CHAPTER 9

TIME OF SUPPLY

9.1 Introduction

The "time of supply" rules give us the date on which an item is purchased or sold for VAT purposes. VATA 1994, s.1(2)

This date is crucial because it will determine on which VAT Return the output tax or input tax is accounted for (and therefore when any VAT is due for payment to HMRC).

There is a **basic tax point** for all goods and all services supplied.

9.2 Basic tax point

For a supply of goods, the basic tax point is the date the **goods are removed** from the supplier and made available to the purchaser (often called the date of "despatch"). VATA 1994, s.6(2)

For services, the date of supply is **when the services are performed**. For "performed" think of "completed". VATA 1994, s.6(3)

9.3 Basic tax point overridden

The basic tax point can be overridden by a different date in two situations.

1) where there is a **receipt of a payment** on a date **before** the basic tax point date or when the **tax invoice is issued** before the basic tax point date. In these cases, the **earlier date becomes the actual tax point**. VATA 1994, s.6(4)

2) if the basic tax point has not been overridden by an earlier invoice or payment;
&
a tax invoice is issued in the **14 day period** after the basic tax point; VATA 1994, s.6(5)

the **invoice date becomes the actual tax point**.

The trader can waive this 14-day rule and stick with the basic tax point if he wishes.

HMRC have the power to extend the 14-day period up to 30 days. A 30 day extension often helps businesses that only have one invoice run – usually at the end of every month. This allows those businesses to use the invoice date as their actual tax point for all supplies made in that month.

Illustration 1

Anne orders a wedding dress from Dresses Ltd on 1 November 2010. The company makes the dress in November and Anne collects the dress on 1 December 2010. The company issues an invoice on 9 December 2010, which Anne pays on 20 December 2010.

Basic tax point	-	1.12.2010
Earlier tax point	-	Not applicable
Later tax point	-	9.12.2010
Actual tax point used	=	9.12.2010

The basic tax point is the date the wedding dress is removed from the supplier to the purchaser – this will be the date Ann collects the dress on 1 December 2010. If there was a payment made or the tax invoice was issued before this date, then an earlier tax point would apply. This is not the case here.

If the tax invoice is issued within 14 days of the basic tax point, the later date becomes the actual tax point. The invoice was issued on 9 December 2010 – this is within 14 days of the basic tax point on 1 December 2010. Therefore the later tax point (9 December 2010) is the actual tax point for this supply (unless the company waives the right to use the later date which is rare in practice).

Example 1

Same as Illustration 1 except Anne orders the dress on 1.11.10, pays for the dress on 1.12.10, collects the dress 5.12.10 and the invoice is issued on 9.12.10.

What is the tax point for the supply?

9.4 Deposits

It is possible to have more than one tax point for the same supply – an example of this would be where a deposit is paid upfront and then, when the goods are delivered at a later date, the balance is paid.

Illustration 2

Anne orders a wedding dress on 1 November 2010. She pays a 10% deposit (£500) when she orders the dress.

She collects the dress on 1 December 2010. On 9 December 2010 the company invoices Anne for the balance due (£4,500). Anne pays the balance on 20 December 2010.

Starting with the deposit. The basic tax point for this supply is the date that the dress is collected on 1 December 2010. However, a deposit was paid earlier than the basic tax point (1 November 2010). This earlier date is therefore the tax point for the VAT on the deposit.

When considering the balance of the payment, again the basic tax point is the date the dress is collected on 1 December 2010. The company issues an invoice on 9 December for the balance. The invoice is within 14 days of the basic tax point, hence the invoice date (9 December) is the tax point for the balance.

There are two tax points for this supply – 1 November 2010 is the tax point for the deposit, 9 December 2010 is the tax point for the balance.

Anne:

Orders dress	1.11.10		
Pays £500 deposit	1.11.10	←	Tax point for deposit
Collects dress	1.12.10	←	Basic tax point
Invoice for balance	9.12.10	←	Tax point for balance
Pays balance	20.12.10		

If the company had a VAT quarter which ended (say) on 30 November, the output tax on the deposit and on the balance would be accounted for on different VAT returns and would be paid on different dates.

9.5 Special rules for services

Sometimes with services, the service can be supplied continuously and never actually finish (ie, it is never "performed").

An example of this would be rent – a business is constantly being provided with the property for which it pays rent. Another example is consultancy work (tax advice), which can constantly be on-going but never really completed. SI 1995/2518 reg 90

For a **continuous supply of services** there is not a basic tax point because the service is never performed so it is never completed. With a continuous supply of services there is only payment and invoice – so the **earlier** of the two will determine the tax point.

9.6 Change in VAT rate

Our final look in this chapter concerns how these tax point rules impact on the situation where a change in VAT rate occurs. Remember in chapter 1 we said that the standard rate of VAT is 17.5% - but for a temporary period that rate was reduced to 15%. **The 15% rate applied between the 1st of December 2008 and the 31st of December 2009.**

Illustration 3

Let's imagine the situation where we bought some goods from our supplier towards the end of December 2009. We didn't pay for them at the time of delivery but the supplier raised an invoice within 14 days, and the date of the invoice was sometime in early January 2010.

Between receiving the goods and the invoice date, the rate changed from 15% to 17.5%.

Now - if you are a VAT registered fully taxable business then you might not be bothered about the rate change because any VAT you incur is fully recoverable. However, if you make exempt supplies, then any VAT you incur is irrecoverable – so any increase in the VAT rate will be an additional cost to your business.

What we are going to look at now is how we work out what VAT rate we should be charging on supplies where the supply might 'straddle' a change in rate.

If you think back to the earlier parts of this chapter - and ignore the fact that we have a change in rate to contend with – under basic principles when is the time of supply in this situation?

Remember that the 'basic' point is when the goods are made available or removed to the customer – so this was December 2009.

However, we also know that a later tax point arises where an invoice is issued within 14 days of the basic point. Therefore, under basic principles we would pay VAT at 17.5% on the supply.

We've already said that if you were a business making exempt supplies then you would prefer that this did not happen. What we need to do then is look at the special rules contained in the legislation to check whether this would still apply to our scenario.

Section 88 of VATA 1994 governs the special rules. It says that if the basic tax point falls one side of the rate change but the tax point rules have shifted the supply to the other side, then the supplier can choose to charge VAT at the rate that applies based on the basic tax point instead. VATA 1994, s. 88

So in our illustration the basic tax point fell on one side of the rate change, and the tax point rules shifted the supply to the other side. **The supplier then could choose to use the rate of VAT that applies according to the basic point.**

In our illustration where the business buying the goods makes exempt supplies it would want the supplier to make that choice – because they would now incur irrecoverable VAT at 15% instead of 17.5%.

Note that **this piece of legislation only affects the rate of VAT it doesn't change the tax point date itself** – so the entry on the VAT return must still be in accordance with the date of the supply. In our illustration, the date of the supply is still in January 2010 – so if the trader was completing VAT returns for calendar quarters then he would account for the VAT in the March 2010 VAT return. The rate he would use would however be 15%.

These '**straddle' rules apply equally to situations arising when the VAT rate rises to 20% from 4th January 2011**.

In addition though, because the VAT rate is rising by 2.5% **HMRC are putting legislation in place to stop traders entering into schemes with their suppliers to get goods or services at the 17.5% rate when those goods will be delivered – or services performed – after 4th of January 2011.**

The legislation will provide that where **arrangements are artificial a supplementary 2.5% charge will be due.**

The anti-avoidance legislation will be similar to the previous change in VAT rate rules within FA 2009, Schedule 3 and will apply in situations such as those where the supplier and customer are connected and the customer cannot recover all of the VAT on the supply.

Example 2

Have a go at the following example to decide whether the supplier would want to use the special rules in section 88 where they were supplying goods to non-VAT registered businesses or VAT registered businesses that make exempt supplies. Assume the same VAT rate change as set out above.

Put a tick in the box if you think that the supplier would like to use the rate that applies according to the basic point.

Goods paid for in December 2009 and delivered in 2010 ☐

Goods delivered in 2009 but invoiced in 2010 (within 14 days) ☐

Example 3

Karen orders a toy over the telephone from a mail order supplier quoting her debit card number on 12 November 2010. On 14 November 2010 the supplier sends the toy to Karen. On 16 November 2010 an invoice is issued showing full payment has been made.

What is the tax point for the supply?

Answer 1

The basic tax point is the date the dress was collected which is 5 December.

However if a payment was made before the basic tax point or if an invoice was issued before the basic tax point, we use the earlier date.

In this example, a payment was made on 1 December and so that date becomes the actual tax point we would use for this supply.

Answer 2

Goods paid for in December 2009 and delivered in 2010	
Goods delivered in 2009 but invoiced in 2010 (within 14 days)	√

If goods are paid for in December 2009 but delivered in 2010 then using our basic principles the tax point would be the date of payment in 2009. Remember that making a payment gives us an 'earlier' point and this is the date we would use to determine the rate that applies. In 2009 the rate was 15% - so we would rather charge our customers this rate than the 17.5% rate.

If we elected to use the section 88 rules then the rate we would charge would be 17.5% because we would look at the rate applicable when the goods were delivered. This would not be advantageous to our customer so we would not like to use the special rules.

In the second example, if the goods are delivered in 2009 the basic tax point is at the 15% rate. However, as an invoice is issued within 14 days, the tax point – under normal rules – would be in 2010 and therefore the rate the supplier would charge would be 17.5%. So in this situation the supplier would use the special rules to change the rate to the 15% - ie the rate applying at the time the goods were delivered.

Answer 3

The basic tax point is the date the goods were supplied or left the premises of the supplier, ie 14 November.

Because a payment was made earlier than this basic tax point date, on 12 November, we use the earlier date as the tax point date.

The actual tax point used is therefore 12 November.