What changes have HMRC made in light of the COVID-19 outbreak and how does this affect my organisation?

Updated as of 21 April 2020[1]

Introduction

This guide provides information about tax measures HMRC have introduced, or that have been announced by the UK Government, to address the impact of the COVID-19 outbreak which may affect not-for-profit organisations.

- You may find that some of the measures are not relevant to your organisation due its existing tax profile. For example:
- Registered charities do not generally pay income tax or corporation tax, which means they are unlikely to be affected by income tax or corporation tax related measures. However, other not-for-profit organisations will generally be subject to either income tax or corporation tax in the first instance. An organisation will typically be within the scope of corporation tax rather than income tax if it is incorporated as a company (such as a company limited by guarantee or a community interest company). However, the corporation tax rules that are relevant to most not-for profit organisations are frequently very similar to the income tax rules that are relevant to unincorporated organisations.

While many not-for-profits, including registered charities, pay value added tax (or **VAT**) and will be impacted by the VAT related measures, those measures will generally not be relevant for smaller organisations with annual turnover of less than £85,000 (because those organisations do not need to register for VAT).

To help you determine the measures that are relevant to your organisation, this guide provides a brief background to the measures before discussing the measures in detail. If you are still unsure about whether the measures will impact your organisation, you may need to seek further assistance.

What Value Added Tax measures have been announced?

Value Added Tax, or VAT, is charged on most supplies of goods or services (such as sales) that take place in the UK, and certain imports of goods into the UK, where the supply or import is taxable and is made by a taxable person in the course or furtherance of a business they carry on. Taxable persons can include companies,

[1] While organisations should always check that the information contained in this guide remains current and complete, and has not been superseded by subsequent announcements, change of law or guidance, this is particularly important in the current situation due to the speed at which Government policy making is taking place and regulators are publishing guidance dealing with those policies.

clubs and associations. However, organisations that have annual turnover of less than £85,000 are not required to register for VAT, and so will not normally be taxable persons.

The standard rate of VAT is 20%, although a reduced rate of 5% or zero rate (i.e. 0%) applies to some supplies, including certain supplies made to registered charities.

VAT registered organisations pay VAT on their taxable supplies or imports to HMRC net of any input VAT they can claim (such as VAT they pay on their purchases). Most organisations file VAT returns on a quarterly basis.

Deferral of VAT payments to HMRC

This measure allows an organisation that is registered for VAT in the UK and has a VAT payment due between 20 March 2020 and 30 June 2020 to defer paying the VAT until a later date. These deferred VAT payments will be due on or before 31 March 2021. The measure is available to all VAT registered organisations, including charities, other not-for-profits and for-profit businesses.

Taxpayers do not need to make any application for the deferral, and will still need to lodge their regular VAT returns by the applicable due date in the normal way. To take advantage of the measure, taxpayers can simply choose to leave VAT payable on lodgement of their return VAT unpaid until 31 March 2021. HMRC will not charge interest or penalties on the deferred VAT in the meantime.

The measure only allows taxpayers to defer payment of their VAT liability, and organisations will still need to be in a position to fund payment of the tax by 31 March 2021. Organisations that may have difficulty making this payment should approach HMRC using its 'time to pay' scheme, discussed below.

HMRC has confirmed that it will still process VAT refunds (which occur when the amount of input VAT claimed by a taxpayer on its purchases exceeds the VAT payable on its supplies/imports) in the normal way. This ensures that taxpayers in a refund position do not suffer a cash flow disadvantage, while those in a payable position can still obtain a cash flow / timing benefit from the payment deferral.

The measure does not extend to import VAT (or to customs duties, which are often paid at the same time), so these amounts will still need to be paid by the normal due date to avoid penalties and interest charges. However, it is noted that:

- imports by registered charities often qualify for relief from import VAT under existing VAT rules; and
- imports of certain medical goods by other not-for-profit organisations may benefit from the measure discussed below,

HMRC – extension of deadline for Making Tax Digital

The Government's Making Tax Digital (**MTD**) initiative will eventually allow for the transfer or exchange of digital data from taxpayers' accounting software systems directly to HMRC, providing HMRC with significantly greater 'real-time' visibility over a taxpayer's transactions. While the initiative will eventually apply to all tax reporting obligations, VAT is currently the only tax within the scope of the rules.

Many organisations will already be in the process of transitioning to MTD for VAT, with HMRC implementing the system incrementally between 1 April 2019 and 31 March 2020 (when all business were supposed to have MTD for VAT compliant systems in place).

HMRC has now made an official direction extending the MTD for VAT deadline to 1 April 2021 due to the coronavirus outbreak, which will provide not-for-profit organisations that are yet to implement MTD compliant systems an additional year to bring their accounting systems and software up to date.

Waiver of import VAT and customs duties on certain medical goods

Imports of specific medical goods required to combat the coronavirus outbreak are exempt from import VAT and customs duties where the goods are imported between 27 March 2020 and 31 July 2020 by certain organisations.

HMRC released guidance on 31 March 2020[2] that lists goods eligible for the exemption. The guidance also states that goods must be imported by one of the following types of organisations to qualify:

- state organisations that are devoted to welfare;
- charities regulated by the Charities Commission (many of whom might benefit from relief from import VAT anyway); and
- the following organisations provided they are not-for-profit and their objective is the welfare of those in need:
    - hospitals;
    - youth organisations;
    - clubs, homes and hostels for the aged;
    - orphanages and children's homes;
    - organisations set up for the relief of distress caused by particular disasters in the UK or European Union; and
    - organisations concerned with the relief of distress generally (such as the British Red Cross Society or the Salvation Army).

Are payment deferrals available for other taxes, such as income tax or corporation tax?

Payment deferrals for income tax and/corporation tax are not universally available in the same way as the VAT payment deferrals mentioned above. However, organisations that are experiencing financial difficulty can approach HMRC on a case by case basis to negotiate deferred payment or similar arrangements under a new 'time to payment' scheme HMRC has established. VAT payments can also be covered by the scheme if organisations expect they will still have difficulty meeting

[2] Accessible here.

their VAT payment obligations even if they access the VAT deferred payment scheme.

Not-for-profit organisations that are subject to income tax or corporation tax (typically organisations that are not registered charities), can utilise the 'time-to-pay' scheme in the same way as for-profit businesses.

What are the tax implications of Government schemes to support workers?

The Government has announced a number of schemes to support workers, including:

- the Job Retention Scheme, which provides cash grants to employers that need to furlough employees (i.e. place employees on an unpaid leave of absence);
- the Coronavirus Statutory Sick Pay Rebate Scheme, which rebates the amount of statutory sick pay paid to employees by employers in certain cases;
- measures for self-employed workers; and
- a delayed implementation date for a proposed IR35 measure, that would have required organisations to assess whether contractors they engaged through corporate entities were, in substance, employees subject to employment tax obligations.

The first two schemes are most likely to be relevant to not-for profit organisations, and are discussed in further detail below.

Job Retention Scheme

The UK Government is providing cash grants to employers to cover 80% of the monthly wage costs for a furloughed employee (i.e. those on an unpaid leave of absence), up to a maximum amount of £2,500 a month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage.

The scheme is a temporary scheme that will now be in place for 4 months and cover wage costs from 1 March 2020 until 30 June 2020. The scheme was originally intended to operate from only 3 months, but the Chancellor announced a one month extension to the scheme on 17 April 2020.

It has been established under the provisions of the Coronavirus Act 2020, which authorised the Chancellor to issue Directions establishing the scheme. The relevant Directions were issued on 15 April 2020,[3] and detail the specific requirements of the scheme. However, these Directions will need to be amended to extend the operation of the scheme to 30 June 2020.

- The scheme is designed to benefit organisations that have been severely affected by COVID-19 and such that the organisation cannot maintain its current workforce and has to furlough employees (i.e. grant leave of unpaid

[3] The Directions can be accessed here.

absence). The Directions state that claims can only be made in respect of individuals who have been directed not to work "by reason of circumstances arising as a result of coronavirus or coronavirus disease". However, this condition is worded broadly, and HMRC's guidance recognises that different employers will be impacted differently by coronavirus.

There are various employment law considerations associated with the scheme that are outside the scope of this guide. However, as the scheme is operated by HMRC through the PAYE system, the not-for-profit organisations that wish to access the scheme should be aware of the following tax related aspects.

- An organisation can only access the scheme if it:
  - created or started a PAYE payroll scheme with HMRC on or before 28 February 2020;
  - enrolled for PAYE online (note that this process can take up to 10 days); and
  - has a UK bank account.
- Employers can only claim for furloughed employees that were on the employer's PAYE payroll on or before 19 March 2020 and which were notified to HMRC on a real time information (**RTI**) submission on or before 19 March 2020.This means an RTI submission notifying payment in respect of that employee to HMRC must have been made on or before 19 March 2020.
- HMRC's guidance indicates that grant monies employers receive under the scheme need to be included in the employer's taxable profits. This will mainly be relevant for organisations that are not registered charities, as profits made by registered charities are normally exempt from income tax or corporation tax. Not-for-profit organisations that are subject to either income tax or corporation tax will need to include the grant monies as income when calculating their taxable profits. However, in practice economically, organisations will not suffer any tax cost on the grants they receive because the grant income will be fully offset by deductible employment costs paid to furloughed employees.
- Payments to furloughed employees are still subject to employer and employee national insurance contributions and PAYE withholding requirements in the same manner as normal salary payments.

Statutory Sick Pay Rebate Scheme

The Coronavirus Statutory Sick Pay Rebate Scheme will repay employers the current rate of Statutory Sick Pay (**SSP**) that they pay to current or former employees for periods of sickness starting on or after 13 March 2020. While the Coronavirus Act 2020 empowers HMRC to make regulations giving effect to the scheme, no regulations have been made to date and HMRC has only published initial guidance that outlines the basic details of the scheme.

The guidance indicates that organisations can only access this scheme if their total combined number of PAYE employees was less than 250 on or before 28 February 2020. The repayment will cover up to 2 weeks starting from the first day of sickness, if an employee is unable to work because they either have coronavirus, or cannot work because they are self-isolating at home. The SSP regulations were amended on 16 April 2020 so that an employee in these circumstances is now entitled to SSP. Consequently, this statement in the guidance suggests that the SSP rebate scheme will also adopt a similar approach.

Employers can access the scheme if they:

- are claiming for an employee who's eligible for sick pay due to coronavirus
- had a PAYE payroll scheme that was created and started on or before 28 February 2020
- had fewer than 250 employees on 28 February 2020

Organisations that may be eligible to access the scheme should monitor future developments and announcements closely, and review their eligibility when the regulations are made.

What business rate relief measures have been announced?

Business rates are generally charged for use of a building or part of a building for non-domestic purposes (i.e. for business purposes) and are paid by the occupier of the building to the relevant Local Authority (rather than to the Central Government directly). Although there are slightly different rules in England, Wales and Scotland, the rules in all jurisdictions exempt ratepayers who are charities (or the trustees of a charity) if the building is used or mainly used for a charitable purpose.

The Government has announced schemes that may provide full relief from business rates for not-for-profit organisations in the retail, hospitality and leisure sectors (such as those that operate retail stores) as well as cash grants.

Full Business Rates Relief under the Expanded Retail Discount Scheme

The Central Government has announced an Expanded Retail Discount Scheme[4] that will ensure businesses in the retail, hospitality and leisure sectors in England do not have to pay business rates for the 2020 to 2021 tax years. Not-for-profit organisations and for-profit business can both benefit from the measure (charities may already be exempt from business rates, as mentioned above).

To achieve the relief, the Central Government will utilise powers under existing legislation to pay an amount to Local Authorities equivalent to the rates the Authority would otherwise have collected from eligible businesses. The Local Authority will then exercise discretion not to collect the business rates that would ordinarily have been payable by those ratepayers.

The following businesses are eligible for the relief (including any that are operated by charities or other not-for-profit organisations):

[4] Full details of the scheme are contained in published guidance accessible here.

- shops;
- restaurants, cafés, bars or pubs;
- cinemas or live music venues;
- assembly or leisure properties - for example, a sports club, a gym or a spa; and
- hospitality properties - for example, a hotel, a guest house or self-catering accommodation.

The relief should be granted by Local Authorities automatically and there should not be any need for eligible organisations to make an application. It is vital that organisations contact their Local Authority if they believe they may be eligible for a relief that has not been granted by the Local Authority.

Although this relief is only available in England at present, separate reliefs are being developed in Wales and Scotland.

Cash grants under the Retail, Hospitality and Leisure Grant Fund

Not-for-profit organisations, including charities that operate in the retail, hospitality or leisure sectors may also be eligible for cash grants of between £10,000 and £25,000 where the organisation occupies a building with a rateable value of £51,000 or less. There are separate schemes operates in England, Wales[5] and Scotland,[6] with the English scheme operated by Local Authorities directly based on similar criteria to the Expanded Retail Discount Scheme.[7]

Importantly, organisations can qualify for benefits under both the Expanded Retail Discount Scheme (which would eliminate the organisation's business rates liability for 2020 and 2021, and under the Retail, Hospitality and Leisure Grant Fund (which would allow the organisation to access a cash grant in addition to rates relief).

Charities can benefit from the Retail, Hospitality and Leisure Grant Fund even though they might obtain any practical benefit under the Expanded Retail Discount Scheme because they are already exempt from business rates.

As with the Expanded Retail Discount Scheme, Local Authorities should contact organisations directly to advise that the organisation is eligible for the grant. However, organisations can also contact their local authorities if they believe they have been mistakenly overlooked for a grant.

Are there specific measures for charities?

The only measure specific to charities relates to the gift aid treatment of refunded ticket sales for cancelled events. As context, it is relatively common for charities, particularly those within the arts or cultural sectors, to organise ticketed events in order to raise funds. Ticket fees charged for attending thee events do not qualify for gift aid because the fees are not donations (i.e. attendees receive the benefit of attending an event in return for paying buying a ticket).

[5] Full details of the scheme are contained in published guidance accessible here.
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A number of charities have been forced to cancel scheduled events due to the COVID-19 outbreak and resulting social distancing measures. In some situations, individuals who had already acquired tickets for the events have agreed not to request a refund for their tickets, but have allowed the charity to retain the funds as a donation.

In a statement to the House of Lords on 30 March 2020, Lord Agnew of Oulton confirmed the Government's view is that that gift aid can be claimed for these amounts provided charities have received appropriate declarations from the donors:

HMRC subsequently published guidance on 16 April 2020[8] which outlines the following steps charities must take for the amount to be eligible for gift aid:

- contact the individual who previously purchased the tickets of the cancelled event;
- explain that the individual is entitled to a refund but may wish to donate the cost of the ticket to the charity;
- make it clear that the individual does not have to donate the refund but if they choose to donate it, it's non-refundable;
- make sure the individual has enough tax to cover the donation;
- document the conversation with the individual and keep records of the conversation; and
- ensure that there is a Gift Aid declaration in place for the individual.

Charities should also review the VAT treatment of these amounts, as the original ticket sales may have been treated as taxable supplies that are subject to VAT. Donations are not subject to VAT as a donation does not involve any supply, and charities may need to update the way they have recorded the transaction to reflect this.

Are other cash grants available?

Direct cash grants have been announced to support charities across the UK to ensure that they can meet increased demand as a result of the outbreak. Government Departments are working to identify potential grant recipients, but the broad details of the grants are as follows:

- £360 million will be directly allocated to charities providing key services and supporting vulnerable people during the crisis.
- £750 million will be provided to frontline charities across the UK, including hospices and those supporting domestic abuse victims.
- £370 million will be reserved for small and medium-sized charities, including through a grant to the National Lottery Community Fund for those in England, which will support those organisations such as those delivering food, essential medicines and providing financial advice.

[8] Accessible here.

- The Government will match public donations to the BBC's Big Night In charity appeal on 23 April, starting with a contribution of at least £20 million to the National Emergencies Trust appeal.

Where charitable services are devolved the UK Government has applied the Barnett formula in the normal way. The devolved administrations are expected to receive £60 million through the charities pot, and further significant Barnett allocations, dependent on the final proposals funded, through the direct grant pot.

How should organisations contact HMRC during the lockdown?

HMRC have reduced their working hours and have currently have fewer staff members working as a result of the COVID-19 outbreak. As a result, not-for-profit organisations may find that it is harder to contact HMRC at the moment. In addition, HMRC has historically required certain taxpayers to provide certain types of documents in hard copy format / with 'wet-ink' signatures, and will not use email as its default method of communication without a taxpayer's explicit consent due to security concerns.

This has created a number of issues in the current situation because the outbreak of COVID-19 has prevented HMRC from receiving or sending hard copy mail, and some divisions within HMRC do not provide alternative contact methods. This is beginning to change, at least on a temporary basis (for example, the Birmingham stamp duty office now accepts electronic communication as a temporary measure), but electronic contact details are not yet available for all divisions within HMRC.