Draft legislation published for the Fulfilment House Due Diligence Scheme

Indirect Tax

01 December 2017

Fulfilment House Due Diligence scheme – stakeholder meeting and further consultation on draft regulations.

In October 2017, the CIOT attended a stakeholder meeting with HMRC and representatives from the logistics and legal sectors to discuss its draft legislation, The Fulfilment Business (Approval Scheme) Regulations 2018.

The Regulations set out the application process, obligations of third country goods fulfilment businesses and penalties for the Fulfilment House Due Diligence Scheme (FHDDS). The draft legislation is published on GOV.UK.

Further guidance about the scheme will be published by HMRC, however this was not available at the stakeholder meeting nor at the time of writing this article.

Background

The FHDDS is an anti-fraud measure announced in the Budget 2016 that seeks to tackle non-payment of UK VAT on goods sold by non-EU suppliers to UK customers via a UK fulfilment house.

In order for non-EU suppliers to continue trading via fulfilment houses after 1 April 2019, it must use an approved provider. Fulfilment houses must register with HMRC within a prescribed timescale to be ready for the implementation date. Further background on the scheme is provided in our earlier article.

Timeline

In the meeting, the new timelines for registration were discussed. Existing fulfilment houses in the UK trading on or before 31 March 2018 must apply to register for the scheme by 30 June 2018. HMRC are anticipating several hundred applications will be received once the registration period starts. Fulfilment houses that start trading between 1 April and 30 June 2018 must apply to register by 30 September 2018. The anticipated target date for HMRC to process these applications, that is confirm registration or raise further queries, is 31 December 2018.

New fulfilment houses that are set up after 1 July 2018 will be required to apply for registration in time to be approved by the later of 1 April 2019 or before they start trading. In the stakeholder meeting, it was anticipated that these applications could take up to 45 days to process, with another 30 days added if queries were raised.

Conditions for approval

Paragraph 4(4)(c) states that conditions or restrictions can be imposed by the Commissioners. When discussed in the meeting, it is anticipated that this will cover situations where applicants have outstanding HMRC debts or there are discrepancies in ‘fit and proper’ standards. Ideally such standards would be included in the legislation rather than in guidance, so we will be feeding this back in our consultation submission.

VAT number verification

Part 8 sets out the requirement to verify a customer’s VAT number. Currently this would be checked using VIES, although after Brexit this is likely to change. It is anticipated that an alternative online portal will be available.

Consultation

HMRC has requested feedback on the draft legislation from stakeholders (for example affected businesses, trade bodies and advisers) as follows:

1. The impact on fulfilment businesses in applying the obligations of the scheme, including record-keeping requirements

2. Whether the provisions for group registrations in Part 5 will be beneficial to group companies
3. The impact of the scheme on small and micro businesses

Send any comments by 15 December 2017 to HMRC with FHDDS in the title to indirecttax.projectteam@hmrc.gsi.gov.uk.

The CIOT will be preparing a submission to the consultation.