OHT Guide

Changes in VAT Rates 2011

Changes in VAT rates have been introduced in 2011, and signalled for Budget 2012. In the Finance (No 2) Act 2011 the Minister introduced a new reduced VAT rate of 9%. This rate applies from 1 July 2011 to 31 December 2013 to the supply of certain goods and services mainly in the tourism sector, such as restaurant and hotel services, newspapers, cinemas and theatre tickets, and certain musical performances.

On 18 November 2011, the Minister for Finance confirmed that he intends bringing in a 2% increase in the standard rate of VAT which applies to most legal services (bringing it from 21% to 23%) as part of Budget 2012.

When a VAT rate changes the impact on invoices depends on how the firm accounts for VAT. There are two main options; (i) the invoice basis and (ii) the cash receipts basis.

Basis for VAT Payments

The standard option is the invoice basis, which involves a VAT liability arising when the invoice is issued to a client. In many cases this means the practitioner pays VAT to Revenue before he has received payment from the client.

On the cash receipts basis a practitioner is only liable to account for VAT when payment is actually received from the client, so there is no VAT funding cost for the firm. The cash receipts basis is only available if the firm's annual turnover does not exceed €1m; or at least 90% of supplies are made to customers who are not VAT registered.

VAT Planning

"If a firm is accounting for VAT on an invoice basis but currently has turnover of €1m or less it may be worth applying to Revenue to switch to the cash receipts basis for VAT, as there are cashflow benefits if VAT does not have to be paid until the firm is in funds from the client."

Invoices following a Change in Rates

Where a VAT rate changes practitioners accounting for VAT on the invoice basis, who are invoicing a client who is registered for VAT, must apply the rate of VAT in force at the time the invoice issues (even if the goods or services were supplied before the date of the change). If a client is not VAT registered, or the firm accounts for VAT on a cash receipts basis, the rate at the date of the supply is used.

It follows that where services are supplied before the rate change, and invoiced after, the VAT rate will depend on the person named on the invoice (with the "old" rate applying to VAT registered persons and "new rate" applying to non-business clients).

The Taxation Committee of the Law Society issued a reminder on 04 November 2011 that solicitors' invoices should issue in the client's name, even if they are being paid by another person. The examples given are those of a plaintiff's solicitor, who should issue the invoice in the plaintiff's name even if it is being discharged by the

defendant, and a lender's solicitor who should issue his invoice to the bank rather than the borrower.

Credit Notes following a Change in Rates

A VAT credit note should show the VAT rate in force at the time the original invoice was issued in the case of an unregistered person. Revenue's VAT Guide 2008 indicates that where the credit note is being issued to a VAT-reg person, the rate of VAT applicable is the rate in force at the time of issue of the credit note even where the original invoice included an older rate.

VAT Planning

"If a client is not registered for VAT, services should be provided before an increase in rates, if possible, to secure the lower rate of VAT for the client."

Advance Payments following a Change in Rates

If the firm is on an invoice basis any payments (including deposits) which are received from VAT-registered clients before the date of a change in rate, in respect of goods or services supplied after that date, are subject to the "new" VAT rate in force at the time the invoice is issued.

However if the client is not VAT registered or the firm is on a cash receipts basis the "old" VAT rate (in force at the date the payment is received) applies.

Contracts Signed Before and Completed After a Change in Rates

Where a contract is entered into before the date on which the rates change but is completed after that date the agreed VAT inclusive price may be adjusted by the supplier unless there is an agreement to the contrary between the parties.

Revenue Example

In Chapter 18 of the Revenue VAT Guide the example is given of a builder who contracts in January to build a house for €300,000, following which the rate of VAT is increased (with effect from 01 March). Revenue advise that in the absence of an agreement, the builder could increase the agreed price to include the extra VAT, assuming the house had not been completed or paid for before 01 March. The builder would, of course, be liable to VAT at the increased rate on the supply.

Current Rates of VAT

From	Standard Rate	Reduced Rate	Second Reduced Rate	Farmers' flat-rate	Livestock
01-Jul-11	21%	13.5%	9*%	5.2%	4.8%

* *Tourism*

Caveat: *These notes are intended as a general guide to changes in VAT rates . OHT has endeavoured to provide an accurate commentary but the notes cannot cover all circumstances. OHT strongly recommends that formal tax advice be obtained before any steps are taken that may have a tax effect.*

O'Hanlon Tax Limited
6 City Gate, Lower Bridge St., Dublin 8
T: 01 6040280 F: 01 6040281 E: info@ohanlontax.ie W: www.ohanlontax.ie