

Coalition Changes – how will they affect you?

Welcome to the Autumn edition of Wilkins Kennedy News, filled with our latest news, including our recent merger with chartered accountancy firm Charles Stuart LLP, an update on our fundraising for spinal injury charity Aspire, and helpful advice on recent and upcoming important issues affecting businesses around the country.

As Autumn leaves turn from green to brown and the country turns from Brown to Cameron, businesses are gearing up for Chancellor George Osborne's Spending Review report on 20th October, a four year framework outlining many cuts and changes affecting thousands of jobs and businesses.

In this newsletter we review and outline the recent changes to pensions, and also highlight issues around the VAT rise that comes into effect in the New Year.

If you have any questions or would like more information on any of the topics discussed in this newsletter, please contact your local Wilkins Kennedy office for further details.

Are you ready for the big VAT change?

Here, Andy Dawbarn, VAT Partner at Wilkins Kennedy points out some of the issues to watch out for when the new VAT rate of 20% comes into force on January 4th 2011.

We are sure it will not have escaped your attention that against the backdrop of a significant deterioration in state finances, the Government has announced that the standard rate of VAT will increase from 17.5% to 20%, effective from 4 January 2011. The reduced rate of 5% remains unchanged.

Given the fluctuations in the standard rate of VAT applying in the UK over the past couple of years, the range of issues arising from the change will be becoming increasingly familiar. There is always much to consider, particularly with pricing statements as well as ensuring that your systems can cope with the administrative changes. This time another major consideration could be the approach of HMRC to any errors detected.

The reduction to 15% was only ever going to be a temporary measure, being designed to boost the economy – it was widely reported at the time that the 13 months at the lower rate would end up costing the Government some £12 billion in revenue.

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In this issue The new pensions challenge – make sure you benefit

Even more specialised expertise joins Wilkins-Kennedy

An end to HMRC leniency?

At the time, HMRC announced that they would apply a "light touch" to any related errors on the first VAT return after the change. They indicated that they would only seek adjustment to an error on a VAT return relating to the rate change where there had been an overall revenue loss.

Interestingly, HMRC have again reiterated their "light touch" approach to the rate change. Following the introduction of the new 'behaviour led' penalty regime, HMRC have stated that they will take into account any "difficulties the business has faced in adjusting to the change" when assessing whether penalties apply. However, the rise to 20% is clearly a way in which the Government will be seeking to reduce the public finance deficit. It must therefore remain to be seen whether, in practice, HMRC will be quite so lenient in their dealings with errors arising from this, presumably more permanent, change in rate. The above statement regarding the imposition of any penalties, for example, seems a long way from a policy that 'no penalties will be applied to rate change errors'.

How can you mitigate the impact?

The fact of the rate rise coming into force is unavoidable. This said, with careful planning, there are ways to reduce the impact of the VAT change on your business. Indeed, many businesses may already be using the change to encourage customers to make purchases before the start of the New Year, but there are other ways to benefit from the lower VAT rate.

Detailed guidance – all 50 pages of it – was issued by HMRC on 22 June 2010 and can be found at:
<http://search.hmrc.gov.uk/kb5/hmrc/hmrc/results.page?qt=VAT+rate+rise>

So, what are the areas on which to focus attention?

Generally you will need to follow the normal tax point rules to decide what VAT rate you should charge.

Normal Tax Point Rules

If the invoice is issued or payment is received before 4 January 2011, the rate of VAT on the supply will be 17.5%. If on or after 4 January 2011, the standard rate of VAT will be 20%. Simple enough you might think. However, complications can arise, primarily in two key areas:

- (i) where identifying the correct tax point is not straightforward; and/or,
- (ii) where tax points span the date of the change.

There are other important considerations such as the anti-forestalling legislation which is designed to stop deliberate avoidance through manipulation of invoicing arrangements. Indeed, the rules applying should be given careful consideration, if and when, customers are encouraged to make purchases or, more precisely, pre-payments, before the impending rate rise.

Supplies of Goods

For a supply of goods, there is a "basic" tax point at the time that the goods are delivered to/collected by, or are in some way "made available" to, the customer. However, this basic tax point will ordinarily be overridden by an "actual" tax point, which will be:

- > **the date of payment (where the customer makes payment in advance); or**
- > **the invoice date (where the supplier issues a tax invoice either before, or within 14 days after, the basic tax point).**

This 14 day period can be either ignored by a supplier or, perhaps more likely, extended in respect of all or part of the supplies made. Both of these variations must be agreed in advance with HMRC.

Where the basic and actual tax points will occur on either side of 4 January 2011, the supplier can elect (on a transaction by transaction basis) to determine the VAT liability by reference to the basic tax point, if this produces a VAT charge @ 17.5%, rather than 20%, for the customer.

Supplies of Services

For a supply of services, in general, the same tax point rules as above apply (with a basic tax point being created on completion of the service). The same election is available where the tax points span 4 January 2011.

Take care if you supply services on an ongoing basis

However, a further concession exists where both the basic tax point and actual tax point occur after 4 January 2011, but the relevant work began before that date. The supplier may choose to adopt the normal rules and simply charge 20% on the entire invoice value.

Alternatively, the supplier can charge output VAT at 17.5% on that part of the work completed before 4 January 2011, and at 20% on the part completed after the rate change. Private customers who are aware of this are almost certain to request this treatment.

However, it should be noted that a condition of using this approach is that the apportionment can be justified on the basis of measurable work (time spent, project milestones achieved and so on) so detailed records are essential.

Where a supplier is acting for a client on an ongoing basis under an open-ended contract, it is likely that they will be regarded as providing "continuous services". The services of an accountant are a good example.

There is no "basic" tax point in these situations, only an actual tax point which is most likely to be created by the raising of a tax invoice, although a payment received, perhaps after the issue of a demand for payment, will achieve the same result.

Property rentals are another common occurrence of services which are taxed in this way.

One issue which may arise is when an invoice is raised after 4 January 2011 to a private individual or other non VAT-registered customer for a period which spans the change in VAT rate. Any obliging customers will pay in advance to create a tax point at the 17.5% rate. However, it is more likely that the customer will request that the apportionment procedure described above should be applied to the invoice.

In their detailed guidance, HMRC draw a distinction between continuous services as described above and "single supplies carried out over a period of time". Just as the services of an accountant are a good example of the former, the services of a lawyer, perhaps in drawing up a will, is a good example of the latter.

In practice, this is something of a distinction without a difference. HMCR state unless you have received payment or issued an invoice before 4 January 2011, once completed, the whole supply should be charged at 20% under the normal rules. However, just as with continuous services, you can elect to

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apportion between the two rates applying provided, again, that this can be justified.

Pubs and Clubs etc

Readers will of course recall that the rate reversion to 17.5% took effect from 1 January 2010 and this created several issues for businesses such as pubs, clubs, restaurants and other retailers which were open past midnight on New Year's Eve.

Such businesses were ultimately allowed to charge VAT @ 15% on sales until they closed, or until 6am on 1 January, whichever was the earlier. Similar arrangements applied to phone calls and texts made up to 6am on 1 January 2010.

HMRC appear to have responded to a number of these issues by delaying the rate rise until the first working day of the year – with the notable exception of Scotland, where 4th January is a Bank Holiday of course.

Despite this apparent oversight, it would seem clear from the HMRC Guidance that there will not be a similar concession to 6am this time so if you are open for trading past midnight on 4 January 2011, you will need to ensure that your accounting systems can cope with the change from the required deadline.

Payments in Advance – Anti-forestalling Legislation

These rules are not likely to affect many clients, but may affect you where the supply of goods or services is made on or after 4 January 2011, your customer cannot recover VAT on the transaction in full, and the following circumstances apply:

- > **A “connected person” pre-pays you for future supplies;**
- > **You issue a VAT invoice to a “connected person” for future supplies;**
- > **You arrange or provide funding for a customer enabling them to pay in advance for goods or services you provide;**
- > **You issue a VAT invoice that does not require payment for at least six months;**
- > **You issue advance VAT invoices or receive a prepayment for more than £100,000 when this is not normal commercial practice for you; or**
- > **You supply rights or options to receive goods and services from you free of charge or at a discount.**

In the event that these special rules apply, an additional 2.5% VAT charge would be applicable and this would negate any departure from the normal rules.

Flat Rate Schemes and Fuel Scale Charges

The new flat rate schemes percentages as well as the fuel scale charges applying from 4 January 2011 have been published and are contained at Annex D of the detailed guidance issued by HMRC.

Credit Notes

The rate of VAT to be applied on credit notes for goods supplied and invoiced at 17.5% before 3 January 2011 which are returned for credit shortly thereafter will be 17.5% i.e. the rate on the original invoice for the goods. It should be borne in mind that it is the original transaction that is being credited.

Recommended Approach

In overall terms, a common sense approach and applying the old adage of “keeping things simple” should achieve the desired result of VAT compliance. The standard rate of VAT will rise to 20% on 4 January 2011 and this is the rate which should be charged on all standard rated supplies on or after this date. Exempt, zero and reduced rate supplies are not affected.

Supplies that span the rate are likely to cause any headaches that do arise and with these bear in mind that the special rules may be applied if you wish i.e. you can invoice the supply up to 3 January 2011 at 17.5% and 20% thereafter. Many business recipients will not be unduly concerned at a charge of 20% on the full value of such supplies. The additional VAT charged will represent only a small cash-flow issue to them so if it is administratively much easier to invoice on this basis, this is the option to take. The special rules can be applied to the odd customer who might take exception so they are flexible in this regard.

To reiterate, the VAT compliance issues arising from the rate rise should not be cause for undue concern – particularly with HMRC's trumpeted “light touch” approach to the first VAT returns submitted after the change – although, as I say, this perhaps remains to be seen against the current economic background.

For further guidance on these, or any other VAT related issues please contact your normal Wilkins Kennedy office who will be pleased to help.

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Aspiring to even greater things

In January of this year, Wilkins Kennedy chose Aspire, a national spinal injury charity, as charity of the year and we are delighted to announce that our fundraising target to raise £25,000 towards an adapted Aspire house has been exceeded by £2,000, giving us new fundraising grand total of £27,000.



The WK charity fundraising committee, which was formed earlier this year, has a charity representative in each of our twelve offices, and staff and clients have participated in several different fundraising events over the past few months. These events have included: a three peaks challenge, a midnight marathon, South Downs Walk, a triathlon, wheelchair basketball, a skydive and a Land's End to John O'Groats cycle ride, amongst many others.

The money we have raised will fund an Aspire house, which is a three-bedroom ground floor flat at the Banbury Park complex near Liverpool Road in Islington. Aspire houses are accommodation used temporarily by individuals suffering from spinal injury and their families, while they wait for modifications to be carried out at their own homes.

Staff from Wilkins Kennedy visited the newest Aspire house in May, to check on progression of the project. Constructed in early 2010, the adapted flat will be fully furnished with internal adaptations including worktop and kitchen unit adjustments, a wet room and raised power points.

The adaptation process is now complete and after release from the contractors, volunteers from Wilkins Kennedy will add the finishing touches with the assembly of the flat packed furniture. The accommodation is on track for occupation with its first tenant around the end of October.

We would like to thank our clients, the charity committee, staff, friends and family for their generosity, ideas and support, which has helped to make our fundraising for Aspire a huge success.

www.aspire.org.uk



The new pensions challenge

– make sure you benefit

Among the major changes announced by the new Coalition Government are changes to Pensions legislation which will affect many of our clients.

In the Pensions world, as in many other aspects of life, little stands still and it is important to keep abreast of the latest developments in order to ensure effective planning. The current tax year (2010/11) offers several opportunities to benefit from current legislation before the rules change on 6 April 2011:

1. Clients with total income below £130,000 in the current and the previous two tax years are allowed to invest up to 100% of their relevant UK earnings into a pension arrangement and receive tax relief at their marginal rate. Alternatively, an employer could contribute up to £255,000 (the Annual Allowance) for an employee or Director and receive full Corporation Tax relief, whilst the individual would have no tax liability in respect of the pension contribution. This is a golden opportunity, because from 2011, there will be a much smaller Annual Allowance for pension contributions of £50,000.
2. Individuals with income between £100,000 and £112,950 will effectively receive 60% income tax relief on their pension contributions in respect of income in this band as a result of a new Income Tax rule that progressively claws back the Personal Allowance between these income levels.
3. In the current tax year, individuals with income in excess of £150,000 will enjoy Income Tax relief at the rate of 50% in respect of pension contributions paid personally within certain parameters.

As you can see, the rules governing pensions are complex and change regularly. Our colleagues at WK Financial Management are well placed to give you professional independent advice to ensure that you adopt the pension strategy that is most appropriate for you and your family.

To contact Wilkins Kennedy Financial Management, simply call your nearest Wilkins Kennedy office who will be pleased to help.



Did you know...?

That after 1 October 2009, the date when the Companies Act 2006 was fully implemented, any company that has fully issued its authorised share capital cannot now increase its authorised share capital to issue further shares.

The most effective way to resolve this situation is to replace the existing Articles of Association with the new Model Articles and remove the existing Memorandum of Association containing the company's 'objects'. For more information contact your nearest Wilkins Kennedy office who will be pleased to offer you further advice.

Even more specialised expertise joins Wilkins-Kennedy

Wilkins Kennedy is delighted to announce a successful merger with leading Heathrow chartered accountancy firm Charles Stuart LLP.

Charles Stuart LLP, now known as Wilkins Kennedy, operated as a chartered accountancy firm from premises in Hounslow and Datchet. These offices merged to form part of the Wilkins Kennedy Egham office during summer 2010, expanding the tax, accountancy and audit departments.

The entire staff at Charles Stuart and three existing partners: Linda Penny, Bob Johnson and Amanda Magagnin, have all joined Wilkins Kennedy and will continue to work with clients in and around the Heathrow area.

More solutions to meet client needs

Linda Penny, Managing Partner of Charles Stuart says, "The merger brings together two like-minded firms. By consolidating our expertise we will be able to provide clients with a wider range of services, and enhance our ability to deliver innovative services that meet clients' changing needs. At the same time, we will retain the local team and personality of the firm which is of great importance to our clients and staff."

Kevin Walmsley, Managing Partner of Wilkins Kennedy's Egham Office says, "Charles Stuart also has a strong reputation as a leading adviser to many owner-managed businesses in the Heathrow area and this merger will consolidate our position in the west of London area. The new Wilkins Kennedy team will continue to provide a refreshingly different experience for owner-managed businesses and individuals through the personal and proactive approach that our growing client base has always appreciated, whilst providing a genuinely personal, value for money service."



HMRC tax errors – are you liable? Is there a way out?

As you have probably already read countless times in the press, HMRC has stated that nearly 6 million people (around 1/4 of the working population under the PAYE system) have either over- or under-paid their income taxes

Some 4.3 million have paid too much and are due a refund, but 1.4 million have underpaid and will have to hand over an average of £1,428 each – spread over a tax year. However, if you owe more

than £2,000 you will have to pay it to HMRC in a lump sum.

If either of these applies to you and you haven't already heard from HMRC, you will be contacted between now and Christmas.

Is there any way out of payment?

There are some circumstances in which you may be eligible to refuse payment, especially if HMRC exceeds the time limit in which it can demand payment.

To find out more, simply contact your normal Wilkins Kennedy office.



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