

Finance Bill 2021

Representation from the Association of Taxation Technicians (ATT)

Clauses 92 and 93: Extension of temporary 5% reduced rate for hospitality and tourism sectors

Executive Summary

1. Clause 92 extends the temporary 5% reduced rate of VAT for certain supplies in the hospitality and tourism sector until 30 September 2021, with clause 93 then applying a new reduced rate of 12.5% to those supplies until 31 March 2022.
2. Our primary concerns are that:
 - Introducing a new 12.5% reduced rate of VAT for a temporary period of only six months poses practical problems for businesses. The impact of these problems could have been limited if the current 5% rate had been extended until 31 March 2022, or the 12.5% rate applied on a more permanent basis.
 - Clause 93(6) gives the Treasury the power to either increase or decrease the period for which the 12.5% rate applies with potentially little notice, leading to a lack of certainty and further potential practical issues.

We expand upon these concerns below.

3. We think that clause 93 should be amended to remove the ability for the Treasury to reduce the period for which the 12.5% rate applies.
4. We would also like to see:
 - A commitment to communicate as soon as possible any change to the period for which the 12.5% reduced rate will apply.
 - A wider review of the VAT treatment of food and drink.

A. Introduction of new 12.5% reduced rate of VAT

1. The introduction of a new reduced rate will leave businesses with four potential VAT rates (0%, 5%, 12.5% and 20%) to apply in the period from 1 October 2021 to 31 March 2022. The new rate will also be unfamiliar to many businesses, as we understand that a 12.5% VAT rate has not applied in the UK since 1979.
2. Businesses will need to deal with the increased complexity arising from this extra rate, as well as update their prices, accounting software and systems such as point of sales tills. Under Making Tax Digital (MTD), businesses have to ensure that the correct rate of VAT is applied to each supply in their digital records, meaning that they cannot simply manually adjust the overall VAT recorded for the period to reflect the 12.5% rate. As a result, businesses may have to make significant changes to their systems to reflect a new rate which is only proposed to be in effect for six months.

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3. We note that clause 93(6) allows for the Treasury, by regulations, to repeal the 12.5% reduced rate or amend the period for which it applies. Any cancellation of the 12.5% rate, or shortening of the period for which it applies, would cause significant uncertainty, and require businesses to either make further changes to their systems and processes (potentially on short notice) or mean that time already spent on doing so is wasted. We would also question why an ability to repeal or shorten the period for which the rate applies is required given that a short six-month time limit already applies, and that businesses who stand to benefit from the reduced rate are amongst those most affected by the coronavirus restrictions?
4. We would therefore recommend that clause 93(6) be amended such that it only allows the Treasury to extend (and not cancel or decrease) the period for which the 12.5% rate may apply.
5. In the interests of certainty, any intention to exercise this power should be communicated to businesses as soon as possible.

B. Need for wider review of VAT rules on food and drink

1. The extension of the temporary reduced rate is welcome, especially as many businesses who stand to benefit will have had to scale back their activities or close down completely during the latest lockdown period. However, we also think that the Government should commit to a wider review of the complex rules which govern how VAT is applied to food and drink.
2. Many of the VAT rules for food and drink derive from the Purchase Tax regime, which was replaced with VAT when the UK joined the EU in 1973. As a result, they are often outdated and difficult to apply in the modern world.
3. This has led in the past to the Tax Tribunal having to consider whether Jaffa Cakes are a cake or a biscuit, and whether Pringles are crisps or not. The decisions in these cases often throw up results which sound utterly ridiculous to the average person. For example, chocolate flavoured Nesquik attracts zero VAT while strawberry or banana flavoured varieties are subject to the standard rate of 20%. And a gingerbread man with chocolate eyes attracts zero VAT, but one with chocolate trousers attracts VAT at the standard rate of 20%.
4. The introduction of a new reduced rate of 12.5% by clause 93 reflects the opportunities to modify the VAT rules which have arisen from the ending of the Brexit transition period on 31 December 2020. We would encourage the Government to use these opportunities to also consult on how we could bring the UK's VAT rules on food and drink more up to date. This would help to reduce confusion, saving both HMRC and businesses the time and costs associated with arguments over VAT treatment. Bringing more food and drink items into the zero rate or a reduced rate of VAT could also provide a much needed financial boost to the hospitality sector.

Association of Taxation Technicians

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Note:

The Association of Taxation Technicians

The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has over 9,000 members and Fellows together with over 6,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.