

CROSS BORDER VAT – FA24 CHANGES GUIDE

This guide refers to changes from both Finance Act 2024 and Finance (No 2) Act 2024.

Throughout the study manual changes have been made to reflect the new £90,000 registration limit and £88,000 deregistration limit

FA24 Ch	FA23 Ch	Topic	Major changes	Minor changes	No changes	Notes
1	1	How to use this Manual		✓		Mention of the Windsor Framework and the impact of the FA 2024 on VAT and Excise law due to Brexit.
2	2	Northern Ireland		✓		Mention of the Windsor Framework From 31 January 2024. From 31 January 2024, goods moving from NI to GB via Irish ports are subject to controls where they are not qualifying NI goods, or they are excise goods.
3	3	General Principles		✓		Mention of the Windsor Framework and the impact of the FA 2024 on VAT and Excise law due to Brexit HMRC has a new section on their website for tertiary legislation
4	4	The EU VAT system		✓		Mention of the impact of the FA 2024 on VAT and Excise law due to Brexit

5	5	Registration	✓			<p>New registration limit of £90,000 and £88,000 deregistration limit</p> <p>The TP CJEU case in 2023 held that an independent director of a Luxemburg plc carries out an economic activity for VAT purposes if they supply their services for a consideration and do so independently. If they do not act on their own behalf or under their own responsibility and bear no economic risk then they are not independent. This case is not binding on the UK</p> <p>Applications for registration from 13 November 2023 must generally be made online rather than through the physical VAT 1 form</p> <p>The Impact Contracting Solutions UT case in 2023 held that CJEU principles of Ablessio could allow HMRC to cancel a person's VAT registration where the person knows or should know that it is facilitating fraud by another, even if they have supplies above the level of the registration threshold not connected with fraud</p> <p>The Heartlands House case in 2023 shows that poor management of a company so that no taxable supplies were ever made does not mean there wasn't an intention to make them, so VAT was recoverable</p>
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6	6	Groups		✓		<p>HMRC has updated its guidance to state that an insolvent company can apply to join a VAT group. The appointment of an insolvency practitioner does not change the 'control' test</p> <p>The Dollar UT case in 2023 shows that once an entity has been accepted into a VAT group there is no automatic right to have the date of joining amended to an earlier time. There is no jurisdiction for the tribunal, only possibly judicial review</p> <p>Prudential came before the Court of Appeal in 2024. VAT was charged on invoices after the company had left the group and were not outside the scope of VAT under the group rules</p> <p>In the CJEU case C-184/23 the CJEU held that supplies between members of an EU VAT group were outside the scope of VAT even if this resulted in a loss of tax</p>
7	7	Definition of supplies		✓		<p>GFKL case (C-93/10) added about purchasing debts for less than face value and that the difference is not consideration for a service</p> <p>The Designated deposit scheme will not come into operation until October 2027</p>
8	8	Liability of the supply			✓	
9	9	Schedule 7A VATA 1994 – reduced rate		✓		<p>HMRC has updated notice 708/6 with examples of what constitute single or multiple supplies of energy saving services/materials</p>

10	10	Schedule 8 VATA 1994 – zero-rating	✓			<p>Protective incontinence briefs are zero rated from 1.1.24</p> <p>The Morrison's Nak'd bars went back to the FTT in 2024 and it found them to be confectionery and standard rated</p> <p>United Biscuits lost their case in 2023. A biscuit partly with chocolate on the top as well as the company logo was standard rated</p> <p>Walkers Sensations Poppadoms are similar to crisps and standard rated (2024 FTT)</p> <p>'Dip pots' supplied with a hot take-away meal are part of the SR single supply and not a separate ZR supply (Queenscourt FTT 2024)</p> <p>A collagen based drink was not a zero rated food/drink but a beauty product (Bottled Science Ltd 2024)</p> <p>The DuelFuel FTT case in 2024 held that a pack containing a flapjack and brownie/cake was standard rated confectionery</p> <p>HMRC lost their appeal in the Upper Tribunal in the marshmallows (s'mores) Innovative Bites case in 2024. A multi-factorial assessment is required to decide if something is confectionery</p> <p>Repatriation of dead bodies on an aircraft is zero rated transport of goods (UK Funerals On-Line Ltd 2023)</p>
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		Continued ...				<p>SI 2023/1006 applies a temporary zero rate of VAT to the supply of drugs and medicines in the UK to an individual for personal use</p> <p>The 0% rate on ESMs in group 23 has been extended to include relevant charitable buildings and other ESMs such as electrical battery storage, water-source heat pumps and diverters</p> <p>HMRC has updated its notice 708/6 of examples of what constitutes single/multiple supplies of energy saving services/materials</p>
11	11	Schedule 9 VATA 1994 - exemptions	✓			<p>Intelligent Money was appealed to the Upper Tribunal and it agreed with the FTT that SIPPS were not insurance</p> <p>HMRC has updated para 2.2 of its Insurance notice with reference to the United Biscuits CJEU case of what amounts to insurance</p> <p>WTGIL was appealed by HMRC to the Upper Tribunal in 2024 which agreed with the FTT that input tax was not recoverable on the safe driver boxes as it was a composite supply of exempt insurance</p> <p>Target went to the Supreme Court which upheld the decision of the Court of Appeal. Loan admin services are not exempt</p> <p>The Upper tribunal in Silverdoor in 2024 agreed that charges for making payment by credit card were part of the SR reservation charge for short term residential accommodation</p>

		Continued ...				<p>The government replied to the Treasury consultation on fund management and confirmed the current exemption would continue to apply and that the definition of 'management' was sufficiently clear under case law</p> <p>Spectrum lost its appeal to the Upper Tribunal in 2024 – a complete package of medical care was provided to the prison service not separate elements</p> <p>Online purchases of contact lenses is not medical care where it is a simple dispatch of orders (Vision Dispensing Ltd FTT 2023)</p> <p>Northumbria Healthcare Trust won its appeal in the Court of Appeal that car parking onsite at the hospital was not subject to VAT</p> <p>Services provided to those concerned with ageing is not a disease and worrying about looking older is not a health disorder (Aesthetic-Doctor.com 2024)</p> <p>Skin disorder treatments by nurse are not exempt (but no assessment as HMRC outside their '1 year' evidence time limit) – Graham FTT case 2024</p> <p>Extra examples of medical care (and not) have been added to the table</p> <p>Live streaming of funerals by the crematorium etc are exempt. Third party supplies are SR</p>
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		Continued ...				<p>Monthly subs paid to the Freemasons were not exempt under Group 9 as they were not 'philanthropic' (United Grand Lodge of England UT case 2023)</p> <p>HMRC is appealing the decision in the Yorkshire Agricultural Society case</p> <p>Live transmission of a theatrical event does not fall within group 13 (Derby Quad FTT 2023)</p>
12	12	Value of the supply		✓		<p>Gap Group v HMRC (FTT 2023) said that a supply of plant hire with red diesel in the tank was two separate supplies – fuel 5% and hire 20%. The customer might not use the fuel as this was only clear at the end if there was a shortfall in the tank that they had to pay for</p>
13	13	Time of supply		✓		<p>In Lycamobile (FTT 2024) VAT was accounted for on the full amount payable at the time the consideration was received from customers under mobile phone plan bundles as this was a single supply of telecommunication services</p>

14	14	Input tax: when to recover		✓		<p>Advisory fuel rates updated to those that apply from 1 March 2024</p> <p>KRS Finance case in 2023 held that marketing costs related solely to the equity release exempt activity and was not residual. Emphasis was put on the wording of the adverts and what it was aimed at selling</p> <p>Hotel La Tour went to the Court of Appeal in 2024 and they overturned the decisions of the FTT and UT</p>
15	15	Land and buildings: exemption and standard-rating		✓		<p>The supply of self-contained apartments with maid service, 24-hour reception etc provided by a separate company was standard rated as a 'similar establishment of sleeping accommodation.' (Realreed Ltd v HMRC 2023)</p>
16	16	Land and buildings: option to tax			✓	
17	17	Capital goods scheme			✓	
18	18	Second-hand goods margin scheme		✓		<p>Links to HMRC's new guidance about claiming a refund of VAT on the export of second hand cars to NI/EU have been included</p>
19	19	The flat-rate scheme			✓	
20	20	VAT records and returns		✓		<p>'Building works at the above' is sufficient information on a VAT invoice (Fount FTT case 2024)</p>

21	21	Accounting for VAT			✓	
22	22	HMRC powers, appeals and assessments			✓	
23	23	Penalties for inaccuracies			✓	
24	24	Penalties for failure to notify			✓	
25	25	Penalties for late returns and late payments		✓		Under the new penalty regime, a VAT group has a single liability for points, which are held by the representative member. A new member joining will not affect the points total even if they have points before joining. If a member leaves and sets up its own VAT registration, it will start at zero points
26	26	Other penalties and migration		✓		<p>There is no right of appeal against late payment interest, but HMRC has updated its guidance to say that a taxpayer can object if HMRC has made a mistake or caused an unreasonable delay which has contributed to the build-up of interest or in certain other circumstances. The tax must have been paid in full</p> <p>A note that an assumed rate of interest to use (7.75%) is on the tax tables</p> <p>Halifax and Kittel principles continue to apply from 1 January 2024</p>

27	27	Refunds and interest		✓		<p>Repayment supplement has been removed from the syllabus</p> <p>RCB 4/2022 states that since leaving the EU, refunds under s80 VATA 1994 can now only be paid to the person that paid the VAT and not to a third party. This is a departure from CJEU principles such as those in Reemstma and the later case of Schutte in 2023</p> <p>A settlement under s85 VATA 1994 does not automatically apply to new claims where new information has emerged. However, it is a 'full and final' settlement for all other claims for the same vehicles and periods under the s85 agreement (Cambria Automobiles (South East) Ltd case)</p>
28	28	Imports		✓		<p>Import VAT can only be claimed by the owner of the goods (Piramal Healthcare case 2023).</p>
29	29	Exports		✓		<p>Reference to HMRC's guidance on applying for the IOSS in Northern Ireland has been included. SI 2024/128 has said that from 1 March 2024 a supply of goods for IOSS reporting does not include goods that are in GB when sold, and their supply involves them being moved to NI and the recipient belongs in NI. These are reported on the normal UK VAT return.</p>
30	30	EU Movement of goods		✓		<p>The acquisitions limit is now £90,000 (previously £85,000).</p> <p>The CJEU followed the AG's opinion in Luxury Trust that VAT can be recovered from the seller if procedural rules (such as not including proper RC narrative on the invoice) are broken.</p>

31	31	Overseas businesses		✓		From 1 January 2025 the PVD is amended so that registration thresholds in EU Member States will apply to businesses established in other EU Member States (and not just to those within that MS). Non-EU businesses continue to not have the benefit of the registration threshold.
32	32	International aspects – services		✓		<p>SC Adient (C-533/22) repeated Cabot Plastics and Berlin Chemie principles that the mere existence of a group relationship is not enough to make a subsidiary a fixed establishment of the parent.</p> <p>In Westside Unicat (C-532/22) adult entertainment live streaming was not 'granting a right of admission'. Digital events do not come within the special rule.</p> <p>The PVD is clarified from 1 January 2025 that digital/streamed events do not come within the special place of supply rules for B2B and B2C but that the place of supply is where the customer is established.</p>
33	33	Agency		✓		In the All Answers Ltd 2023 UT case, essays supplied by AA Ltd were as principal and not agent. VAT was due on the total fee received and not just the commission retained.
34	34	Fiscal warehousing			✓	

35	35	Tour operators' margin scheme		✓		<p>Sonder has been appealed by HMRC to the UT and is due to be heard in December 2024.</p> <p>Bolt Services (2023 UKFTT) won their TOMS case. Private hire cars booked via an APP allowed Bolt to account for VAT on the margin rather than the full selling price. HMRC is consulting about the VAT treatment of private hire firms following the Uber High Court case which held drivers to be 'workers'.</p> <p>Golf Holidays Worldwide in 2023 says that if you choose TOMS and realise that it's not beneficial then you can't put in an error correction notice as this isn't a 'mistake' but an unwise decision.</p> <p>HMRC has concluded that B2B wholesale supplies are within the scope of the TOMS and by concession tour operators may opt B2B wholesale supplies out of the TOMS.</p>
36	36	Missing trader intra-community fraud		✓		<p>Mention of the Finance Act 2024 and the retention of EU principles of abuse from 1 January 2024.</p>

CUSTOMS & EXCISE DUTIES & ENVIRONMENTAL TAXES – FA24 CHANGES GUIDE

This guide refers to changes from both Finance Act 2024 and Finance (No 2) Act 2024.

FA24 Ch	FA23 Ch	Topic	Major changes	Minor changes	No changes	Notes
1	1	Introduction to customs duties	✓			<p>The Windsor Framework continues to NOT be examinable in 2025</p> <p>There is a proposal to amend the UCC including granting powers to the Commission to adopt secondary legislation (Delegated Acts) for specific areas covered by the UCC. The time limit is over the next 15 years. From 1 March 2028 the EU intends to remove the 150 Euro limit for Customs Duty relief and make the e-commerce operator liable for both the VAT and CD on entry of goods (of any value) to the EU</p> <p>Safety and Security declarations for imports from the EU are mandatory from 31 October 2024</p> <p>Declarations through CDS are mandatory from 30 March 2024 (subject to exceptions for those that cannot migrate, and the deadline is then 4 June 2024)</p>

1 (cont)						<p>A Single Trade Window is being introduced in 2024 to allow import, export and transit information to be submitted once in one place</p> <p>More detail has been added on what having a 'business establishment' means for Customs purposes and when a business can get an EORI</p> <p>There are seven designated customs sites in English freeport areas</p>
2	2	Northern Ireland		✓		<p>The Windsor Framework continues to NOT be examinable in 2025 – it replaced the UK Trader Scheme with the UK Internal Market Scheme from 30 September 2023 and this scheme is also not examinable</p> <p>From 1 January 2024 the waiver under de minimis state aid rules is increased to €300,000 (from €200,000)</p> <p>From 31 January 2024 certain goods from Ireland arriving into GB via NI are subject to full customs controls</p>
3	3	Prohibitions, restrictions & penalties		✓		<p>The FA 2024 has increased the prison sentence for a number of offences under CEMA 1979 to a maximum 14 years (was 7 years)</p>

4	4	Types of duties		✓		More detail has been added on Reg 2016/1036/EU and Dumping investigations carried out by the Commission
5	5	Preferences		✓		The EU GSP scheme has been extended until 31 December 2027
6	6	Administration and appeals		✓		Late payment interest is 7.75% Interest for overpayments is 4.25% (These are on the Tax Tables)
7	7	Classification		✓		Regulation 2023/2364 amends the EU Tariff for rates from 1 January 2024
8	8	Valuation (1)			✓	
9	9	Valuation (2)		✓		From 1 December 2027, BVI decisions can be applied for (in the EU) and held by an importer to provide certainty as to the value of their imported goods. This is binding on the holder and all EU Member States

10	10	Inward Processing (IP)		✓		Thyssenkrupp was appealed to the UT in 2024. A single error on a bill of discharge did not render the entire entries on the Bill invalid and subject to CD. The UT overturned the FTT decision
11	11	Customs warehousing (CW)		✓		CFSP is being re-named SCDP (Simplified Customs Declaration Processes)
12	12	Import licensing		✓		The DIT has merged with BEIS to form the DBT (Department for Business and Trade)
13	13	Tariff Quotas			✓	
14	14	Common agricultural policy (CAP)		✓		Regulation 612/2009 is no longer in force
15	15	Outward processing (OP)		✓		The case of Fatima Jewellery in 2023 is a reminder that for Customs Duty relief an OP authorisation is required but for import VAT relief it is not

16	16	End use/Authorised use		✓		<p>The latest Tariff Suspension document is dated 17th March 2024</p> <p>Caerdav did not renew its End Use authorisation and therefore was not entitled to relief. Over £330k had to be paid in customs duty and import VAT (UT 2023)</p>
17	17	Returned good relief (RGR)			✓	
18	18	Temporary admission (TA)			✓	
19	19	International administration and the WCO		✓		There are 186 members of the WCO
20	20	Other reliefs			✓	
21	21	Exports and dispatches to other Member States		✓		<p>Export declarations cannot be submitted through CHIEF from 4 June 2024</p> <p>The FA 2024 has increased the prison sentence for a number of offences under CEMA 1979 to a maximum 14 years (was 7 years)</p>

22	22	Introduction to excise duties		✓		<p>Regulation 684/2009 was replaced by Regulation 2022/1636</p> <p>Directive 2008/118 has been replaced by Regulation 2020/262</p> <p>Wording in the schedule of SI 1988/809 has been amended due to the new Alcohol Duty</p>
23	23	Alcohol duties		✓		<p>Rates have been frozen until 1 February 2025</p> <p>In March 2025 HMRC plans to launch a new digital service for alcohol duty returns, approvals and payment</p> <p>Draft legislation is to be published in late 2024 to end the Duty Stamps scheme for certain retail containers</p>
24	24	Tobacco products		✓		<p>Rate rises from 22.11.23 (are on the Tax Tables)</p> <p>From October 2026 a new UK-wide duty on e-liquids used for vaping will be introduced, comprised of three rates for nicotine-free, nicotine (<11mg/ml), and nicotine high (>11mg/ml). These will be set at £1, £2, and £3 per 10ml of liquid respectively</p> <p>Tobacco rates will rise from 1 October 2026</p>
25	n/a	Landfill tax (1)	✓			New chapter for 2025 exam

26	n/a	Landfill tax (2)	✓			New chapter for 2025 exam
27	n/a	Aggregates levy	✓			New chapter for 2025 exam
28	n/a	Climate change levy	✓			New chapter for 2025 exam
29	n/a	Plastic packaging tax	✓			New chapter for 2025 exam