



Tax Digest, September 17th, 2014

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PwC web demonstrations of its SAP tools for VAT

Running a report from SAP and using it to analyse and produce VAT and other returns can be difficult. PwC has developed a number of Excel based automation tools to help to simplify and make the process more efficient. PwC specialists are hosting two demonstrations of these services at 10am on Wednesday 22nd October and again at 10am on Thursday 23rd October.

The tools cover:

- Automated formatting and reporting of the standard SAP Tax report
- Advanced VAT report for SAP
- VAT control reporting
- Automated VAT to Intrastat reconciliation

If you would like to view the webex demonstration please contact either [Riaz Jafferli](#) or [Andrea McGhee](#) at PwC, providing your name, organisation and which of the sessions you'd like to join.

VAT on Temporary Workers - Update

Already generating discussion on the [BUFDG discussion board](#) is the fact that the Adecco VAT appeal regarding temporary staff has been listed for hearing at the First Tier Tax Tribunal from 11-15 May 2015. The case involves temporary staff hire and whether or not VAT should be due on the full

amount paid to the staff agency, as per HMRC's position since the [removal of the Staff Hire Concession in April 2009](#), or whether it should only be due on the agency's fee and not on the payments made to the worker (salary and tax etc.). Temporary staff can be a big cost in universities, and the majority of VAT incurred on this cost is irrecoverable, so reducing the VAT cost would be very beneficial.

The Charity Tax Group ('CTG') has been supporting Adecco's challenge to HMRC, being taken by Deloitte, and has publicised the fact that Deloitte is offering charities the opportunity to support the case on a contingency funding basis. As part of its offer, Deloitte will work with you to assess your contracts and to help you prepare duly quantified claims.

The [CTG's briefing document](#) issued in February 2013 explains the issue and the arguments for only paying VAT on the agent's fees, and also sets out Deloitte's offering as well as further contact details for Deloitte if you wish to follow up on this.

It should be noted that not all arrangements with staff agencies will fit the model being argued by Deloitte in the Adecco case, so VAT savings would only be available in similar circumstances.

[VAT on eBooks – Update](#)

The Court of Justice of the European Union ('CJEU') has handed down its decision in the Finnish reference of [K Oy \(Case C-219/13\)](#) regarding books provided in formats other than printed matter.

The reference to the CJEU concerned the application of different VAT rates to conventional paper books and those provided in other formats (e.g. e-books supported by CD-ROM and/or USBs). The CJEU has indicated that there may be the possibility of such differential VAT treatment being prohibited in those Member States where both types of books are considered the same, on the basis of the EU law principle of fiscal neutrality.

The current VAT rates applied in Finland to printed books and those supported by other (electronic) mediums are 9% and 24% respectively. The taxpayer's request to the Finnish tax authorities to apply the reduced VAT rate to both format of books was rejected and questions were then referred to the CJEU.

The CJEU has upheld the Advocate General's Opinion (released on 14 May 2014) in concluding that where printed books and those supplied on other physical means of support are considered the same by the average consumer in a particular Member State, the EU law principle of fiscal neutrality can prevent the application of different VAT rates to both types of books.

Whether or not both types of books are considered the same is left to the national courts of each Member State to determine, with factors such as market penetration and the influence of technical features on customer choice suggested as being helpful in reaching this determination.

It should be noted that in this case the e-books were all provided on some kind of physical means of support e.g. CD-Roms, rather than being downloaded.

['Friends' Donation Schemes – Confirmation of VAT treatment](#)

The First Tier Tax Tribunal has released its decision in the [Serpentine Trust Ltd](#) case and confirmed that the correct VAT treatment for income under 'Friends' and similar fundraising schemes where donors are provided with benefits is that if any level of donation is mandatory then that value

relates to a taxable supply subject to the standard-rate of VAT (depending on the VAT liability of the benefits provided). This is the case even if the value of the payment far outweighs the value of the benefits provided.

However, if the mandatory element of the payment is low, and there is also a *suggested* donation which the donor can choose not to give, then VAT will only apply to the mandatory element of the payment. However, structuring the donation schemes in this way would expose a university to the risk that donors will only give the minimum amount, so this likelihood of this happening should be considered.

[Accountingweb article – Which way for Scottish taxes?](#)

Accountingweb has published an [article](#) highlighting some of the tax issues under Scottish devolution and some potential tax issues if Scotland votes 'Yes' for Independence.

The article points out that even under devolution, the implementation of different income tax rates for Scotland from April 2016 could mean "complications ... for some 110,000 individuals living on one side of the English-Scottish border and working on the other" and that "employers throughout the UK will face the added costs of operating Scottish PAYE codes ('S' codes) for employees who are Scottish taxpayers".

It states that "Scottish independence, would pose far greater unknowns" and surmises that "there's little cause to believe that splitting up the UK would be an amicable separation, and plenty of reasons to expect an acrimonious divorce".

The article goes on to say that "independence....ought to provide a unique opportunity for Scotland to adopt a simple, easily understood tax regime" but the author feels "this is unlikely to happen" believing that the pattern of fiscal devolution to date indicates that a Scottish government would probably create new taxes that largely replicate current UK taxes (such as Scotland's Land and Buildings Transaction Tax and Scottish Landfill Tax) and raises the concern that a gradual evolution of the tax system could lead to an "excessively complex tax code" and uncertainty for Scottish taxpayers.

It also points out that membership of the EU is not the only international question an independent Scotland would have to deal with, as it would need to negotiate its own double taxation agreements with other countries, including the rest of the UK.

[New in-year PAYE filing penalties](#)

HMRC has announced that it will begin charging new penalties in relation to RTI PAYE submissions from 6 October 2014 for employers with at least 50 employees. HMRC has started to contact these employers to provide them with a copy of its ['At a glance' guide to the new penalties](#).

The penalties will be charged when:

- Full Payment Submission (FPS) has not been filed on or before any of the payment dates within it, and the employer has not told HMRC why using the 'late reporting reason' field on the FPS;
- HMRC has not received the number of submissions expected from an employer based on the employees' pay frequency; or

- An employer has not filed a nil return to inform HMRC that no payments to employees have been made for the relevant tax month.

HMRC will charge one penalty for each tax month that an employer fails to file on time, the required number of times or at all, and will not charge a penalty for the first month in each tax year where there is a filing failure. So there can be a maximum of 11 penalties for late/non filing in a tax year.

The size of the late filing penalties depends on the number of employees within the PAYE scheme, and for employers with at least 250 employees the monthly filing penalty per PAYE scheme is £400.

HMRC will send PAYE schemes a filing penalty notice by letter quarterly at the end of July, October, January and April, where penalties have been incurred. So the first of these notices will be issued to schemes with 50 or more employees from January 2015.

If you have any questions relating to these articles, please contact Amanda on a.darley@butfdg.ac.uk