VAT registration: current issues

Indirect Tax



23 October 2023

The CIOT and ATT are represented on HMRC's Joint VAT Consultative Committee's VAT Registration sub-group, a forum that engages with stakeholders to identify issues and potential improvements for VAT registration applicants and their agents.

VAT registrations registering company directors as sole proprietors

The CIOT raised issues that have been encountered by our members around how VAT registration applications involving non-established taxable persons (NETPs) have resulted in unexpected outcomes.

A NETP is any person (using the legal meaning of this word including all legal and natural persons) who makes taxable supplies in the UK, but does not have a physical presence here. Thus, it is any person who is not normally resident in the UK, does not have a UK establishment and, in the case of a company, is not incorporated in the UK. The CIOT has received feedback that some VAT registration applications made for companies that are NETPs are resulting in VAT registrations where

company directors have been registered as sole proprietors. We understand that this is happening with both online and paper VAT registration applications.

At the forum, we suggested to HMRC that one of the questions and the answer options in the online VAT registration application could be causing confusion. This question and answer reads:

What type of business do you want to register for VAT?

- **Non-established taxable person (NETP)**
  A NETP is any person who is not normally resident in the UK or does not have a UK establishment.
- **Non-UK Company**

The response options given suggest that the term ‘NETP’ in the first option may be intended to mean only a natural person, with a separate second option for a non-UK company. We discussed at the meeting that this is not technically correct.

As set out above, the word ‘person’ in relation to tax rules, means ‘legal or natural person’, and thus includes a company. Therefore, a VAT registration application on behalf of a non-UK company could properly choose the first option, as the company is an NETP, overlooking the second option of ‘Non-UK company’.

However, the VAT registration system recognises the first option as being for individuals or firms only (that is natural persons). As a result, if a non-UK company ticks the NETP option, HMRC will register the directors as sole proprietors for VAT, and not the company itself. As this issue is being experienced for paper VAT registration applications too, we suggested that some HMRC staff entering the information from the paper applications into the system must have also been choosing the NETP option for companies, which is understandable as NETP is a long established term understood to refer to all non-UK applicants, including companies.

We suggested that the online question should be amended to reflect the question in the paper VAT1 application, which simply asks if the applicant is either a non-UK business, or not an established business. HMRC will consider our request.

End of paper VAT registration application route (with exceptions)

HMRC announced in Agent Update 112 (tinyurl.com/3j8v9wb5) that the paper application route will be withdrawn on 13 November 2023 and the downloadable VAT1 will be removed from GOV.UK. However, persons who are exempt from digital services for reasons such as age, disability, beliefs, etc are still able to request a paper application from the VAT helpline and specific types of applicants must also continue to use the paper route including:

- district and parish councils;
- LLP led VAT groups; and
- VAT only 'quasi' partnerships for shared property ownership.

Guidance will be updated to reflect the limited list of applications that should still use the paper application route.

The most common reason we hear about applicants using a paper application is that there is a delay in obtaining a Unique Taxpayer Reference (UTR) and this interacts with a time critical VAT deadline, such as an option to tax or a transfer of a going concern. This has been fed back to HMRC.

The CIOT and ATT are interested in hearing of situations (other than highlighted above) that currently force an application onto the paper application route. These can be forwarded to technical@ciot.org.uk.

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