Ten important VAT concessions: are your clients missing out?

Indirect Tax



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There are ten important concessions that are relevant to VAT and which your clients will definitely want to know about.

Key Points

What is the issue?

An awareness of the many concessions and allowances in the legislation and HMRC guidance can save clients a lot of tax or improve their cash flow. For example, the six-month debtors concession for a business leaving the cash accounting scheme helps to ease the transition from accounting for VAT on a payment received to invoice date basis.

What does it mean for me?

HMRC Notice 48 includes many extra statutory concessions about VAT, although many have been abolished. The article highlights two useful concessions that are available, relating to output tax apportionment on membership subscriptions for non-profit making entities and the opportunity to claim input tax on invoices issued by a business that is not registered for VAT.

What can I take away?

The partial exemption de minimis limits are worth up to £7,500 in a tax year, meaning that input tax can be claimed on some costs that relate to exempt sales made by a business.

The proposed abolition of the special rules for furnished holiday lettings was a reminder that there are still many allowances and concessions in the tax legislation that can benefit our clients.

How much extra revenue would the government raise each year if some of the many VAT concessions and allowances were abolished? The answer is billions! It would require a bold approach to strike a pen across out-of-date and unnecessary legislation, even if the motive for an allowance being introduced ended long ago. I'll consider some on them in this article.

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1. Partial exemption de minimis limits

My favourite tale about the partial exemption de minimis limits relates to a florist I advised about ten years ago. She owned the freehold of her premises, which consisted of a ground floor shop from which she traded and a first floor flat that she rented out on a buy-to-let basis. The rental income was exempt from VAT.

The cost of major flat improvement works she needed to carry out was £50,000 plus VAT and she asked if she could claim input tax. 'Only if you spread the work over two partial exemption tax years,' was my reply:

- A business with exempt and taxable income can claim all input tax on its costs if the exempt input tax qualifies as de minimis.
- There are three de minimis tests but the main test is that exempt input tax must be less than £7,500 in a partial exemption tax year and also less than

50% of the total input tax incurred by the business.
- Exempt input tax includes the proportion of input tax not claimed on mixed costs and general overheads; e.g. telephone and computer costs.

A partial exemption tax year ends on 31 March, 30 April or 31 May – depending on the VAT periods of the business – or 31March if it submits monthly returns. You can hopefully see the significance of my client spreading the building work over two tax years at £25,000 plus £5,000 VAT per annum; i.e. to take advantage of the £7,500 tax de minimis threshold. Job done!

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2. Car hire and leasing charges: input tax concession

What happens if a client hires or leases a car and pays VAT on the charges but the business use is only 10% of total use?

The business can still claim 50% input tax on the leasing charges, irrespective of the actual percentage of business use. The other 50% is blocked for deemed private use. This concession would obviously not be a good deal if business use in a leased car was, say, 90% rather than 10%!

There are two main exceptions to the 50% arrangement:

- If a car is hired specifically for business purposes – for example, a consultant in London hires a car to visit a client in Scotland – then input tax can be fully claimed as long as the hire period is ten days or less. This ‘relief’ for short term vehicle hire is a concession from HMRC, rather than stated in VAT law (see VAT Notice 700/64 para 4.4).
- If input tax on a leased vehicle would have been fully claimed if it was purchased outright. In other words, it is used as a tool of trade by a car hire business, taxi firm or driving school or it qualifies as a genuine pool car available for general use by employees (see VAT Notice 700/64 para 3.7).

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3. Input tax on vehicle repairs

A specific concession granted by HMRC – which makes VAT different to direct tax – is that input tax does not need to be apportioned on repair and maintenance work on a vehicle used for business and private purposes. The opportunity to fully claim input

tax extends to repairs to cars owned by employees that are used for business travel, as long as the business pays for the work and is invoiced by the supplier.

There must be some business use of a vehicle. To quote from VAT Notice 700/64 para 5.1:

> ‘If you’re a sole proprietor or partner and use a vehicle solely for your own private motoring you cannot reclaim the VAT on repairs as input tax.’

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4. Retrospectively joining the flat rate scheme

The legislation about the flat rate scheme – which can be used by a business if its annual taxable sales will be less than £150,000 excluding VAT in the next 12months – states that potential users can join from the beginning of the next VAT period. However, HMRC grants a concession that new recruits can join from the current period, as long as the return has not already been submitted.

There are two other worthwhile concessions:

- A newly registered business will get a1% discount on its relevant flat rate scheme percentage in the first year of VAT registration. So, for example, a hairdresser would apply a rate of 12% rather than 13%, a welcome saving of tax (see VAT Notice 733 para 4.7).
- Scheme users can claim input tax on capital expenditure goods costing more than £2,000 including VAT. However, note the reference to capital goods and not services, such as the construction of an office extension.

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5. Leaving the cash accounting scheme: six-month debtors concession

The annual sales threshold for joining the cash accounting scheme has remained at £1.35 million excluding VAT for decades, with an exit figure of £1.6 million.

This is a shame because it means that inflationary rather than volume increases in sales have forced many businesses to leave and therefore lose the worthwhile opportunity to account for output tax according to payment rather than invoice

dates. However, an important concession is that output tax on closing debtors can be declared by leavers on the two subsequent returns after the departure period as payments are received from customers.

It is not a complete ‘win win’ concession because input tax cannot be claimed on closing creditor invoices until suppliers are paid.

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6. Output tax on assets when deregistering: £1,000 de minimis limit

If a business deregisters, it must account for output tax on all stock and assets owned on the final date of registration which are standard rated by statute and if input tax was claimed when they were purchased.

The calculation is made according to the open market value of the item on the deregistration date, which takes account of obsolescence and wear and tear, etc. However, there is a de minimis limit whereby no output tax is due if the total value of the stock and assets subject to output tax is less than £5,000.

When I was on the speaking circuit, I used to share a planning tip about a builder deregistering whose only asset subject to output tax was a van worth £6,000. My advice? ‘Leave it overnight at the rough estate near where I live before you deregister, and it will be worth less than £5,000 the following day when you collect it. So you have saved the VAT.’

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7. New charity building: 5%business use concession

The freehold sale of a new building to a charity – or leasehold sale exceeding 21years in the UK apart from Scotland, which is 20 years – will be zero-rated if it will be wholly used by the buyer or leaseholder for a relevant charitable purpose; i.e. its charitable rather than business activities. The same outcome applies if the charity constructs the building and uses external builders; i.e. the builder services and materials they supply as part of their work will be zero-rated. In both cases, the charity must issue a VAT certificate to the seller or builders to confirm their intended use (see VAT Notice 708 s 18).

However, many new charity buildings include a small coffee shop or gift shop on the premises to help pay for some overhead costs. HMRC therefore accepts that zero-rating can still apply if business/non-charitable use will be less than 5% of total use. And, as a further concession, the charity can make the 5% calculation by using any method that is fair and reasonable. It doesn't have to be carried out on a strict square footage split.

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8. VAT on imports: postponed accounting

I won't elaborate on this topic because it has been well covered in previous articles in *Tax Adviser* and is a complete 'win win' as far as VAT is concerned. Basically, an importer of goods that is both registered for VAT and EORI (Economic Operators Registration and Identification) can defer the payment of VAT when goods arrive in Great Britain – or outside of the EU for a business based in Northern Ireland – and account for VAT on its next return by doing a postponed accounting entry.

It will account for output tax and claim input tax based on the VAT rate that applies to the goods in question, usually 20%. The end result will be a nil payment to HMRC, unless there is an input tax block for exempt, private or non-business use.

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9. Extra statutory concessions: VAT Notice 48

Extra statutory concessions are granted by HMRC when a strict application of the law would create a disadvantage to a business that was not intended when the legislation was passed. The concessions can be adopted without asking for HMRC's permission but it is important to regularly check that they have not been withdrawn. That has happened a lot in recent years!

Many of the concessions are industry specific following agreements with different trade associations but here are two specific extra statutory concessions that are worth highlighting:

Paying VAT to a supplier who is not registered for VAT

HMRC has the power to pursue an unregistered supplier for VAT it has charged but when the buyer has no legal basis to claim input tax. This is because the supply of

goods or services has not been made by a taxable person. However, by concession – on the grounds of equity – HMRC will allow a buyer to claim input tax as long as they paid the VAT in good faith and were not party to any deliberate fraud or tax avoidance (see HMRC Notice 48 para 3.9).

Apportionment of membership subscriptions paid to non-profit making bodies

If a non-profit making club or charity charges a standard rated membership fee (or possibly exempt) and the members also receive a newsletter or magazine as part of their subscription, the zero-rated magazine would be subject to VAT (or exempt) as an ancillary supply to the membership fee.

However, HMRC allows the fee to be apportioned on a fair and reasonable basis to reflect the value of all supplies received by members. In other words, a mixed supply outcome is allowed, meaning an improved input tax recovery rate because part of the subscription is zero-rated rather than an exempt or an output tax saving if the subscription is standard rated (see VAT Notice 48 para 3.35).

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10. Zero-rated, reduced rated and exempt supplies

I could not write about the many VAT saving opportunities and allowances without mentioning the extensive list of supplies that qualify for 0% or 5% VAT, or are exempt from VAT. Relevant legislation is at Value Added Tax Act 1994 Sch 7A, 8 and 9.

If any government wished to increase the VAT yield, it could withdraw many of these reduced rates. The Labour Party has already stated its intention to withdraw the exemption for education fees in private schools.

To quote from a 2023 document issued by the highly respected Institute for Fiscal Studies titled ‘Tax and public finances: the fundamentals’ (see tinyurl.com/jrycjhy4): ‘Fact 5: VAT zero rates and exemptions cost £100 billion in forgone revenue.’

Enough said.

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