

VAT

VAT Rulings and how to apply for them

When all avenues of information have been exhausted (VAT notices, leaflets and Advice Line) a Ruling can be applied for.

Normally, it is the supplier who asks for a ruling on the liability to tax on Goods and services, but if the enquiry is about tax recovery, the customer should apply.

A ruling needs to be applied for in writing to the Office designated to answer rulings for that business's area. HMRC want rulings to be posted to the correct VAT office, but have removed all trace of the office address details from the website and encourage users to email.

We would suggest calling the National Advice Centre 0845 010 9000 to obtain an address.

When requesting a ruling the following details are required

- The business name and correspondence address
- The VAT registration number
- The full facts and context regarding the transactions being questioned
 - A clear explanation of the precise points that are unclear
 - Any alternative interpretations that may have been given
 - Any contracts where appropriate
 - Copies of all relevant documents clearly highlighted
 - An estimate, if known, on monies involved
 - Any related transactions
- The intended use of any decisions – general rulings are not given
- A statement that to the best of your knowledge and belief that, the facts are correct, in full and all relevant information has been disclosed.

HMCE will respond within 10 working days with either: -

- A ruling
- An acknowledgment of the enquiry, and an estimated time to respond

If the ruling is not what was expected, there are limited rights to appeal. For example, if the ruling relates to the VAT chargeable on specific supplies of goods or services, then there is a right to appeal directly to the independent VAT tribunal.

Otherwise, the ruling can be returned with a letter requesting that the decision be reconsidered. (Response times are the same)

HMCE considers that once it has given a ruling, it is bound by that ruling, but the business applying is not similarly bound.

Who can use the Ruling?

In general only the business that has applied for the ruling can rely upon it, unless: -

- It is agreed with trade bodies
- The ruling clearly states otherwise
- When the ruling is about a particular type of product or activity

When will a ruling cease to apply?

- When the law changes
- When a court of tribunal rules its is wrong
- When HMCE policies change (warning of this will take place)
- When the nature of the transaction changes

When will a VAT ruling not be binding?

A ruling will only be binding for a particular transaction, and HMCE will not be bound by the ruling if: -

- There is a change in the technical details of the transaction
- If all the relevant details were not given at the time of the ruling, or were found to be subsequently incorrect or incomplete.

What happens if the ruling was found to be incorrect?

When in incorrect ruling is discovered, then the tax payer will only be liable to the change in tax payable from the date the error is discovered, and any errors are not back dated, provided proof of the ruling is available. Some flexibility may be available to allow for system changes etc.