MOORE STEPHENS

May 2016

Update

Technology

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Online sales of goods targeted by the UK tax authorities

As part of the tax measures announced in the Budget delivered on 16 March, the UK Government announced measures aimed at what they perceive to be an area of significant non-compliance with VAT obligations. These proposals address the long-standing problem of non-EU suppliers selling goods via the internet who do not register and account for UK VAT (value added tax), undercutting the compliant online and high street traders.

HMRC is to be given the powers to deal with non-compliant offshore traders through a combination of:
- compulsory VAT registration;
- direct appointment of a UK tax representative;
- demanding security.

If the target is still non-compliant then HMRC will approach the market-place platform provider, with a view to making it jointly and severally liable. It is proposed that the market-place provider will have 30 days to 'persuade' the trader to comply, otherwise it will be made responsible for the lost VAT.

What these measures mean

These measures are aimed at securing the collection of UK VAT on the sale of goods made in the UK by non-EU businesses selling to consumers online. For example, where a seller located outside the European Union sells goods to UK customers via an online market place and the goods are sent to the UK to fulfil the customer's order, but no VAT is accounted for to HMRC on that sale.

> "It is proposed that the market-place provider will have 30 days to 'persuade' the trader to comply, otherwise it will be made responsible for the lost VAT."

While these businesses are required to charge UK VAT on their sales, many never register for VAT and do not account for the applicable VAT. HMRC estimates that unregistered non-EU traders selling online to UK customers are currently costing the UK Government over £1 billion of unpaid VAT, which HMRC views as tax evasion.

Although the VAT regulations in the UK already require overseas businesses that sell goods in the UK to account for UK VAT, HMRC will be given additional powers to assist it in enforcing these regulations on non-compliant foreign traders.

Existing VAT legislation is to be amended to give HMRC the discretion to direct overseas businesses to register for VAT in the UK and appoint a UK-established VAT representative. The UK VAT representative would be required to account for the VAT on behalf of the overseas business, thus giving HMRC greater flexibility in relation to the collection of VAT and with respect to whom it can require security against payment of the VAT.

HMRC will also have new powers to make online marketplaces jointly and severally liable for the unpaid VAT of overseas businesses who are non-compliant with UK VAT rules.

It is understood that HMRC will use risk-assessment tools to identify those overseas businesses that it believes are high-risk and/or continue to be non-compliant with UK VAT rules. The key areas that are being targeted are overseas businesses, online marketplaces and UK fulfilment houses. This covers the actual seller of the goods, the operator of the website that facilitates the sale and the UK-based business that physically handles the goods and arranges the delivery to the customers.

Other proposed changes

In addition to these measures, the UK Government also intends to introduce a new online scheme for UK fulfilment houses. These are the businesses that physically hold the goods in the UK and arrange for their packaging and delivery to the ultimate customers. This scheme will set out the standards of due diligence and record-keeping required by the fulfilment houses, and introduce penalties for non-compliance. The online scheme for fulfilment houses will come into effect in 2018 and a consultation paper has been issued by HMRC, the deadline for responses to which is 30 June 2016.

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