliefs are incompatible with the use of electronic communications (that is, forbid the use of computers).
- 2.7 Since it is impossible to tell in advance which businesses will qualify for these exemptions, HMRC intend to write, in February 2012, to all Tranche 2 businesses, explaining that they will, from 1 April 2012, be required to file online and pay electronically any VAT due (and will not receive any paper returns to complete after April 2012). The letter will also explain the two exemptions that will apply.
- 2.8 Businesses wishing to claim that they are eligible for either of the two exemptions should do so by writing to HMRC, explaining why they think they fall into one of the two exemption categories, and providing any supporting evidence.
- 2.9 The letter HMRC will send Tranche 2 businesses in February 2012 will explain in more detail exactly how this process works, and how businesses should use it. Any business whose claim to exemption is accepted will be put back on to paper returns. Any business whose claim is rejected will be required to file online/ pay electronically in future, unless the HMRC decision is successfully appealed at a Tribunal or rejected following a statutory review.

Period of grace

- 2.10 Tranche 2 customers will be legally obliged to file online and pay electronically from 1 April 2012. However, as HMRC recognise that this will not be straightforward for all businesses, it will not be penalising businesses which fail to do so in the first year – so no penalties will apply for Tranche 2 businesses that continue to file on paper until VAT periods ending on or after 31 March 2013. During that period HMRC will continue to offer support and advice to these businesses, with the aim of encouraging all of them to make the conversion, successfully, as soon as possible. (See paras 2.29 and 2.31 below for further information on penalties).

Help and support currently available to mandated businesses

- 2.11 Customers converting to online filing need to take two key steps:
- sign up to the VAT Online filing service (which is done once only)
 - file their VAT returns online (each time a return is due)
- 2.12 These two steps are straightforward to do, and can be done easily by anyone who has access to the internet and basic IT skills (that is, ability to use a keyboard to type in figures, and use a mouse). There is no need for more complex skills (for example, spreadsheets) or complex software packages. The HMRC VAT Online service is also W3C Double AA compliant, which means that any disabled person who can use a computer, will be able to use this HMRC service.

- 2.13 Although filing online is a simple process, we know that some people will need support in making the initial change to online, and that some will need assistance over the longer term. HMRC will make available extensive support for businesses that need it, building on the support already offered to Tranche 1 businesses. At present, this consists of:
- a short paper guide on signing up to VAT Online services/ filing online, which will be enclosed with the letter issued in February 2012
 - extensive information on the HMRC website, including two downloadable step-by-step guides; help text accompanying the online service screens; and an online demonstrator, which takes users through the main screens they will encounter when they sign up for VAT online services and file online
 - seminars and events across the UK which offer both online teach-ins and sign-up
 - phone help from HMRC Contact Centres, including help on how to manage the practical mechanics of online filing (e.g. working through the various screens)
 - offers of one-to-one tutorials at over 70 local Enquiry Centres across the UK, for customers who have basic skills but need face to face support, initially
 - advice from our Contact Centres on how to access a computer, for those businesses which do not own one (including arrangements with libraries across the UK).
- 2.14 For Tranche 1 businesses, we put special arrangements, tailored to individual needs, in place for those businesses which would have real difficulty in filing online (for example, for reasons of incapacity / disability, or remote location which lacks reliable access to the internet). These arrangements will also be available to Tranche 2 businesses – any businesses which find themselves in this position should phone our Contact Centres to explain their circumstances and needs, so that the various options can be explained to them.
- 2.15 These arrangements all worked well for Tranche 1 customers, but – as already flagged - HMRC is aware that Tranche 2 affects the smallest VAT – registered businesses, which may need additional support, and over a longer period of time. We will, as part of this consultation, be opening discussions with various trade associations, Chambers of Commerce and other stakeholder groups, to establish what else their clients might need by way of support, and what role those stakeholder groups might be able to play in helping deliver any such additional support.
- 2.16 More generally, HMRC wishes to put in place permanent and dedicated digital support, across all taxes where necessary, to assist customers to go online. The feedback from this consultation will be very valuable in helping identify the issues that arise for businesses in going online and how – practically speaking – HMRC might assist them to do so.

Question 1:

Are there any other groups of businesses which are likely to experience real difficulty in filing online (other than those businesses mentioned above)? If so, please identify these groups/ owners, and the particular features of them which might create a need for targeted assistance into digital.

Question 2:

To what extent will the support arrangements described above meet the majority of these businesses' needs? Whose needs might they not meet, and why? What alternative arrangements can you suggest that HMRC (or a third party) might put in place to meet those needs?

The actions that mandated businesses will need to take

2.17 Businesses which are mandated under Tranche 2 (including any business whose case for exemption has been reviewed by HMRC and rejected) will need to take the following actions (all of which will be explained in more detail in the February 2012 letter) in time for the first online return:

- sign up for HMRC VAT Online services (this service enables businesses to file their returns online).
- decide how they want to file online (that is, using HMRC's free online service, or using a commercially produced package which they can buy).
- decide which electronic payment method works best for them, and set up the chosen method. The methods available are Direct Debit (which gives customers a bit longer to pay); phone and internet banking; BACS Direct Credit and CHAPs; payment by cash or cheque, via a pre-printed Bank Giro Credit (BGC) paid in at a participating bank or building society (these BGCs need to be obtained from HMRC well in advance).
- make sure that everyone in the business responsible for completing VAT returns, or arranging payment, is aware of these changes, and the decisions taken about filing and payment methods.

2.18 A mandated business may decide to appoint someone else (for example, an accountant) to file its returns online for it (perhaps with the customer still working out the figures to go on the return, as before). If so, the accountant (or whomever the customer appoints) will then need to sign up for VAT Online services on their client's behalf, and file each return online as they become due. However, it is important to remember that the business still remains responsible for ensuring that the payment of any VAT due reaches HMRC by the relevant due date.

Communicating the changes

2.19 There will be extensive communication of the changes and what they mean for the customers affected. On current plans, these include:

- messages on the paper returns issued to these businesses, from August 2011 onwards

- regular articles in VAT Notes, which accompany the VAT return, including a special supplement devoted to the changes, which will go out with the Q3 returns (Oct – Dec 2011). This supplement will encourage Tranche 2 businesses to go online early (in 2011, if possible) so as to be well prepared for the April 2012 deadline
- extensive information on the HMRC website, including downloadable links to the step by step guides and online demonstrator
- various workshops and events around the UK (the details of which are still being finalised)
- proactive reminders by our Contact Centre staff to paper – filing VAT businesses which ring them, plus extensive help and support from both the VAT online helpdesk (for online queries) and the VAT helpline (for more general queries about VAT). In addition, the recorded message initially heard by customers calling the VAT helpline will issue a reminder about the forthcoming changes
- working with accountancy bodies to ensure that all agents ensure their clients hear and act on the messages in good time
- working with various trade associations to ensure they can put out accurate and complete information to their members
- the letter, which HMRC will issue to all affected customers in February 2012, and which will explain in detail what action to take and when. The letter will enclose a short paper guide explaining how to sign up for VAT Online services, and file online.

2.20 As already indicated, HMRC will also be aiming to work with key stakeholder groups to see if they are willing to help communicate the key messages to their members and clients, and – if so – to provide them with the relevant material.

Question 3:

Are there any particular types of communication material that you would find helpful, over and above that mentioned above?

Question 4:

Do you have any other comments or suggestions on HMRC's communication plans (bearing in mind that the business group concerned is too small for TV advertising to be cost effective)?

The specific content of the legal provisions making these changes

- 2.21 The draft regulations amend Regulation 25A of the VAT Regulations 1995 (SI 1995/2518), which provides for the making of returns by an electronic return system.
- 2.22 Regulation 4 widens the categories of businesses which are required to make such returns by removing the turnover test with effect from 1st April 2012.
- 2.23 Regulations 5 to 14 make consequential amendments which include removing the references to a specified person and a specified return.

- 2.24 Regulation 7 removes the requirement for HMRC to notify businesses that they are mandated – although, as flagged at paras 2.7 and 2.9 above - HMRC still intends to write to businesses advising them of this and of the help and support available.
- 2.25 Regulation 9 ensures that businesses mandated at Tranche 2 will be liable to a penalty **only** for returns made for prescribed accounting periods which end on or after 31st March 2013.
- 2.26 The existing exemptions for those with religious beliefs which are incompatible with the use of computers and for businesses in insolvency procedures remain.
- 2.27 The appeal right in the Value Added Tax Act s83(1)(zc) will apply if HMRC refuses a claim for either of the two exemptions.

Penalties

- 2.28 Any mandated Tranche 2 business which continues to file its VAT returns on paper, and which does not fall within either of the two exemptions cited above, will face penalties, ranging from £100 to £400, depending on turnover (anyone whose turnover remained below £100,000 would be likely to receive a penalty at the lower end of the scale). However, the regulations provide that such penalties will be charged only in respect of periods ending on or after 31 March 2013. This penalty – for failure to file online - is distinct from the existing penalties (default surcharges) which will continue to apply when a VAT registered business pays late, or not at all.
- 2.29 If, at any point, no return is received on time (either online or on paper) from a Tranche 2 mandated customer, then, as usual, HMRC can issue an estimated assessment of the VAT payable, which remains the legally enforceable debt until the relevant return is filed.
- 2.30 Any penalty or assessment will carry a right to appeal and to have a statutory review.

Tax Information and Impact Note

- 2.31 A Tax Information and Impact Note accompanies this consultation and has been published on the HMRC website. It can be accessed from the following link <http://www.hmrc.gov.uk/thelibrary/tiins.htm>

Question 5:

Do you have any comments on the proposed legislative changes set out in the sections above that achieve the mandate of Tranche 2 VAT businesses, and that impose penalties where appropriate?

3. Online VAT registration for businesses

Description of the new system for VAT registration, deregistration and variations

- 3.1 If they do not already have one, a business will be required to create an online account with HMRC to be able to interact with HMRC online. The account will be created by a business accessing HMRC's website and selecting 'register for HMRC online services'. The business will then be required to create a user ID and password. The User ID and password are then used by the business to access its account in the future.
- 3.2 Once the account is created, the business will be able to apply for VAT registration and to register for other taxes. On choosing to register for VAT the business will be asked a series of questions to determine its eligibility for VAT registration. Completion of the questions will mean that the VAT registration application can be submitted.
- 3.3 The VAT registration request will then be checked automatically by HMRC's systems to determine if the business should be registered, the application rejected or if manual intervention is required. The business will be informed after 72 hours whether its request has been accepted or rejected. This will take the form of a secure message sent to its online account and an e-mail sent to the business informing it a decision has been made and is now accessible. If the application is successful the VAT number will be automatically associated with the online account through which the application was made. The business will then be able to make VAT returns or request changes ("variations") to its account online.
- 3.4 Also, when the business applies for VAT registration, the online portal will provide the means to notify or apply for:
 - partnership details
 - transfer of a business as a going concern
 - distance sales
 - acquisitions
 - relevant supplies made in the UK
 - appointment of a tax representative
 - flat rate scheme
 - flat rate scheme for agriculture - application for certification
 - annual accounting scheme
- 3.5 Transfers of going concerns requested via the online portal will be treated as a deregistration followed by a registration.
- 3.6 Businesses that are already VAT registered will be able to notify or request changes to their account – including deregistration - via the online system.

This will include changing address and bank account details. However, as an additional security measure for variations to sensitive details such as the address and bank account, the trader will need to first enter a PIN that will be issued to them by HMRC.

- 3.7 Although we have concluded, with Ministers, that the case for mandation is not overwhelming at this point, the online portal will be the normal channel through which registration, deregistration and variations will be made, and – as such – businesses will be steered to using it. Written notification other than via the online portal will not be refused but may lead to a relative delay (eg in the issue of a VAT registration number) due to the longer time needed to process such notifications manually.

Communicating the changes

- 3.8 HMRC will put in place a comprehensive Communications Plan to help businesses and individuals familiarise themselves with these new opportunities, This is expected to include:

- detailed early guidance on HMRC’s website on how to use the new online system, including a section on “frequently asked questions (FAQs)”
- articles and guidance on “Direct Gov” and “Business Link” websites
- for VAT-registered businesses, a series of prompts and a publicity campaign via messages linked to submission of their VAT returns, which will also direct them to online guidance
- publicity through trade bodies and representative groups.

Help and support

- 3.9 We expect most customers will find the new system simple and beneficial to use. However, we know that some people will welcome support in making the initial change to online. HMRC would like to canvas views to ensure the support services we develop and deliver meet customer needs.

Question 6

Do you have any views on the proposed new online system for VAT registration, deregistration and variations?

Do you have any comments on the proposed handling of notifications that are made other than via the online system?

Do you see any barriers to using the new system – and if so, what would help overcome those?

What help and support into online would be most useful to customers? Are there any particular types of communication material that you would find helpful?

4. Simplifying the process for prescribing VAT forms

- 4.1 There are 20 VAT forms that businesses use to notify HMRC in writing of various obligations. These comprise: eight VAT registration forms, two VAT return forms and 10 other forms (that are used to apply for refunds, for certification (e.g. of status) and to advise HMRC of certain transactions). These forms are required by the Value Added Tax Act 1994 to be prescribed in regulations. Therefore, under the current law any changes to them require secondary legislation.
- 4.2 We intend to bring forward legislation (which we will expose in draft in autumn 2011) that will amend the Value Added Tax Act 1994 and enable HMRC to determine by direction the form of information to be provided. It would therefore no longer be necessary to provide for the design of such forms in secondary legislation.

Question 7

Do you have any comments on HMRC being able to determine the form in which information is to be provided, rather than that form being provided for in secondary legislation?

5. Registration of businesses not established in the UK

- 5.1 The UK has always allowed its domestic VAT registration threshold (currently £73,000) to apply to non-established businesses (NETPs) making taxable supplies in the UK (such as non-UK traders at farmers' markets or Irish service suppliers working across the land border) as well as to UK businesses. However, a recent case (Schmelz C-97/09) in the CJEU (the European Court) has confirmed that only businesses established in a Member State can benefit from its domestic VAT registration threshold.
- 5.2 This means the UK needs to change its policy at the earliest opportunity in respect of non-established businesses so that the UK VAT registration threshold will only apply to UK businesses. In order to make more efficient use of Parliamentary time, and minimise HMRC implementation costs, it is intended that the necessary changes to UK law will be incorporated into this wider package of changes affecting VAT registration (as outlined in this document), and so will be implemented from the same effective date. As already flagged, HMRC intends to expose the draft legislation in autumn 2011.
- 5.3 Therefore, businesses established outside the UK will be required to register for UK VAT when they make their first supply of goods or services in the UK, or if already making supplies in the UK, from the effective date of the statutory amendment. The main impact for smaller businesses is likely to be most noticeable across the Irish border for businesses supplying services such as plumbing/window cleaning.

Question 8

Do you have any comments on the removal of the UK VAT registration threshold from non-established businesses?

We intend to focus our communications on agents and advisers as they are most likely to pick up the type of businesses that will be affected. Do you have any suggestions on how HMRC may alert non-UK businesses to this change?

6. Tax Impact Assessment

In line with the Government's Tax Consultation Framework, this chapter sets out HMRC's current assessment of the impacts of the proposed changes under consideration.

1. Automation of Online Registration

| Exchequer impact (£m) | 2011-12 | 2012-13 | 2013-14 | 2014-15 | 2015-16 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|------------|------------|------------|------------|------------|------------|-----------|--|---------|---------|---------|---------|---------|---------|---------|-------|--------------|-----|-----|-----|--|--|--|--|----|------------------|--|--|-----|-----|-----|-----|-----|---|--------------|------------|------------|------------|------------|------------|------------|------------|-----------|
| | +/- | +/- | +/- | +/- | +/- | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | This change is estimated to close the tax gap by £60m in 2012-13, rising to £90m in 2013-14 and beyond. However, this is not to be scored as yield; the OBR took a decision in Autumn 2010 not to reflect compliance changes resulting from HMRC's spending review settlement in the fiscal forecasts. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Economic impact | No significant economic effects are expected. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Impact on individuals and households | There is no impact on individuals and households as any impact is on businesses. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Equalities impact | <p>The Equality Impacts are in the process of completion and will be finalised once full consultation has taken place in the summer 2011. However, it is HMRC's initial assessment that the number of VAT customers with a disability that will impair their ability to use the online portal will be low. In most cases, the business in which they are working will consist of more than one individual, one of whom might need additional or alternative support, but the rest will not.</p> <p>Also, the initial assessment is that the move to use of the online portal does not present any potential discrimination issues with regard to age, gender, race (except language) sexual orientation, marital status, political opinion or those with dependents. However, we would welcome evidence from anyone who believes that this is not the case.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Impact on businesses and Civil Society Organisations | This change will improve the customer experience and is expected to maximise savings to business by making registration quicker and easier. The full impact will be finalised once this consultation has taken place. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Operational impact (£m) | <table border="1"> <thead> <tr> <th></th> <th>2010/11</th> <th>2011/12</th> <th>2012/13</th> <th>2013/14</th> <th>2014/15</th> <th>2015/16</th> <th>2016/17</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Dev Costs £m</td> <td>2.5</td> <td>5.8</td> <td>2.7</td> <td></td> <td></td> <td></td> <td></td> <td>11</td> </tr> <tr> <td>Support Costs £m</td> <td></td> <td></td> <td>0.6</td> <td>0.6</td> <td>0.6</td> <td>0.6</td> <td>0.6</td> <td>3</td> </tr> <tr> <td>Total</td> <td>2.5</td> <td>5.8</td> <td>3.3</td> <td>0.6</td> <td>0.6</td> <td>0.6</td> <td>0.6</td> <td>14</td> </tr> </tbody> </table> | | | | | | | | | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 | Total | Dev Costs £m | 2.5 | 5.8 | 2.7 | | | | | 11 | Support Costs £m | | | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 3 | Total | 2.5 | 5.8 | 3.3 | 0.6 | 0.6 | 0.6 | 0.6 | 14 |
| | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 | Total | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Dev Costs £m | 2.5 | 5.8 | 2.7 | | | | | 11 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Support Costs £m | | | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 3 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total | 2.5 | 5.8 | 3.3 | 0.6 | 0.6 | 0.6 | 0.6 | 14 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | |
|----------------------|--|
| | Automation is expected to improve tax yield by £90m per annum through better customer support and targeted interventions. |
| Other impacts | <p><u>Competition Assessment</u> - These measures introduce a small set-up cost, followed by long-term savings. Because the costs per business are relatively low, HMRC does not anticipate any major effects on competition or competitiveness.</p> <p><u>Small Firms Impact Test</u> – Small businesses that are or are likely to be registered are likely to be affected by this proposal. There is no geographical or trade sector differentiation as the proposal requires use of an online system for registration, deregistration and changes to registration.</p> <p>Responses to consultation with small businesses that was launched by HMRC in March 2005 indicate that small businesses are willing to conduct business with HMRC electronically provided that online services are reliable, easy to access and simple to use. Research conducted during summer 2008 shows that even among the smallest VAT businesses and employers around 90% have access to a computer at work or home. However, HMRC will be consulting formally and will be welcoming everyone's views.</p> |

Monitoring and evaluation

Successful implementation of the policy on mandate will be assured through performance data obtained from ongoing monitoring of the automated system.

2. Implementation of the Schmelz ECJ decision

| | | | | | |
|------------------------------|--|------------|------------|------------|------------|
| Exchequer impact (£m) | 2011-12 | 2012-13 | 2013-14 | 2014-15 | 2015-16 |
| | negligible | negligible | negligible | negligible | negligible |
| | <p>Requiring non-established businesses with turnover below the VAT registration threshold to register for VAT is expected to have a negligible impact on Exchequer revenues because:</p> <ul style="list-style-type: none"> ▪ the number of businesses affected is expected to be negligible ▪ while they all have to account for VAT on supplies made, they will in future be able to claim back the VAT they incur on their costs (subject to being partly exempt). | | | | |
| Economic | Non-established businesses that VAT register face higher | | | | |

| | |
|---|---|
| impact | <p>costs than their comparable UK non-registered businesses. This could distort competition in favour of the latter (prices for goods and services from non-established businesses could become higher – switching demand to goods and services produced by UK non-registered businesses). Therefore, they are likely to weigh the non-compliance risk costs/benefits against the additional cost burden of VAT registering and risk of losing their UK market share. Given the relative high administration costs faced by such small businesses and the likelihood of losing their market share because of higher prices/costs, VAT registration non-compliance is likely to be predominant among non-established businesses.</p> <p>The change is not expected to have any effect on the OBR's macro-economic forecasts.</p> |
| Impact on individuals and households | This measure will have no impact on individuals or households as only non-UK businesses are affected. |
| Equalities impact | This measure only affects businesses that are not established in the UK. European Law requires that such businesses are identified for VAT purposes regardless of any VAT registration threshold. The European Court of Justice has recently held that this is not discriminatory. |
| Impact on businesses and Civil Society Organisations | While it is difficult to quantify the number of businesses affected we believe it to be negligible. Therefore, the overall impact on the compliance cost for business is also estimated to be negligible. |
| Operational impact (£m) | The cost to HMRC is estimated to be negligible. |
| Other impacts | None |

Question

9

HMRC would welcome views on our current assessment of the likely impacts of the proposed options as set out in the above table of impacts.

Monitoring and evaluation

Successful implementation of this policy will be assured through data identifying an increase in registration of non-established businesses with a turnover below the UK registration threshold.

7. Summary of Consultation Questions

VAT Return Filing

Question 1: Are there any groups of businesses which are likely to experience real difficulty in filing online (other than those businesses mentioned above)? If so, please identify these groups/ owners, and the particular features of them which might create a need for targeted assistance into digital.

Question 2: To what extent will the support arrangements described above meet the majority of these businesses' needs? Whose needs might they not meet, and why? What alternative arrangements can you suggest that HMRC (or a third party) might put in place to meet those needs?

Question 3: Are there any particular types of communication material that you would find helpful, over and above that mentioned above?

Question 4: Do you have any other comments or suggestions on HMRC's communication plans (bearing in mind that the business group concerned is too small for TV advertising to be cost effective)?

Question 5: Do you have any comments on the proposed legislative changes set out in the sections above that achieve the mandation of Tranche 2 VAT businesses, and that impose penalties where appropriate?

Online VAT Registration

Question 6: Do you have any views on the proposed new online system for VAT registration, deregistration and variations? Do you have any comments on the proposed handling of notifications that are made other than via the online system? Do you see any barriers to using the new system – and if so, what would help overcome those? What help and support into online would be most useful to customers? Are there any particular types of communication material that you would find helpful?

Question 7: Do you have any comments on HMRC being able to determine the form in which information is to be provided, rather than that form being provided for in secondary legislation?

Question 8: Do you have any comments on the removal of the UK VAT registration threshold from non-established businesses? We intend to focus our communications on agents and advisers as they are most likely to pick up the type of businesses that will be affected. Do you have any suggestions on how HMRC may alert non-UK businesses to this change?

Question 9: HMRC would welcome views on our current assessment of the likely impacts of the proposed options as set out in the above table of impacts.

8. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are five stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

The online filing part of this consultation is taking place during stage 3 of the process and the online registration part during stage 2. The purpose of the online filing section is to seek views on the draft legislation and those affected by it whereas the purpose of the online registration section is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

How to respond

A summary of the questions in this consultation is included at chapter 10.

Responses should be sent by 31 October 2011, by e-mail to john.s.nawbatt@hmrc.gsi.gov.uk or by post to:

John Nawbatt
HMRC
Business Tax SME Programme
Bush House (SW Wing)
Strand
London
WC2B 4RD

Telephone enquiries – John Nawbatt 020 7438 4494

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from the HMRC Internet site at <http://www.hmrc.gov.uk/consultations/index.htm>. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The Consultation Code of Practice

This consultation is being conducted in accordance with the Code of Practice on Consultation. A copy of the Code of Practice criteria and a contact for any comments on the consultation process can be found in Annex A.

Annex A: The Code of Practice on Consultation

About the consultation process

This consultation is being conducted in accordance with the Code of Practice on Consultation.

The consultation criteria

1. When to consult - Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Duration of consultation exercises - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Clarity of scope and impact - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Accessibility of consultation exercise - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. The burden of consultation - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Responsiveness of consultation exercises - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Capacity to consult - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you feel that this consultation does not satisfy these criteria, or if you have any complaints or comments about the process, please contact:

Richard Bowyer, Consultation Coordinator, Better Regulation and Policy Team, H M Revenue & Customs, Room 3E13, 100 Parliament Street, London, SWA 2BQ

020 7147 0062 or e-mail hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Annex B: Draft T2 regulations

STATUTORY INSTRUMENTS

2011 No. 0000

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. X) Regulations 2011

| | | | | | |
|------|----------------------------------|---|---|----------------|---|
| (aa) | Made | - | - | - | - |
| | 2011 | | | | |
| | Laid before the House of Commons | | | 2011 | |
| | Coming into force | | | | |
| | | | | 1st April 2012 | |

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 25(1) of, and paragraph 2(1) and (11) of Schedule 11 to, the Value Added Tax Act 1994⁽¹⁾; sections 132 and 133 of the Finance Act 1999⁽²⁾ and section 135 of the Finance Act 2002⁽³⁾.

2. Citation, commencement and effect

3. These Regulations may be cited as the Value Added Tax (Amendment) (No. X) Regulations 2011.

4. These Regulations come into force on 1st April 2012 and have effect in relation to returns required by regulation 25 of the Value Added Tax Regulations 1995⁽⁴⁾ made for any prescribed accounting period which commences on or after that date.

5. Amendment of the Value Added Tax Regulations 1995

6. Regulation 25A of the Value Added Tax Regulations 1995⁽⁵⁾ is amended as follows.

7. For paragraph (3) substitute—

-
- (1) 1994 c. 23; section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning regulations made by the Commissioners under the Act; paragraph 2(1) of Schedule 11 was amended by section 24(1)(b) and (5) of the Finance Act 2002 (c. 23). The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
 - (2) 1999 c. 16; section 132 was amended by paragraph 156 of Schedule 17 to, the Communications Act 2003 (c. 21). Section 50 of the Commissioners for Revenue and Customs Act 2005 (c. 11) provides that a reference in an enactment to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
 - (3) 2002 c. 23; section 135 was amended by paragraphs 94 and 95 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11) and by section 93 of the Finance Act 2007 (c. 11).
 - (4) S.I. 1995/2518.
 - (5) Regulation 25A was inserted by S.I. 2009/2978 and amended by S.I. 2010/559.

“(3) Subject to paragraph (6) below, a person who is registered for VAT must make a return required by regulation 25 using an electronic return system whether or not such a person is registered in substitution for another person under regulation 6 (transfer of a going concern).”.

8. Omit paragraph (5).

9. In paragraph (6)—

- (a) at the beginning, omit “However”;
- (b) in sub-paragraph (b) omit “at the time when he would otherwise be notified under paragraph (7) below”; and
- (c) for “is not a specified person for the purposes of this regulation” substitute “is not required to make a return required by regulation 25 using an electronic return system”.

10. Omit paragraph (7).

11. In paragraph (15)—

- (a) at the beginning insert “Subject to paragraph (15A)”;
- (b) omit “specified”.

12. After paragraph (15) insert—

“(15A) A person who—

- (a) on 31 March 2012 was registered for VAT with an effective date of registration before that date,
- (b) was not as at 31 March 2012 required to make a return required by regulation 25 using an electronic return system, and
- (c) fails to comply with paragraph (3),

is only liable to a penalty in relation to returns made for prescribed accounting periods which end on or after 31 March 2013.”.

13. In paragraph (16) omit “specified”.

14. In paragraph (18)(a) for “a specified person” substitute “a person required to make a return required by regulation 25 using an electronic return system”.

15. In paragraph (19) omit “paragraph (5)(b) above and”.

16. In paragraph (21) omit “(5),”.

17. Omit paragraph (22)(a).

Name

Name

DATE 2011 Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st April 2012, amend Part V (accounting, payment and records) of the Value Added Tax Regulations 1995 (S.I. 1995/2518).

Regulations 4 to 14 amend regulation 25A.

Regulation 4 removes the previous turnover test and thereby requires all persons who are required to make value added tax returns to do so using an electronic return system unless they are specifically excepted.

Regulations 5 to 14 make consequential amendments which include removing the references to a specified person and a specified return and removing the notification requirement. Regulation 9 ensures that a person who is required to make a return required by regulation 25 of the Value Added Tax Regulations 1995 using an electronic return system only as a result of the removal of the turnover test will only be liable to a penalty for returns made for prescribed accounting periods which end on or after 31st March 2013.

[A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins/htm> .]

Annex C: Relevant (current) Government Legislation

Main provisions:

- VAT Act 1994 Schedules 1 to 3A and Schedule 11 paragraph 7(1).
- VAT Regulations 1995 (SI 1995/2518) regulation 5 and Schedule 1 to those regulations.
- Finance Act 1999 sections 132 and 133, provide a power to facilitate the use of electronic communications.
- Finance Act 2002 sections 135 to 136 provide for a power to require the use of electronic communication
- The VAT Regulations 1995, regulations 5(4) to 5(14) cover notification by electronic means.