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TAX FACULTY



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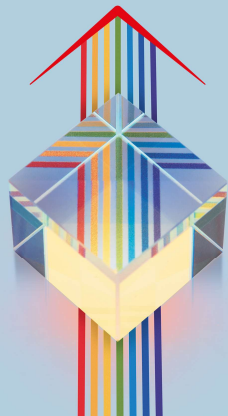
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## *VAT tips for your SME business clients*

09 DECEMBER 2020

PRESENTED BY:

NEIL WARREN

ANITA MONTEITH

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## *Presenters*



Today's moderator  
Anita Monteith  
Technical Lead  
ICAEW Tax Faculty



Today's speaker  
Neil Warren CTA (Fellow), ATT  
VAT Consultant and Author

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## ***Business splitting – does it work?***

- Important issue – freezing of £85,000 VAT registration threshold until April 2022 has meant more businesses exceed turnover limit;
- Example – Jack and Jill trade as a café in Blackpool – partnership - annual takings £75,000; new activity to buy and sell Christmas trees – annual sales £20,000.
- Example – Bill and Ben run a guest house in Blackpool - £80,000 annual sales – expected to be £90,000 next year. Separate legal entity and charge for breakfasts?
- Advantage of situation 1 – new business being set up – completely different income source/activity – different suppliers and customers – separate invoicing and bank accounts is possible - sole trader for Jill?
- Problems with situation 2 – business already trading – avoidance of VAT is motive for split – same circle of customers – trading on same premises – family link makes it difficult to keep things separate – recharge for shared overheads?
- HMRC powers – to issue direction and treat separate businesses as a single partnership from current or future date if split done correctly – retrospective action if issues are confused with eg record keeping – “economic, financial and economic links”
- VAT tribunal cases – taxpayer wins - Graham and Christine Belcher (TC5891); Charles Caton (TC7343).

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## ***Compensation and termination fees***

- No supply of goods or services = No VAT – is that correct?
- Key words: compensation, cancellation fee, termination fee – usually means payments are outside the scope of VAT – no output tax.
- HMRC Revenue and Customs Brief 12/2020 – 2 September 2020 – change in interpretation of law - if compensation relates to a VATable contract, it is standard rated.
- CJEU cases - Meo (C-295/17) and Vodafone Portugal (C-43/19) – mobile phone contracts terminated early.
- Example – ABC Insurance Brokers – five year contract for cleaning services from DEF Cleaners (VAT registered) – terminated contract three years early – termination fee paid by ABC of £10,000. Payment is VATable – input tax issue for ABC.
- The past? – Brief said changes are retrospective – four year adjustment period – but HMRC is apparently rethinking this approach – their own guidance used to say payments were not subject to VAT.
- Final tip – many compensation payments are still outside the scope of VAT

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## *Flat rate scheme – is it worthwhile?*

- 1 April 2017 – key date for the scheme. Introduction of 'limited cost trader' category. FRS rate = 16.5%. Relevant to businesses that don't purchase a lot of 'relevant goods' - < 2% of gross turnover; or > 2% of gross turnover but less than £250 per quarter.
- Outcome – many businesses that used to qualify for 12% other services rate/activities not listed elsewhere – now subject to 16.5% FRS rate.
- Example – annual sales are £100,000 + £20,000 VAT; Input tax = £2,000. VAT payable with FRS = £120,000 x 16.5% = £19,800 – minimal allowance for input tax.
- **Advertising 11%** - if it spends enough on goods to keep out of the limited cost trader category and does not have a lot of input tax, 11% is potentially a good rate for any service business.
- **Computer repair services 10.5%** - as above
- **Entertainment or journalism 12.5%** - buy hard copy books rather than online publications for research. The books are zero-rated (so no loss of input tax) and the spending will also help them reach the £250/2% limit re limited cost trader category.
- **Hotel or accommodation 10.5%** - eg for a small B&B business but proceed with caution. No input tax claims on repair bills or building improvements - scheme gains could be lost.
- **Repairing vehicles 8.5%** - subject to input tax – don't forget rent

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## *Practical VAT saving tips – top ten*

- Example – Florist Freda is VAT registered and has purchased a house that she will renovate and sell or rent out. Tip 1 – partial exemption de minimis limits - £7,500 and 50% input tax rules in a tax year. Tip 2 – must be same legal entity as florist business – jointly owned property is a partnership. Tip 3 – spread building work over two tax years?
- Example – Builder Bill is not VAT registered – big job for £90,000 – lots of materials – one-off job – forward looking VAT registration test. Tip 4 – Bill should split his invoice into two/three parts with 30-day intervals. Tip 5 – will exceed annual £85,000 threshold on 12-month basis but consider requesting exemption from registration.
- Example – Solicitor Steve supplies legal services to a private person living in Spain. He currently charges VAT at 20% - B2C general rule. Tip 6 – from 1 January 2021, services in VAT Notice 741A, section 12, will not be subject to UK VAT if B2C customer is "outside UK" rather than "outside EU". Tip 7 – Steve can still claim input tax on UK costs – outside the scope with recovery.
- Example – Retailer Rita is VAT registered and sells clothes. She is going to buy the freehold of a shop for £300,000 + VAT. Tip 8 – input tax can be claimed but be aware of capital goods scheme – also subletting. Tip 9 – consider buying property in separate legal entity and registering for VAT and opting to tax. Tip 10 – ask seller if option to tax election was made more than 20 years ago – VAT1614J?

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## ***Reporting issues***

- Intrastat arrivals – will continue for 2021 at least – but not dispatches
- Reason: Deferral of customs declarations until July 2021 would leave UK short of information to work out trade statistics for imports from EU member states – hence need for Intrastat arrivals declarations instead
- Intrastat despatches – will be abolished apart from Northern Ireland businesses – information will instead be collected from export customs declarations
- EC Sales Lists – “will only be required for sales of goods to EU businesses that are treated as intra-Community dispatches under the terms of the Northern Ireland Protocol. They will not be required for any supplies of services or any supplies of goods that are treated as an export.” (HMRC press office 21 August 2020)

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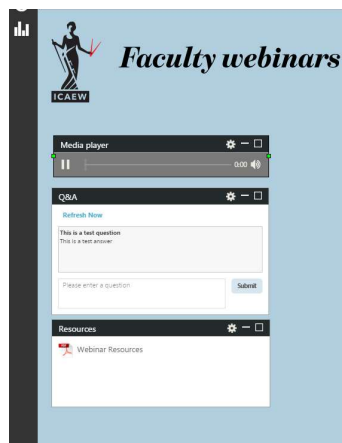
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## *Future webinars*

### • Tax Faculty webinars

- 15 December 2020 – DAC 6 affects SMEs too
- 13 January 2021 – MTD for Corporation Tax
- 2 February 2021 – Hardman Lecture
- 11 February 2021 – MTD for Income Tax Self Assessment
- 23 February 2021 – Getting Research and Development Claims right

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