

Pre Budget Report

Transfer of business as a going concern

At present the acquirer is responsible for keeping the records of the acquired business, unless you receive agreement to the contrary from Customs. From the date of Royal Assent of the next Finance Act this requirement will be removed other than where the acquirer takes over the VAT number.

Partial exemption special methods

Businesses that make both taxable and exempt supplies must use a method to determine how much VAT they can recover. Those who use a special method (i.e. a method other than that laid down in the regulations) must agree it with HMRC. Two changes to special methods are proposed as follows:

Method declaration

A business proposing a new or amended special method will be obliged to declare that "to the best of its knowledge and belief" it is fair and reasonable. If the declarant knew or ought reasonably to have known that it is not fair and reasonable, HMRC will be able to set aside the method and VAT recoveries already made in the previous three years or since the declaration was signed would be subject to recalculation.

Combined method

Businesses that make supplies to overseas persons which carry a right to VAT deduction for the supplier will be able to apply for a method that caters for this.

Who it affects

Businesses proposing new or amended special partial exemption methods.

Timing

The changes are proposed to be introduced with effect from 1 April 2007.

Comment

HMRC have stated that the method declaration change is proposed to address their concerns over the VAT recovery methods of a relatively small number of taxpayers. However, it affects all partly exempt businesses with special methods (including many charities) unless no change to their existing method is anticipated after 1 April 2007 and as a result is seen as onerous. Whilst the approval process might in future be simpler, there will not be certainty over recoveries until the VAT is out of time for assessment. Uncertainty over VAT recoveries on costs could be a real business concern. In some sectors and for some businesses there may be practical difficulties in giving the declaration where, for example, there is a dispute as to the appropriate basis of recovery of VAT on costs and a practical way of managing such cases will be needed.

The formal ability to request a combined method will not alter the practice in this area as a number of existing methods are proposed on this basis.