

# VAT NEWS

May 2019



## Making your own MTD for VAT submissions

Please note that if you submit your own VAT returns you will still need to sign up to HMRC's Making Tax Digital (MTD) portal to submit the returns.

Details are available from HMRC. There is a "green window" period to sign up for this portal which should minimise issues, especially if you pay by direct debit. If you sign up too early for MTD, you may need to submit returns that are not subject to MTD (i.e. those that start before 1 April 2019). There will also be complications with Direct Debit payments.

Essentially, if you submit monthly returns, the best time to sign up is the week after your last "non-MTD" submission deadline. For example, for the April 2019 return, the green window is from 15th - 28th May.

For quarterly returns the green window is longer, so for the quarterly return ending 30 June 2019 (06/19) the green window is 15th May - 23rd June.

You will need to have details of the business to hand (company number, VAT number, date of VAT registration, etc.) when you make the request. In addition, you will also need to authorise your software with HMRC and may need to contact your software provider about how to do this before you embark on this process.

If you're still unsure on what you need to do to prepare for MTD (or if it applies to your business) please contact me or your usual Rickard Luckin contact.

## Reduced Rate for Energy Saving Materials

HMRC are consulting on proposed legislation to narrow the application of the reduced rate for the installation of energy-saving materials, following a European judgement in 2015. Essentially, this is looking to restrict the relief to installations in social housing, or where the cost of the energy saving materials is less than 60% of the total value of the installation. It will also remove the relief for the installation of wind and water turbines. The legislation is to become effective from 1 October 2019.

Businesses who install such materials need to be aware of the potential price increase for their clients.



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## Fiscal Neutrality

The term “fiscal neutrality” is often used in Tribunal appeals as a last straw by an appellant without much thought to what it means, let alone whether it is applicable. So, when a case has a true issue of fiscal neutrality, it focuses the mind.

The taxpayer was a pharmacy business that provided prescription medicines to patients. This involves advice and prescriptions being done online by third party doctors. The pharmacy business zero-rated these supplies under the law which refers to “the prescription of an appropriate practitioner”. The definition of appropriate practitioner includes “a registered medical practitioner”. One doctor was UK based and registered with the General Medical Council (GMC) whilst the other was a qualified doctor in Bulgaria and registered with the Bulgarian version of the GMC. HMRC viewed the UK prescriber as a registered medical practitioner but not the other.

After detailed examination, the Tribunal concluded that the overseas doctor was not “an appropriate practitioner” under the VAT Act, so prescriptions from that doctor were not zero-rated. In reaching this conclusion there was a breach in fiscal neutrality but one that the Tribunal could not restore. So, whilst the UK law breaches a European principal, HMRC can still use that law to raise assessments against UK businesses. In this case, £157,000.

## Thin Ice

A skate rink business hired skates that they said could be used at their ice rink or elsewhere. This convinced the First Tier Tribunal that a “skating with skates” package was two supplies; so when the skates in question were children’s sizes this element of the charge could be zero-rated. This “saved” the business nearly £700,000 in VAT. The Upper Tier thought that the First Tier should review how customers view the deal and sent it back to them for “further consideration”.

The other issue here is the rather unrealistic sizes that HMRC view as being for children (as the father of an 11 year old already in size eight shoes) and that the VAT definition of a child is up to 14; as when VAT replaced purchase tax the purchase tax criteria of children leaving school at 14 wasn’t updated. A definition that itself was brought in with the Education Act of 1947.

## Robbing Peter...

An outsourcing company had failed to charge its customer VAT on the supply of emergency accommodation. The VAT was charged and reclaimed by the client. As the client was the Home Office the taxpayer was surprised to be given a £1.25m bill for interest. The Tribunal ruled that although both HMRC and the Home Office were departments of the government, there was the right for HMRC to seek restitution for unpaid VAT.

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