



11 September 2014

HM Revenue & Customs
Adapted Motor Vehicles Consultation
Room G66
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Dear Sir/Madam,

**VAT relief on substantially and permanently adapted motor vehicles for disabled wheelchair users
Consultation document published on 30 June 2014**

AAT welcomes the opportunity to respond to the HMRC consultation document (condoc) on “VAT relief on substantially and permanently adapted motor vehicles for disabled wheelchair users” published on 30 June 2014, on behalf of our membership and from the wider public benefit perspective of achieving sound and effective administration of taxes.

AAT supports these commonsense proposals to curb abuse of the relief and focus the relief on the people for whom it was designed.

For ease of reference we have included each of the 18 questions posed in the condoc within this letter and inserted our response below each.

We note that the condoc is intended to be read by disabled wheelchair users, charities, suppliers, and groups representing these parties, and that the questions reflect this. Taking this fact into account, we have decided to respond only to questions where we feel that we can add value to the consultation process.

Question 1

Do you agree that reform of the relief is needed? If not, why not?

Response

AAT agrees that reform of the relief is needed because of the scope for “abuse of the VAT zero rate relief on the supply of motor vehicles that have been substantially and permanently adapted for the personal use of a disabled person”, which was outlined in paragraph 1.1 of the condoc.

Question 2

Do you agree that, in general, VAT relief should only be allowed on one vehicle, purchased for the personal use of a disabled person, every three years? If not, please give your reasons.

Response

AAT agrees that, in general, VAT relief should only be allowed on one vehicle, purchased for the personal use of a disabled person, every three years.

Question 3

Under what circumstances should the rule be relaxed to allow more than one vehicle to be purchased within a three year period?

Response

AAT considers that the proposed three year rule should be relaxed to allow more than one vehicle within a three year period where:

- a vehicle has been written off or damaged beyond economical repair;
- a vehicle has been stolen and not recovered within a reasonable time;
- a vehicle has an open market value of less than 10% of its cost when purchased;
- any other circumstances where HMRC are satisfied that the relief would not be abused.

Question 4

Do you agree that a rule specifying a minimum cost of adaptations, of 20% of the cost of the vehicle, should be introduced? If not, what suggestions do you have for defining the 'substantial adaptation' of a vehicle?

Response

AAT does not agree that a rule specifying a minimum cost of adaptations, of 20% of the cost of the vehicle, should be introduced. The actual cost of adaptations will vary depending on factors such as the needs of the individual disabled wheelchair user and the make and model of the vehicle.

Having a rule that an adapted vehicle must cost at least a certain percentage over and above the cost of the vehicle before it is adapted could result in unnecessary costs being incurred in order to comply with the rule. If such a rule were to be introduced it would be necessary to clarify what the percentage is based on. For example, is it based on the list price of the particular make and model, exclusive of the cost of optional extras that are not specific to wheelchair users and exclusive of the VAT normally charged?

Whether an adaptation has been made permanently and substantially will very much be dependent on an appraisal of the particular facts surrounding the adaptation including the nature of adaptation, its function, and the vehicle being adapted. Whether an adaptation is substantial should be assessed in the context of what it is the adaptation enables a disabled wheelchair user to do. Details of what the adaptation enables a disabled wheelchair user to do should be provided to HMRC under the proposals we have suggested in our response to Question 9.

Question 5

What features do you think a motor vehicle that has been substantially adapted, to enable a disabled wheelchair user to enter and drive or enter and travel in, should include?

Response

AAT does not intend to respond to this question.

Question 6

What adaptations are generally needed by wheelchair users to use a vehicle and/or carry their wheelchairs?

Response

AAT does not intend to respond to this question.

Question 7

Would motor dealers be generally supportive of supplying information on zero-rated sales to HMRC?

Response

AAT does not intend to respond to this question.

Question 8

What additional administrative burden would this create for dealers?

Response

AAT does not intend to respond to this question.

Question 9

Do you have any alternative proposals that would enable HMRC to monitor zero-rated sales?

Response

AAT suggests two alternative proposals:

Alternative proposal one (AP1):

The general principle of AP1 would be to revise the current VAT1615A declaration and make it mandatory. We also suggest that it be made mandatory for the supplier to submit both parts of the completed VAT1615A declaration to HMRC and subsequent to submission to await receipt of confirmation by email that HMRC have received the submitted declaration before making the zero-rated supply.

If after issuing a confirmatory email HMRC subsequently decides that the supply did not qualify for zero-rating we believe that the purchaser, rather than the supplier, should be liable to pay the previously uncharged VAT now due.

Note:

The concept of persons who are not registered for VAT being liable to pay the VAT due already applies when a zero-rated new means of transport is not removed from the UK.

In addition to the above we recommend a number of revisions to the Form VAT1615A as follows:

1. The Form VAT1615A should be amended to include a requirement for the customer to supply their National Insurance number.
2. The Form VAT1615A should require the customer to confirm that a similar relief has not been claimed by the purchaser during the previous 36 months, or, where a similar claim had been made within the preceding 36 months window, the customer should be required to record an explanation for why a further purchase is required.

Example

The existing vehicle, purchased within the last 36 months had been written off as the result of its involvement in a road accident.

3. The Form VAT1615A could be further revised to require a non-disabled purchaser connected to a disabled wheelchair user, to clarify the nature of their connection, for example, parent, other relative or carer and that the vehicle is intended to directly benefit the disabled wheelchair user's mobility.
4. Taking into account our response to question 9 (above) we recommend that the existing customer declaration on Form VAT 1615A, "The supplier will complete the rest of the form and keep it. The supplier may be asked to show it to a VAT officer to explain why you have not been charged VAT on the goods and services supplied to you." should be amended to read "The supplier is required to submit both parts of the completed form to HMRC and await confirmation that HMRC has received the submitted form before making the zero-rated supply. Confirmation that this declaration has been received by HMRC does not automatically justify the zero-rating of the supply and you will be liable for any VAT that HMRC subsequently decides is due."
5. We further recommend that the supplier declaration on Form VAT1615A be amended to include a requirement for a supplier to report their VAT registration number and details of the cost of the vehicle (with and without the adaptation).
6. Taking into account our response to question 9 (above) the supplier declaration should also include an instruction to submit both parts of the completed Form VAT1615A to HMRC and to await subsequent confirmation that HMRC has received the document before making the zero-rated supply. Details of what the adaptation enables the disabled wheelchair user(s) to do should be included on the supplier declaration.

7. The statement on the supplier declaration “The production of this declaration does not automatically justify the zero-rating of your supply” could be changed to “Confirmation that this declaration has been received by HMRC does not automatically justify the zero-rating of your supply.”

Any additional administrative burden that our above suggestions might involve could potentially be mitigated, at least in part, if there was a requirement to make submission of the declaration online by default (including a scanned copy of the customer’s declaration).

Alternative proposal two (AP2):

The general principle of AP2 is for VAT to be charged by the supplier regardless of the nature of the adaptation and for the customer to subsequently apply to HMRC to obtain a refund of the VAT incurred.

Note:

The concept of persons who are not registered for VAT being able to obtain refunds of VAT from HMRC already applies under, for example, VATA 1994 section 35 – Refund of VAT to persons constructing certain buildings.

As part of our suggested process change the following would be required:

- The supplier would be required to provide their customer with a VAT invoice showing details of the basic cost of the vehicle and the cost of adapting it, including details of what the adaptation enables the disabled wheelchair user(s) to do.
- The customer would be required to satisfy HMRC that they are entitled to a refund of the VAT paid based on the customer’s circumstances and the nature of the adaptation.

HMRC would be able to monitor how the relief is being used by each customer.

Right of appeal

As a safeguard, we recommend that a decision by HMRC that the customer has incorrectly acquired a zero-rated vehicle under AP1 or a decision by HMRC not to issue a refund under AP2 should be made appealable decisions.

Proposal AP2 is our preferred proposal because a process whereby purchasers claim the relief directly from HMRC should discourage abuse of the relief. It should also allow HMRC to quickly prevent any attempted abuse of the relief. The benefits to the Exchequer in terms of reducing VAT loss could potentially make it a very cost effective solution for HMRC to implement and administer.

Question 10

Do you agree that a mandatory eligibility declaration should be made for all purchases of zero rate adapted vehicles?

Response

AAT agrees that a mandatory eligibility declaration should be made for all purchases of zero rate adapted vehicles.

Question 11

Do you agree that a penalty should be chargeable on false declarations?

Response

AAT agrees that a penalty should be chargeable on false declarations.

Question 12

Do users of lower limb prosthetics usually own a wheelchair?

Response

AAT does not intend to respond to this question.

Question 13

Would users of lower limb prosthetics use a wheelchair if their prosthetic limbs were not available?

Response

AAT does not intend to respond to this question.

Question 14

What adaptations are generally needed for users of lower limb prosthetics to use a motor vehicle?

Response

AAT does not intend to respond to this question.

Question 15

Other than people transported in ambulances, are you aware of any circumstances where a disabled person is usually carried on a stretcher?

Response

AAT does not intend to respond to this question.

Question 16

Are people that previously needed to be carried on stretchers now able to obtain suitable wheelchairs or prosthetics that meet their needs?

Response

AAT does not intend to respond to this question.

Question 17

Have you experienced any problems using the VAT relief for adapted boats?

Response

AAT does not intend to respond to this question.

Question 18

What features do you think a boat that has been substantially adapted, for use by disabled people, should have?

Response

AAT does not intend to respond to this question.

About the AAT

AAT is a professional accountancy body with over 49,600 full and fellow members and 74,000 student and affiliate members worldwide. Of the full and fellow members, there are 4,000 Members in Practice who provide accountancy and taxation services to individuals, not-for-profit organisations and the full range of business types. (Figures correct as at 31 June 2014)

AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

Thank you for the opportunity to respond to the HMRC condoc on "VAT relief on substantially and permanently adapted motor vehicles for disabled wheelchair users" published on 30 June 2014.

Further engagement

If you have any questions or would like to discuss any of the points in more detail then please contact the AAT at:

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Yours sincerely

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