



HM Revenue
& Customs

VAT: Amendments to legislation - assistance with electronic filing of VAT returns

**Summary of Responses to technical
consultation on draft amendments to
Regulations**

1 July 2014

Contents

1	Introduction	3
2	Responses	4
3	Next steps	6
Annex A	List of stakeholders consulted	7

On request this document can be produced in Welsh and alternative formats including large print, audio and Braille formats

1. Introduction

- 1.1 The vast majority of businesses were legally mandated to file their VAT returns online from 1 April 2012. Most have found it easy to make the transition from paper filing to online filing. However, very small numbers of businesses have contacted HMRC to explain their difficulties in filing VAT returns online. In such circumstances, we advise businesses of a range of digital assistance options to help them to meet their legal obligations. Such options include using public libraries, using computers owned by friends and family, using the services of an agent or, if none of these options are appropriate, using the existing Filing by Telephone service (“telephone filing”).
- 1.2 In response to appeals against the requirement to file online, the First-tier Tribunal (in the case of L.H. Bishop Electrical Co. Ltd. A F Sheldon t/a Aztec Distributors) ruled that the failure of the VAT Regulations 1995 S.I. 1995/2518 (“the VAT Regulations”) to take account of a person's ability to comply on account of:
 - age
 - disability
 - computer illiteracy (linked to age) or
 - remoteness of locationwas a breach of the European Convention on Human Rights (ECHR).
- 1.3 The judge also held that HMRC could not rely on the fact that telephone filing had been made available to certain businesses to cure the aforementioned human rights breach as it had not been legislated for or properly publicised.
- 1.4 As a result of these findings, the Government decided to consult with a view to amending the law. HMRC published a consultation document (*VAT: Amendments to legislation - assistance with electronic filing of VAT returns*) on 20 December 2013. The closing date for responses was 14 February 2014.
- 1.5 HMRC published a Summary of Responses document on 22 April 2014 and that document included a further consultation on draft amendments to the VAT regulations. The closing date for responses was 24 May 2014.

2. Responses

- 2.1 This chapter provides details of the responses to the consultation on draft amendments to the VAT Regulations and sets out the actions HMRC will take as a result.
- 2.2 Seven responses were received and details of the respondents are at Annex A.
- 2.3 The consultation on draft amendments to the VAT Regulations was included at section 3 of the Summary of Responses document published on 22 April 2014. HMRC asked for comments in respect of one question:

Do the draft regulations achieve the policy intention set out in paragraphs 2.7 to 2.9 and 2.14 of this Responses Document?

- 2.4 Respondents commented on the positive and constructive nature of the consultation response. Proposed changes to extend the exemptions from online filing in regulation 25A(6) of the VAT Regulations 1995 were particularly welcomed. Additionally, respondents were pleased that HMRC decisions to refuse to allow exemption would be appealable under section 83(zc) of the VAT Act 1994.
- 2.5 Some respondents commented that the draft regulations did not achieve the stated policy intention because they did not define telephone filing as a form of electronic communication (see paragraph 2.8 below).
- 2.6 One respondent felt that the proposed improvements to the telephone filing service (paragraph 2.16 of the Summary of Responses document) might be costly and result in unintended consequences - namely, that some businesses might be encouraged to try to meet the criteria in order to be allowed to use the new service (see paragraph 2.9 below).
- 2.7 Finally, one respondent was concerned that someone would have to request a doctor's certificate in order to satisfy HMRC that he or she was unable to file online and that this would be a condition of filing by telephone or on paper. However, HMRC has no intention of introducing such a requirement.

HMRC response

- 2.8 HMRC's view is that telephone filing is a form of electronic communication – this is why the draft regulations made no explicit reference to telephone filing. However, for the avoidance of doubt, the revised regulations make it clear that HMRC may issue a direction approving telephone filing as a form of electronic return system for use by specified categories of persons. HMRC will shortly publish such a direction.
- 2.9 HMRC will only approve businesses to use the telephone filing service where they are satisfied that it is not reasonably practicable for a person to file online in the way currently required. HMRC are making improvements to the

telephone filing service to take account of feedback received during the consultation which ended on 14 February 2014. The overall cost of those improvements is negligible.

3. Next steps

- 3.1 Amended VAT Regulations were laid before Parliament on 9 June 2014. They will enter into force on 1 July 2014. The revised regulations will:
 - enable HMRC to make a Commissioners' direction approving telephone filing as an alternative method of electronic filing for use by businesses that satisfy HMRC that it is not reasonably practicable for them to use the current method of online filing; and
 - provide an additional exemption from electronic filing for businesses that satisfy HMRC that it is not reasonably practicable for them to use an online channel with the result that such businesses will be able to file on paper.
- 3.2 The Government will publish a Tax Information and Impact Note on the GOV.UK at HMRC website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins#tiins-published-from-june-2013>. HMRC will also publish a Revenue and Customs Brief to provide more details of the changes.
- 3.3 HMRC will provide affected businesses with more information about the impact of the changes and update existing web guidance and public notices to ensure that the changes are accurately reflected.

Annex A: List of stakeholders consulted

Association of Accounting Technicians

J Bennett Joinery

Chartered Institute of Taxation

Dow-Nell Construction Co. Ltd.

Healthpol

Institute of Chartered Accountants in England and Wales

Low Incomes Tax Reform Group