# VAT challenges: what happens if you miss the VAT deadlines?

Indirect Tax



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In this Q&A article, we consider practical situations when a business might have missed important VAT deadlines. In some cases, it will be too late to rescue the situation.

## Key Points

### What is the issue?

If a business has missed an important deadline, it is necessary to check both the legislation and HMRC's published guidance to see if a belated solution is possible. For example, bad debt relief can still be claimed up to four years and six months after the later of the invoice or due payment date.

### What does it mean to me?

Check that option to tax elections have been correctly notified to HMRC on any properties where the ‘decision’ to opt was taken and VAT is being charged on income earned from that building. As long as the decision was taken, it is usually possible to submit a belated notification to HMRC based on the original decision date.

**What can I take away?**

If your clients are working fewer hours or downsizing their activities, it might be possible to deregister from VAT quicker than you realise because the deregistration sales threshold of £88,000 is based on expected turnover in the next 12 months, rather than sales made in the previous year.

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I enjoy quoting the famous line of the late comedian Eric Morecambe when he was making a mess of playing the opening bars of Grieg’s piano concerto. ‘You’re playing the wrong notes,’ said musical maestro André Previn, to which Eric replied: ‘I’m playing all the right notes – but not necessarily in the right order!’

In the world of the nation’s favourite tax, doing things in the right order is often vital to avoid an unnecessary tax bill. Wasting time sorting out a belated problem and unnecessarily overpaying tax are a bad combination of issues. I refer to them as ‘after the horse has bolted’ problems.

A perfect result is often impossible and a damage limitation outcome will be the best outcome, as we frantically try to steer the VAT pony back to its stable. I’ll share some examples in this article.

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#### I charge VAT on my property rental income but have never sent an option to tax form to HMRC. Is this a problem?

This is a common query: a business is charging VAT on rental income for a commercial property it owns – and also claiming input tax on related expenses – but has never notified HMRC of its decision to opt to tax the building. In some cases, it can be many years before the oversight is identified, perhaps because the property is being sold and the buyer has asked for proof of the notification to HMRC.

There are two stages to making a valid option to tax election on a property:

- **Decision:** The business has recognised the benefits of opting to tax the property, usually to enable input tax to be recovered on either buying the building or subsequent repair and improvement costs.
- **Notifying HMRC:** This is usually done by completing form VAT1614A and emailing it to optiontotaxnationalunit@hmrc.gov.uk. An election must be notified to HMRC within 30 days of the decision being made.

The good news is that HMRC will usually accept a belated notification if the business can prove that the *decision* to opt was made at the correct time – in other words, VAT has been charged on rental income since that date, excluding any residential parts of the building where the election is overridden.

A belated notification corrects an administrative oversight, which is different to a retrospective notification where the taxpayer is trying to backpedal and achieve an input tax windfall.

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**We completed the 2023/24 Self Assessment tax return for a client in January 2025 and her turnover for the year to 5 April 2024 was less than the annual VAT registration sales threshold of £90,000. Can we retrospectively deregister from this date and get a refund from HMRC?**

A trading business is a member of the 'VAT club' until the date it completes form VAT7 to notify deregistration to HMRC; it must be based on a current or future date and not retrospective. However, there are important planning points to consider:

- The annual taxable sales threshold for deregistration is £88,000 rather than £90,000. (The latter figure is the registration threshold.) Both limits were increased by £5,000 on 1 April 2024, the first increase since 2017.
- For deregistration, the relevant test is to consider expected sales in the *next* 12 months. Historic sales are irrelevant.
- Before applying to deregister, a business must consider the potential output tax liability on stock and assets still owned on the deregistration date where input tax was claimed on the purchase of the goods. It might be worth waiting until the market value of all stock and assets is less than the £5,000 de minimis limit

because of depreciation, so there will be no output tax liability on the final return.(See HMRC Notice 700/11 s 7.)

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**My business was late registering for VAT. Can I go back and charge 20% to my customers for the late period by issuing VAT only invoices, so I am not out of pocket when I submit my first return to HMRC? There has also been a delay getting my VAT number, so can I charge VAT in the meantime on the current invoices?**

This question is in two parts:

**VAT on current invoices:** HMRC's guidance about issuing invoices and charging VAT while a business is waiting for its VAT number is clear. There is no problem charging 20% VAT – assuming supplies are standard rated – as long as the VAT amount is not itemised separately on the invoice. In other words, the amount charged must be shown as '£120 including VAT' and not '£100 plus £20 VAT'. The invoice should be noted along the lines of: 'We have applied to register for VAT. Tax invoices will be issued when HMRC has issued a registration number.'

**VAT on past invoices:** The answer to this question depends on the contract agreed between the supplier and customer. Does it give scope for the supplier to charge VAT on retrospective sales? If so, VAT can be charged when the registration number has been issued by HMRC; otherwise, the supplier will have to absorb the VAT by reducing its profits. If the contract is silent about VAT, the best strategy is to encourage customers to accept a belated VAT charge, which should not be a problem if they can fully claim input tax on their expenses.

Accounting for VAT on sales for the late period can cause confusion. See ***Computer Clive: accounting for VAT on past sales***.

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**Computer Clive: accounting for VAT on past sales**

Clive trades as a computer consultant and should have registered for VAT on 1 July 2024 but did not apply to HMRC until 1 January 2025. For the six month period to 31 December 2024, his total standard rated sales were £60,000 and his customers can all claim input tax.

- On his first VAT return that includes the late period, Clive will treat these sales as being inclusive of 20% VAT; i.e. the output tax to declare in Box 1 will be £60,000 x 1/6 = £10,000.
- When his VAT number is issued by HMRC, he can issue VAT only invoices for these historic sales with a current invoice date. The charge will be for 20% VAT; i.e. £12,000.
- For the return that includes the invoice date, Clive will declare £2,000 in Box 1; i.e. £12,000 less £10,000 already declared.
- If he uses the cash accounting scheme, the date the customers pay the £12,000 VAT will be relevant, rather than the date of the VAT only invoice.

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**We wrote off many sales invoices in our ledgers several years ago but forgot to claim bad debt relief. Is it too late to claim VAT now?**

The basic rules for a valid bad debt relief claim are as follows:

- An invoice must be at least six months overdue for payment, so the earliest claim for an invoice dated 31 January on 28 day payment terms would be the VAT return that includes 28 August of the same year. If there is no payment date shown on the invoice, the invoice date is relevant.
- The invoice must be written off in the business accounts, with a charge made to a ‘bad debt’ expense account.
- Output tax must have been declared on an earlier VAT return; i.e. the business is not using the cash accounting scheme where bad debt relief is automatic.

But what about old debts where relief has never been claimed? See ***Legislation: time limit for a bad debt relief claim***.

For example, if a sales invoice was issued on 28 February 2020 on 30 day payment terms, the latest claim for bad debt relief will be the VAT return that includes 30 September 2024. This is based on the due payment date of 30 March 2020 plus four years and six months.

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**Legislation: time limit for a bad debt relief claim**

Value Added Tax Regulations 1995, Reg 165A(1):

‘A claim shall be made within the period of 4 years and 6 months following the later of:
a. the date on which the consideration (or part) which has been written off as a bad debt becomes due and payable to or to the order of the person who made the relevant supply; and
b. the date of the supply.’

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**My company is registered for UK VAT and we paid French VAT (known as TVA) on a business trip to Paris. The trip was 12 months ago in February 2024. Are we too late to submit a refund claim to the French tax authorities?**

As a non-EU country, a UK business must now claim VAT paid in an EU country by making what is commonly known as a 13th Directive claim.

The first challenge is to check the deductibility rules for the country in question before submitting a claim. For example, some member states block claims on hotel bills, vehicle hire and road fuel expenses, just as UK legislation blocks claims for business entertaining in most cases.

Each EU country can choose its own submission deadlines and a quick check for France confirms that TVA incurred in a calendar year must be claimed by the following 30 June. The VAT paid in February 2024 must be claimed by 30 June 2025.

Note: Since 2021, 13th Directive claims in France must be submitted in an electronic rather than paper format. It is also necessary for the claimant to appoint a fiscal representative to act on its behalf with the French tax authorities.

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