

April 2004

Taxmen of the United Kingdom, Unite!

In one sense there were no surprises in this year's UK Budget which Gordon Brown, the Chancellor of the Exchequer, announced on 17 March 2004. There was the usual preponderance of "anti-avoidance measures" and the expected revision of VAT thresholds in line with inflation. However, in an ironic twist of fate, the biggest measure of all was reserved for the VAT man himself: HM Customs and Excise is to merge with the Inland Revenue to form one "new department". Why? To better achieve the Government's tax objectives.



With the introduction of the common market in the EU in 1973, Customs, the department responsible for frontier control and excise duties was charged with administering VAT as well as collecting it at the border. This resulted in the effective separation of direct and indirect taxes in the UK that, against all trends, has persisted for over 30 years. The O'Donnell Report, which heralded the Chancellor's reform, bemoans the fact that the UK still operates a tax administration structure that is now used only by Malawi and Israel and nobody else!

But this is more than just that the UK's system is behind international best practice. The benefits of integration are said to include better service, effectiveness and efficiency, all of which will "reduce the burden of compliance on the honest tax payer, and make life more difficult for the dishonest".

Cut it Short – says Mr Brown

This year's UK Budget included a broad new rule aimed at Britain's tax planning businesses: a general requirement that tax advisers register their avoidance schemes with Revenue authorities soon after selling them to clients.

The tax planning industry is predicated on an important principle of law: that tax avoidance is good and right, but tax evasion is bad and wrong. The law accepts that the citizen, so long as he stayed within the letter of the law, could so arrange his affairs as to save every possible penny of tax. The tax adviser's salutary role is to assist the citizen in this legitimate "avoidance". Tax evasion on the other hand, the

dishonest withholding or falsification of information in order to defeat tax, is unlawful.

This distinction has held true and strong, albeit against increasing odds. In any case, the Revenue authorities would normally go through due process to overturn a tax avoidance scheme on grounds of evasion. First, they would find out about the scheme. Then they must challenge it when the user's tax return comes in. Then they may have to fight a case on appeal through the Revenue machinery itself. Then they may have to go to court.

The new American-style rule introduced in this year's Budget is meant to cut all this short. Tax advisers – and their clients – will have to reveal their tax avoidance scheme to the Inland Revenue for clearance, almost from the start. And there will be only one simple question from the Inland Revenue: did you tell us or did you not? And if you did not, there are penalties.

The measure has been pushed through amidst the usual convivial atmosphere of budgeting, and will come into effect soon after Royal Assent. But Customs are already starting to get a morning-after feeling as to what amounts to a disclosable tax avoidance scheme. So far, they have promised only to issue a "statutory list".

New Turnover Limits for VAT Registration/De-Registration

From 1 April 2004, the VAT registration threshold is increased from £56,000 to £58,000. The de-registration threshold increases from £54,000 to £56,000. The registration and de-registration threshold for intra-Community acquisitions is also increased from £56,000 to £58,000.

VAT Grouping Rules

With effect from 1 August 2004 two additional tests will be added to the existing "control" criteria for registering two or more bodies corporate as one VAT person. The measure is aimed at stopping perceived abusive arrangements where a jointly owned entity is able to join a VAT group, even though it is run by and for the benefit of an external third party.

This is a further tightening of the rules in an otherwise beneficial area of VAT. If you are considering registering several entities as one for VAT purposes please contact our service team.

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