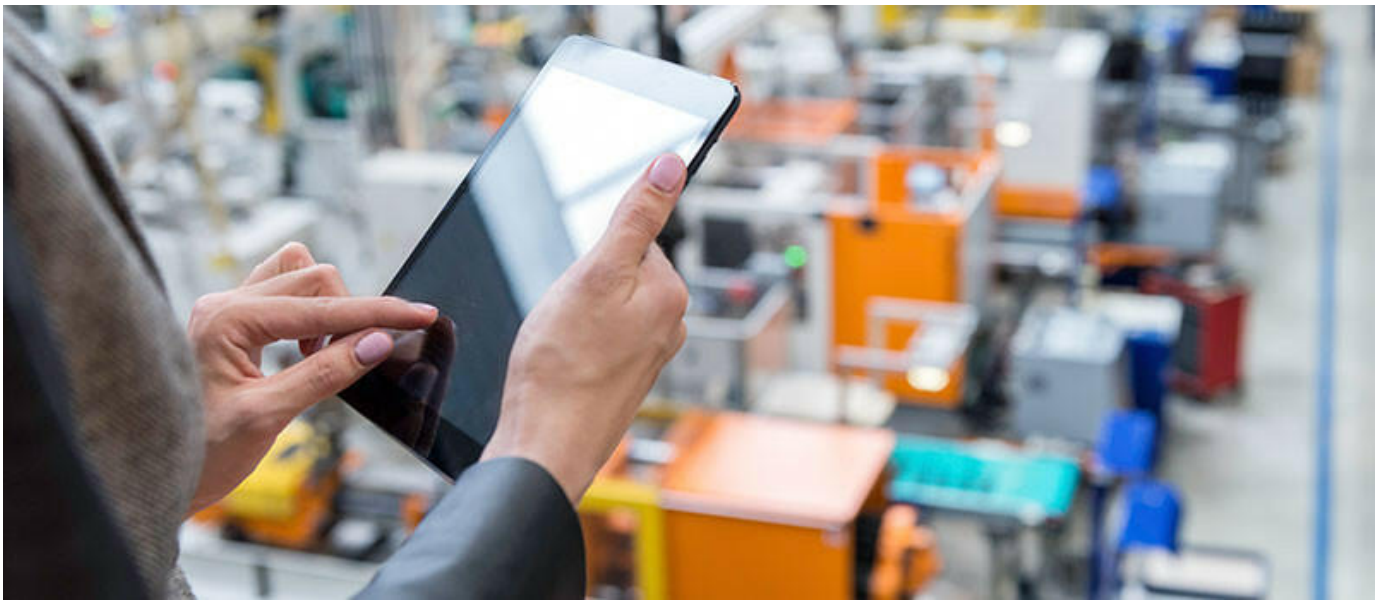
VAT: more changes for option to tax notifications

Technical Indirect Tax



27 January 2023

From 1 February 2023, HMRC will implement further changes to the procedures for option to tax notification receipt letters, and requests to confirm the existence of an option to tax, subject to certain exceptions

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Taxpayers have encountered some long-term and severe delays in some areas of HMRC's VAT customer services, and this has included services related to the option to tax, which in the first quarter of 2022 had a processing time of approximately eleven months.

Background

In May 2022, HMRC ran a six-week trial within the option to tax team with the aim of speeding up the review process for new option to tax notifications. This was to be

achieved by reducing the detail in the acknowledgement letter, which would only acknowledge receipt of the letter but not confirm the validity of the option to tax. HMRC stated in the trial that section 4.2.4 of VAT Notice 742A acknowledges that the letter is not a legal requirement: 'HMRC will normally acknowledge receipt of your notification, although this is not necessary for the option to tax to have legal effect'. Following the end of the trial period on 1 September 2022, HMRC continued with its approach.

Further proposals and consultation

Building on the notification letter changes, HMRC opened a brief consultation period in October, proposing further changes to the option to tax procedures. HMRC engaged with stakeholders from the Joint VAT Consultative Committee and the Land and Property Liaison Group (both forums have representatives from the CIOT and ATT). Stakeholders were asked to provide feedback to HMRC by late November.

The CIOT obtained feedback from members of its Indirect Taxes Committee and Property Committee and the ATT obtained feedback from its VAT Technical Committee. Both CIOT and ATT made their own submissions to HMRC. Although HMRC confirmed that feedback was considered, the proposed changes have been taken forward without any modifications.

There are two changes effective from 1 February 2023:

1. Option to tax notification letters

HMRC will stop issuing option to tax notification receipt letters from 1 February 2023, though if the option to tax notification was submitted via the official email address at optiontotaxnationalunit@hmrc.gov.uk, the sender will still receive an automated email response that confirms the date of notification and this should be retained in the business records. Postal notifications or option to tax notifications send via other means will **not** receive an acknowledgement letter or email receipt.

2. Confirmation of the existence of an option to tax

HMRC will stop processing requests confirming the existence of an option to tax, subject to the following exceptions:

- the effective opted date is likely to be over six years ago; or

- if the request is made by an appointed Land and Property Act receiver, or an insolvency practitioner to administer the property, and only if the request is accompanied by a letter or deed of appointment of this role.

HMRC issued Revenue & Customs Brief 1 (2023) on 11 January ‘Changes in processing option to tax forms’ (tinyurl.com/2zd3x4ev), which provides further details.

Next steps

At the time of writing, the new changes are due to be discussed at the Land and Property Liaison Group meeting, where CIOT and ATT representatives will have the chance to discuss some of the points that were raised in our feedback on the initial consultation. We are also considering how the changes fit into HMRC’s charter standards.

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