

# Constable VAT Consultancy

## VAT Focus 4 January 2013

### Invoice Directive

The new EU Directive regarding VAT invoicing came into effect on **1 January 2013**. It puts electronic invoices on the same footing as paper invoices. Although customers must agree to receive electronic invoices, Member States will no longer be able to set additional pre-conditions (for example, in the UK, for the use of advanced electronic signature and electronic data interchange).

In the UK there are additional changes introduced as part of the Directive.

- It will no longer be requirement to raise a VAT invoice when making an exempt supply to a customer in another EU Member State (previously this was at the discretion of the Member State in which the supply arose, usually where the customer belonged).
- Less detailed invoices for supplies under £250 can be issued by all VAT registered businesses not just retailers.
- For an EU cross-border supply there is a requirement to issue a VAT invoice by the 15<sup>th</sup> day of the month following the date the goods were removed or the services performed (i.e. the basic tax point). This change may shorten the invoicing timescale for some suppliers.

If you require more details on these changes please speak with you usual CVC contact.

### Recent HMRC Briefs

HMRC has recently issued Revenue and Customs briefs [38/12](#) and [40/12](#).

The first brief advises of a consultation on the withdrawal of the VAT exemption for research services and explains that the UK has received notification from the European Commission that its exemption for business supplies of research between eligible bodies does not comply with European legislation. The UK therefore plans to withdraw the exemption from 1 August 2013.

In discussions with representative bodies on the impact of withdrawal HMRC established that the impact is likely be minimal when compared to the totality of all research conducted in the UK. However, this consultation is now taking place to gather information that will allow HMRC to assess more accurately the impact of the withdrawal of the exemption and to see whether there are any possible options to mitigate that impact.

The second brief concerns a change in HMRC's policy on the VAT liability of first-time connection charges for water. The brief advises that where a customer contracts with a water supplier to provide mains water and that necessitates a first time connection to that water supply, the connection will be ancillary to the zero-rate supply of water providing the supply of water and connection are made by the same taxable person to the same customer. However, if the customer is involved in a relevant industrial activity the supply of water and the connection will be standard rated.

The brief invites claims where VAT has been charged incorrectly on connection charges.

### Backdating a VAT Registration – application of “fairness”

In a recent Tribunal case, *Cambrian Hydro Power Limited*, a business had been incurring VAT on services since 2009 but had yet to make taxable supplies. The director applied for VAT registration with an effective date of registration (EDR) of 1 January 2012. He believed that VAT on services was recoverable up to two years prior to the EDR rather than the time limit of six months. As soon as he realised his error he applied for a backdating of the EDR which HMRC refused.

The Tribunal agreed that there had been a genuine error by the director and noted that HMRC's internal guidance allowed for backdating reconsideration if there are mitigating circumstances. The Tribunal ruled that HMRC had not acted reasonably and referred the matter back to HMRC to reconsider backdating the EDR. Whilst the appellant's appeal was successful this case this shows the importance of getting an EDR right when applying for voluntary VAT registration.

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Thinking outside the box