

## Corporate Services and Accounts Department

44 Drumsheugh Gardens  
Edinburgh EH3 7SW

DX ED555250 EDINBURGH 30  
Legal Post LP2 EDINBURGH 7

Telephone (0131) 226 7061  
Fax (0131) 226 7675  
Direct dial number: 0131 240 2099



To:

All legal aid firms

16 December 2009

### VAT RATE CHANGES

#### BACKGROUND

As you may have heard, from 1 January 2010 the 15% VAT rate payable on goods and services will revert to 17.5%. This will affect the VAT payable on legal aid and advice and assistance accounts submitted by solicitors.

This mail shot is to explain our approach to the application of VAT rates on solicitors' accounts.

#### SOME UNDERLYING VAT PRINCIPLES

The rate of VAT payable on an account is determined by the tax point. The rate payable on tax points

- before 1 December 2008 was 17.5%
- from 1 December 2008 to 31 December 2009 is 15%
- from 1 January 2010 will be 17.5%.

We consider the supply of legal aid in any particular case falls into the HMRC definition of a single supply over an extended period. In the supply of such services the **basic tax point** is the date when the service is performed - normally taken as the date when all the work except invoicing is completed.

However, the basic tax point is overridden if an **actual tax point** is created by the issue of a VAT invoice.

Since legal aid accounts are generally not VAT invoices, the tax point will be the basic tax point and will generally be defined by the last action noted in the account.

#### PRACTICAL APPLICATION TO PAYMENT OF SOLICITORS' ACCOUNTS

##### Detailed time and line accounts

We will consider the tax point to be the date of the last action on the submitted account.

##### Civil block fee accounts

We will consider the tax point to be the date of the completion of the last block on the account.

### **Summary criminal fixed payment accounts**

In these accounts, you do not have to give us the date that all work is completed. However, you must include the date of the conclusion of proceedings on the account synopsis. Since this date is usually close to when work on the case was completed, we will use it as the tax point.

However, if the case has not yet concluded and so you cannot give us a date for conclusion of proceedings, e.g. where sentence has been deferred, we will deem the tax point to be the date when the account synopsis has been signed.

Including these dates is key to our determining the tax point and therefore the appropriate VAT rate. We will, therefore, continue our practice of returning accounts where these dates have not been provided.

### **Outlays**

The tax point and, therefore, the VAT rate payable in reimbursement of outlays will be determined by the VAT rate in operation when the charges for the goods or services are incurred. Currently, you must vouch all such reimbursements by sending us a supplier's invoice and VAT will be reimbursed on the basis of that charged on the invoice. You should check yourself that the rate the supplier applies is correct.

### **Mileage as outlays**

Longstanding guidance from HM Revenue and Customs provides for payment of VAT on mileage in legal aid accounts. We will pay VAT at the rate applicable when the journey took place – that is:

- trips between 1 December 2008 and 31 December 2009 will attract VAT at 15%
- all other trips will attract VAT at 17.5%.

### **Payment to account**

For interim payments to account with a tax point between 1 December 2008 and 31 December 2009, we will apply VAT at 15%. For these cases, when we receive the final account, we will apply VAT to the outstanding amount at the prevailing rate (which from 1 January 2010 will be 17.5%).

### **FURTHER INFORMATION**

You will also find helpful general guidance on the change in VAT rate on HMRC's web site at <http://www.hmrc.gov.uk/agents/forms-vat.htm>

If you have any queries about this mailshot, please contact Ian Brown, Financial Accountant (tel 0131 240 2099; email [brownia@slab.org.uk](mailto:brownia@slab.org.uk)). Queries regarding specific accounts should be referred to the Accounts Assessment Department in the normal way.