HMRC guidance in relation to VAT group registration delays

Indirect Tax

28 March 2022

In our February edition, we reported on the VAT administration issues arising from delays in the processing of VAT group registration applications, or requests to change the membership or deregister existing VAT groups. HMRC have now published some guidance.

Background

During the pandemic, HMRC's service levels were impacted for many teams, with some teams operating with severe delays. VAT group registrations were severely impacted and the delays are ongoing. As VAT is a 'real time' tax, complex issues arise when delays are longer than the service's 30 day processing period, or where the delay is longer than the 90 day VAT group automatic acceptance period. This is because the awaited outcome can impact decisions such as the VAT liability, invoicing, option to tax, partial exemption and mergers and acquisitions.

In January, the CIOT published a communication received from HMRC on actions to take during the delayed response period whilst waiting for the VAT group registration administration to be completed. However, we are aware that agents and taxpayers were receiving differing advice from HMRC on steps to take during that period, including advice different to that which we published. As our preference (and that of other stakeholders) was still for formal guidance to be published on gov.uk, we continued to communicate with HMRC on this matter.

New gov.uk guidance

On 2 March, HMRC published Revenue & Customs Brief 5 (2022) (tinyurl.com/veu37ppm) and updated VAT Notice 700/2 at paragraph 2.17 (

tinyurl.com/4mshhjtt), setting out what actions taxpayers should take whilst waiting for a response from HMRC for a new VAT group registration or an amendment request for an existing VAT group. An important point that has been confirmed is that taxpayers that have applied for new VAT groups should treat the effective date of registration (EDR) requested as provisionally accepted and account for VAT on that basis.

The guidance also sets out that automated VAT compliance communications, such as central VAT assessments for missing returns and the subsequent requests for their payment, and default surcharge communications, will be cancelled by HMRC where they relate to the VAT group processing delays so require no action by the taxpayer. This would apply to groups that already have members with existing individual VAT numbers.

Member experiences

Where a taxpayer has requested a new VAT group, but the members are already individually registered for VAT, it can be a common scenario for their individual VAT returns to become due while waiting to hear about the group registration. Feedback from CIOT members is that, prior to the new guidance being published, there have been different experiences when asking HMRC whether these VAT returns should be submitted. Additionally, in cases where the individual businesses' VAT returns were submitted, this has subsequently and unexpectedly affected the EDR of the pending VAT group registration application, by making this a date which falls later than the last day of the VAT return period for the last individual VAT return that was submitted. For some businesses, this has caused administrative and financial issues, such as a different VAT position on intra group supplies in the period.

For taxpayers that have received automated VAT compliance communications, we understand that some have had consequences over and above those mentioned in the guidance: such as the central assessments causing issues with payments on account, or where 'debts' accrued from the automated compliance have been elevated to proactive steps by the debt management service. We have submitted examples of these consequences to HMRC and would hope that the new guidance provides a uniform treatment of taxpayers going forward until such time that the delays come to an end.

A return to normality?

At the time of writing, HMRC’s projected date for the VAT group registration service to return to the normal service level standards of a 30 day turnaround is by the end of April 2022. We understand that additional staff have been recruited to the team and in addition, that the work carried out during the closure of the VAT helpline on Fridays in February and March this year also addresses delays for this service line caused by the post backlog that accrued during the pandemic.