

Corporate Services and Accounts Department

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VAT RATE CHANGES

BACKGROUND

As you may have heard, from 1 December 2008 the 17.5% VAT rate payable on goods and services will change to 15%. This will inevitably affect the VAT payable on legal aid and advice and assistance accounts submitted by solicitors.

You will be aware that timescales for the introduction of the changes are very tight. We are making urgent changes to our computer systems, and are hoping that the changes we make will minimise the impact on the profession.

This mail shot is to explain our approach to the application of VAT rates on solicitors' accounts.

SOME UNDERLYING VAT PRINCIPLES

The rate of VAT payable on an account is determined by the tax point. The rate payable on tax points

- before 1 December 2008 will be 17.5%
- from 1 December 2008 will be 15%.

The supply of legal aid in any particular case falls into the HMRC definition of a single supply over an extended period. In the supply of such services the **basic tax point** is the date when the service is performed - normally taken as the date when all the work except invoicing is completed.

However, the basic tax point is overridden if an **actual tax point** is created by the issue of a VAT invoice.

Since legal aid accounts are generally not VAT invoices, the tax point will be the basic tax point and will generally be defined by the last action noted in the account. **If you consider your firm does issue legal aid accounts in the form of a VAT invoice, please let us know, since this may affect the determination of the tax point.** Do this by contacting Judith Cemery, Manager of Accounts Assessment (tel 0131 240 2053; email cemeryju@slab.org.uk).

PRACTICAL APPLICATION TO PAYMENT OF SOLICITORS' AND SOLICITOR ADVOCATES' ACCOUNTS

Detailed time and line accounts

We will consider the tax point to be the date of the last action on the submitted account.

Civil block fee accounts

We will consider the tax point to be the date of the completion of the last block on the account.

Summary criminal fixed payment accounts

In these accounts, you do not have to give us the date that all work is completed. However, you must include the date of the conclusion of proceedings on the account synopsis.

Since this date is usually close to when work on the case was completed, we will use it as the tax point.

However, if the case has not yet concluded and so you cannot give us a date for conclusion of proceedings, e.g. where sentence has been deferred, we will deem the tax point to be the date when the account synopsis has been signed.

Including these dates is key to our determining the tax point and therefore the appropriate VAT rate. We will, therefore, continue our practice of returning accounts where these dates have not been provided.

Outlays

The tax point and, therefore, the VAT rate payable in reimbursement of outlays will be determined by the VAT rate in operation when the charges for the goods or services are incurred. Currently, you must vouch all such reimbursements by sending us a supplier's invoice and VAT will be reimbursed on the basis of that charged on the invoice. You should check yourself that the rate the supplier applies is correct.

Mileage as outlays

Longstanding guidance from HM Revenue and Customs provides for payment of VAT on mileage in legal aid accounts. We will pay VAT at the rate applicable when the journey took place – that is:

- trips before 1 December 2008 will attract VAT at 17.5%
- those after 1 December 2008 will attract VAT at 15%.

Payment to account

For interim payments to account with a tax point before 1 December 2008, we will apply VAT at 17.5%. For these cases, when we receive the final account, we will apply VAT to the outstanding amount at the prevailing rate (which from 1 December 2008 will be 15%). HMRC's guidance allows you to recalculate the VAT for the entire account, including any sums already paid to account, at 15%. If you wish to do this you should send us a credit note.

LAW SOCIETY

We have discussed our intended approach to handling the change in VAT rates with the Law Society of Scotland and understand that the matter will be discussed at a meeting of the Law Society's VAT committee on Monday 1 December 2008.

FURTHER INFORMATION

You will also find helpful general guidance on the change in VAT rate on HMRC's web site at <http://www.hmrc.gov.uk/pbr2008/measure1.htm>.

If you have any queries about this mailshot, please contact Ian Brown, Financial Accountant (tel 0131 240 2099; email brownia@slab.org.uk). Queries regarding specific accounts should be referred to the Accounts Assessment Department in the normal way.



Andrew Menzies
Director of Corporate Services and Accounts