Option to tax: have you experienced delays?

Indirect Tax

01 August 2015

Have you experienced delays?

We have received reports from members of continuing delays by the Option to Tax National Unit in responding to options that have been notified. With examples of it taking upwards of 30 working days and HMRC acknowledging a peak of 30–60 days, we are to write to HMRC to understand why these delays are occurring and, ultimately, improve response times for taxpayers.

Obtaining acknowledgement of an option to tax (OTT) can be crucial to property deals and transfers of going concerns in particular. Delays can jeopardise transactions, given the understandable reluctance to complete contracts without certainty on VAT and many sales contracts will require confirmation that the OTT has been notified and is not dis-applied because of anti-avoidance. This is especially true in cases requiring permission from HMRC or belated notifications. We are also aware of HMRC issuing rulings and approvals of standard OTT notifications in situations that do not require an approval. There is only an approval process for an application for an OTT to apply because of extenuating factors, not for standard notifications when permission is not needed.

In the past, HMRC have had a target of 15 working days to respond to notifications, but this has slowly increased and the situation now is, we believe, causing excessive delays. We are aware that, having taken 20–30 days to look at a notification and request further information, taxpayers have been told that they would have to wait another 27 days for their reply to be looked at again.
To assist with our submission to HMRC, we are asking for brief (anonymised) examples of delays that you and your clients may have experienced so that we can evidence our concerns. It would be helpful to provide some context of whether the

OTT is a standard or complex situation and to explain what impact the delay has had. Email brief details to indirecttax@ciot.org.uk by 31 August 2015.