

VAT ON UK DOMESTIC TRANSACTIONS – 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	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
2	2	The EU VAT system		✓		Mention of the impact of the FA 2024 on VAT and Excise law due to Brexit

3	3	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 Ablesio 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>
---	---	--------------	---	--	--	--

4	4	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>
5	5	Liability of the supply			✓	
6	6	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>
7	7	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>

7 (cont)						<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> <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>
-------------	--	--	--	--	--	--

8	8	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> <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>
---	---	-----------------------------------	---	--	--	--

8 (cont)						<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> <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>
-------------	--	--	--	--	--	---

9	9	Deemed supplies & self-supply		✓		<p>Heat supplied free of charge was a deemed supply with VAT on it (Case C-207/23)</p> <p>The Deco Protest-Editores Ltd CJEU case in 2023 held that a 'free' smartphone/tablet given with a magazine subscription was a single supply for consideration of a magazine. There was no separate supply of the item itself, and it was not a free of charge 'gift'. This case is post Brexit and not binding on the UK</p>
10	10	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>
11	11	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>
12	12	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>

13	13	Partial exemption			✓	
14	14	VAT records & returns		✓		'Building works at the above' is sufficient information on a VAT invoice (Fount FTT case 2024)
15	15	Accounting for VAT			✓	
16	16	Bad debt relief		✓		Court of Appeal BT plc case in 2023. Late claims for bad debt relief does not unjustly enrich HMRC. The onus is on the taxpayer to comply with conditions, such as time limits, to make valid claims
17	17	HMRC powers, appeals & assessments			✓	
18	18	Penalties for inaccuracies			✓	
19	19	Penalties for failure to notify			✓	
20	20	Default surcharge		✓		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

21	21	Other penalties, interest & 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>
22	22	Refunds & 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>

23	23	Land & buildings: zero & reduced-rating		✓		<p>SI 2023/1201 enables claims under the DIY scheme to be submitted electronically. The time limit is extended to six months (from three months). Invoices no longer need to be submitted but HMRC has a statutory power to request additional information. HMRC has issued a Notice and a link is included to it</p> <p>Where planning permission dictates that a property has to be let on a commercial basis for a certain number of nights, this constitutes 'business' and will deny a DIY claim (Philip Spani v HMRC 2023)</p>
24	24	Land & buildings: exemption & std-rating		✓		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)
25	25	Land & buildings: option to tax			✓	
26	26	Capital goods scheme			✓	
27	27	Transfer of a business as a going concern			✓	

28	28	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>
29	29	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>
30	30	The flat-rate scheme			✓	

31	31	Agency	✓			<p>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</p> <p>Sonder is being appealed by HMRC to the Upper Tribunal and is due to be heard in December 2024</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> <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>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>
32	32	Retail & promotion schemes		✓		<p>In the Simple Energy (Bulb) FTT case in 2023, a £50 'refer a friend' fee was not a discount off a bill but consideration for providing a referral service</p> <p>In C-68/23 a single purpose/multi purpose voucher is decided based on their terms of issue and not that they could be used contrary to those terms</p>

33	33	Farmers' flat-rate scheme			✓	
34	34	Miscellaneous	✓			<p>Until April 2024 non-UK charities that have previously asserted their status for VAT reliefs will continue to receive them. Going forwards from the end of this transitional date only UK charities will benefit from VAT reliefs</p> <p>HMRC amended its business/non-business manual at VBNB30400 providing an example of a retailer with a car park which specifically enables customers to park close to the shop to buy goods. HMRC treat this as part of the retail (business) activity, even if parking charges are only made once a free period expires</p> <p>SI 2024/720 amends SI 2001/2879 on museums that can recover VAT under s33A VATA 1994</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>The judicial review case of The King (Royal Surrey NHS Foundation) held that a concession operated by HMRC did apply to the Trust and input VAT was recoverable</p> <p>A new section has been inserted on Further Education Colleges and other education providers due to recent case law (eg Colchester Institute) and others, in the exemption chapter</p>

35	35	IPT 1			✓	
36	36	IPT 3			✓	
37	37	IPT 3			✓	
38	38	IPT 4		✓		<p>Interest on underpayments is 7.75% and interest on overpayments is 4.25%</p> <p>These are on the Tax Tables</p> <p>Prison sentences for criminal sanctions are now 14 years in the Crown Court (previously 7 years)</p>
39	39	Stamp duty on shares		✓		<p>The UK government has legislated to preserve the 0% charge on the issue/exempt capital-raising transfers due to the Retained EU Law (Revocation and Reform) Act 2023 which would have reimposed the 1.5% charge. Legislation takes effect from 1 January 2024</p>

40	40	Stamp duty land tax – general principles	✓			<p>First-time buyers' relief is available for nominee/bare trusts where the purchase is on or after 6 March 2024</p> <p>Henderson Acquisitions lost their tribunal case in 2023. A house with unsound joists and ceilings falling down is still a house and not a non-residential building</p> <p>In the Bloom case in 2023 a house on one registered title and 5.6 acres on another, with a septic tank on it, was wholly residential land and not mixed use</p>
----	----	--	---	--	--	---

40 (cont)						<p>The Harjono case in 2024 saw a loss for the taxpayer that their dwelling with a paddock attached (that was subject to a grazing agreement), was residential land. Suterwalla had previously one on a similar point and although HMRC appealed Suterwalla to the Upper Tribunal, it lost. The Marie Guerlain-Desai case of 2024 was a success for the taxpayer with a 12-acre wood. Cases will be decided on their facts as to whether they are non-residential or residential</p> <p>The Bonsu case in 2024 also failed to claim a dwelling with access to a communal garden was non-residential. The facts were virtually the same as the Sexton case</p> <p>Daniel Ridgway lost at the Upper tribunal in 2024 – the purchase was residential. He could have benefited from MDR but as he did not claim it, it did not apply</p> <p>The Kozlowski case in 2023 said that letting a garage wasn't commercial and needed to be in place at the time of purchase and not later in the day. The purchase was wholly residential. The Espalier case also came to the same result where garages were on a separate title document</p> <p>The Landmaster case in 2023 held that a reservation fee was not an 'option' under SDLT legislation and therefore it did not make the purchase mixed use liable to the non-residential rates</p> <p>Clarification that the Goode Cuisine case might now fall within the exemption for 'relievable trades' due to the change in law</p>
--------------	--	--	--	--	--	--

40 (cont)						<p>MDR has been abolished for transactions from 1 June 2024 (subject to transitional rules)</p> <p>More cases on MDR have come before the tribunal. In 2024 Dreyfus lost - their annexe was not a separate dwelling (no separate water/electricity/secure access and after two years minimal construction and no tenants.) Jonathan Ralph failed in 2023. An annexe without a kitchen sink, oven, or washing machine is not a dwelling</p> <p>Newsand Ltd has been granted a right to appeal on MDR. This will come before the tribunal</p> <p>L-L-O Contracting Ltd in 2023 failed in its claim for MDR as HMRC can deny a claim outside the time limit where the taxpayer makes 'mistake'</p>
41	41	Stamp duty land tax – administration		✓		Added in the four year rule for assessments, for clarity