

Newsletter

VAT – Estimation of Input Tax

Customs have recently issued a statement regarding estimation of input tax, which I am sure you will have already seen, but which is reproduced below:

Customs will shortly update its guidance which will affect 'Estimation of Input Tax', and for consistency will require that the need for any estimation should be looked at under identical criteria. Whilst the decision making process will require local authorities to be treated in the same way as other businesses, I have engaged with appropriate departmental parties to see how any consequential impact can be managed.

In this respect I am seeking to provide a period of adjustment in which local authorities will be able to centrally register their requirement for 'estimation' and to enable Customs to confirm that such estimation is acceptable or not.

It is however necessary to regularise the position where a number of authorities have adopted long term estimation agreements for which Customs have no assurance of the continuing need, or check on current accuracy. For this reason all existing 'Estimation of Input Tax' agreements relevant to Bodies under Section 33 of the VAT Act will be rescinded as at 31 July 2005 and a standard questionnaire will be made available for those authorities seeking to retain a level of estimation.

In many cases where such estimation has recently been checked, then the completed return of that questionnaire should confirm details, and providing consistency is evident, then a standard confirmation letter will be issued to confirm approval post 31 July 2005.

There will be no penalties for authorities wishing to withdraw or adjust their requirement for 'estimation' prior to 31 July 2005, but Customs will need the return of the questionnaire to show any adjustments between 1 January 2005 and 31 July 2005.

In some cases detailed checks by Customs may be required, and these may extend beyond the 31 July deadline. Provided authorities have registered their estimation requirement prior to 31 July 2005 and that they hold a pending approval, then the basis of that pending approval will be allowed until such checks have been completed. However, authorities must in the meantime prepare themselves for any potential later loss of approval and no further extension will be allowed.

The Audit Commission are also conscious of the need to regularise the position regarding use of 'Estimation of Input Tax' and will make their auditors aware that post 31 July 2005, authorities will need to hold a standard letter of approval from Customs.

Customs will provide more detailed guidance on process for Section 33 Bodies within the next 4 weeks but, in recognising the complexity of authorities' accounting procedures, wished to provide you with as early as possible a view of a Departmental change that may have a consequence for a number of authorities.

You will see that each authority wishing to use, or continue to use, estimation must register their requirement. As we know, in some parts of the country (such as East Anglia), Customs have been active in withdrawing estimation methods. At Elysian, we have consistently maintained the view that if a local authority cannot accurately quantify input tax *at the time it wishes to submit its VAT return*, it should be allowed to use estimation. After all, it is a fundamental principle that the entitlement to deduct input tax arises at the time the tax is incurred, and any attempt by an EU member state to delay that process through

administrative means, such as causing a person to delay submission of a VAT return until the last possible moment, is both immoral and unlawful.

If you believe that estimation is an essential tool for managing your VAT effectively, efficiently and fairly, you should register your requirement – that will involve demonstrating the need for estimation and methodology to be used to quantify the amount to be accrued - so that after all existing agreements have been withdrawn at the end of July, you are in a position to carry forward your discussions with Customs. Also, if you find that you are using a method which gives you an unfair tax or cash-flow advantage, you should be prepared for that method to be cancelled and you will need to recognise the impact on your authority's bank balance!

Customs have promised to issue further guidance shortly, and I am sure that the guidance will give you a better idea of what you will need to do to use estimation going forward.

If you need help in negotiating with Customs, we would be delighted to assist you – for a modest fee, of course!

If you would like to discuss any of the issues above, please write, e-mail or call us. Our contact details are below.

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