

Barry Kernon

The Basics

What is the most common mistake authors make regarding VAT?

The most common error is to show income after deduction of agent's commission and VAT.

Authors must declare their gross income, i.e. *before* deduction of agent's commission, both for VAT and income tax purposes. A separate business expenses claim is made for the commission and VAT costs.

From an income tax point of view, apart from this being the technically correct treatment, it also minimises the risk of enquiry arising from authors having declared the net figure by mistake. Because literary agents are obliged to declare gross figures to HMRC, there is on the face of it an under-declaration, which can cause inspectors of taxes to ask questions. Unfortunately, these are not limited to simple questions but usually result in a full enquiry with its attendant time wasting and costs.

Money is deemed to have been received by the author when the agent receives it, not when the agent passes it on to the author.

How will the new HMRC project of Making Tax Digital affect me?

The ultimate aim is that the system of quarterly tax filings known as Making Tax Digital (MTD) will replace VAT returns and the annual self-assessment tax return. Unincorporated businesses (a category that includes all self-employed authors who have not set themselves up as limited companies) will move to the new system from April 2019. VAT-registered businesses are exempt from Making Tax Digital until 6 April 2019. Limited companies are exempt until April 2020.

Should I be charging VAT?

It is possible to register voluntarily for VAT at any time and authors will always save money by doing so. The main down-side is the small amount of additional paperwork. (Plus the fact that if you do a piece of work for an individual or small company that is not VAT-registered, you will effectively cost them 20% more.)

If you register for VAT, you can charge VAT, and claim VAT on any expenses (including your agent's commission). Alternatively, you can choose to operate under the simplified Flat Rate Scheme, under which there is a small difference in the VAT you charge and the VAT you pay, in your favour.

Note that the compulsory registration limit is now £85,000 UK earnings in any consecutive 12 months. Once you have exceeded this limit, you have 30 days to register. (This threshold applies to VAT-taxable turnover, i.e. self-employed earnings only. If you are on a big salary for your day-job and write on the side with less commercial success, you will not have to register.)

I have received three royalty advances in the past year which have just taken me over the level at which I have to register for VAT. Can I avoid registering?

It is necessary to notify HMRC within one month of breaching the threshold. If authors can demonstrate that, in the next 12 months, their turnover will be less than the deregistration limit, they can request that they be excepted from registering. It is important to be clear that it is indeed a 'one-off'. If HMRC accepts the request, they will write to confirm – and advise that income levels continue to be monitored.

If I register for VAT, will I need to submit a detailed expenses claim?

A detailed expenses claim in your tax return is only required where the author's turnover is above the VAT registration limit, currently £85,000 per annum. For more see *Tax FAQs*, and for a comprehensive list of the expenses which can be claimed, see the *H W Fisher Authors and Freelance Journalists Tax Guide*. Both can be found at authr.uk/soa-guides on the SoA website, and also at www.hwfisher.co.uk

The Flat Rate Scheme

The Flat Rate Scheme (FRS) allows authors to pay VAT at a flat rate of 16.5% of turnover while charging the standard VAT rate of 20% to their clients. In other words, you make a small margin on every sale.

(Strictly, the margin is not quite 3.5%. This is because the Flat Rate percentage is 16.5% of the turnover *including* VAT. To illustrate this: if an author earns £20,000 a year then she charges £4,000 in VAT, making a total of £24,000 gross income. 16.5% of this is £3,960. Her or her saving, therefore, is £40 on VAT of £4,000 – or 1%. As a percentage of the *turnover* (excluding VAT) this saving amounts to 0.2%. Why is this relevant? Because until recently the flat rate was 12.5%, so the saving was 5% – big enough to be worth doing.)

Note that if you are on the FRS you cannot claim VAT on expenses – except for any equipment purchases where the item costs £2,000 or more (including VAT).

The submission of online quarterly VAT returns is quite simple – much simpler than the tax return. You just add up the income, including VAT, and pay over a percentage.

Note that we are assuming that authors will automatically be paying the 16.5% rate. This is because they are likely to be 'limited cost traders' – that is, their VAT-inclusive expenditure on 'goods' (i.e. goods used exclusively for the purpose of the business but excluding capital expenditure, food and drink or vehicles/parts/

fuel) is either: less than 2% of their VAT inclusive turnover; or greater than 2% of their VAT inclusive turnover but less than £1,000 per annum. It is, however, possible that some authors may buy sufficient goods to avoid being called a limited-cost trader, in which case a different flat rate percentage may apply.

Note also that dividend income and bank interest is outside the scope of the FRS, but other income may become subject to VAT. For example, joining the FRS would make property lettings income liable to VAT. If authors do not belong to the FRS, property lettings income is exempt from VAT.

Agents

My agent charges VAT; how does it affect me?

An established agent will almost certainly be VAT registered, and they will charge VAT on all their commission regardless of where the sale was made. If you are not VAT registered that's just something you have to live with.

Where an author is VAT registered, but not operating under the FRS, the agent's commission is tax deductible as an expense, so the agent's VAT can be reclaimed.

If the author is registered under the FRS, the agent's VAT as well as its commission are tax deductible. (Because all VAT on income and expenses must be included in the tax return, including a deduction for the VAT paid over.)

I'm VAT-registered. My publisher paid me a sum of money plus VAT. Is my agent's commission deducted from the full sum or is the VAT element excluded?

The agent's commission is based on the payment excluding VAT. The agent will add VAT to its commission.

Foreign Income

My contracts are with a mixture of UK and overseas publishers. Who should I charge VAT?

VAT is chargeable by the author only on the UK royalties and advances. But be warned: your agent will have to act differently. VAT-registered agents in the UK must charge VAT on all their commissions, regardless of where the income comes from. (This has not always been the case but is nowadays under what are known as the 'place of supply' rules.)

If you receive foreign income from your UK publisher (because the publisher controls translation rights, for instance), it counts as UK income to you for tax and VAT purposes – and payments from UK publishers need to be declared on VAT returns. (As always, these figures must be before deduction of agent's commission.) If foreign income comes to you from your agent, however, it is deemed foreign income, and is outside the scope of UK VAT. Payments from EU publishers, by contrast, do need to be declared

on a VAT return: they are recorded on an EC Sales List (ESL, see next paragraph) – there is a box for this on the quarterly VAT return.

What happens if I need to invoice a publisher in another EU country?

For now at least, UK-registered authors and translators have to charge VAT to people in the European Union who are not themselves VAT registered. Where the work is carried out for a business in the EU, rather than a person, no VAT should be charged – as long as the recipient of the service provides its own VAT number. The author should therefore obtain the foreign company's VAT number and submit an invoice to them without any VAT added but with his or her UK VAT number noted. He or she should also submit an EC Sales List to HMRC to include this information. See <https://www.gov.uk/government/publications/vat-ec-sales-list-vat101>.

Prizes, PLR, Talks and Teaching

If I am VAT-registered and I win a prize in the UK, should the award have VAT added?

No. Prizes are outside the scope of VAT.

Should I charge VAT on Public Lending Right (PLR) payments and/or royalties from secondary collective licensing (i.e. from ALCS)?

PLR payments are outside the scope of VAT. However, VAT should be charged on any amounts received from ALCS – members should download the self-billing VAT form from www.alcs.co.uk, complete it and send it back with a copy of their VAT registration certificate.

I'm giving a talk. Do I charge VAT on fees and expenses?

If you are VAT-registered, give the host organisation your VAT number, and make sure it is clearly understood that you are legally obliged to charge VAT on top of both your fee and expenses.

Unless that is made clear from the start, there is a danger that the host organisation will argue that the payment you are offered is inclusive of VAT (which means that in return for undertaking the same work, VAT-registered authors are paid less than those who are not VAT-registered). Where the host organisation is itself VAT-registered there should be no difficulty as it can reclaim the VAT. The problem is much more likely to arise with host organisations which are not VAT-registered (or are charities) and which therefore have to accept as an additional cost the VAT it pays you.

If you are VAT-registered but the host organisation will not add VAT to the cost of expenses you have incurred, the problem can be solved if you and the host organisation agree, in writing, that you are incurring those costs on the host's behalf. You then

pass the VAT invoice to the host to allow it to deal with the VAT accounting itself, and the host then reimburses you for the amount which you expended (e.g. in buying a train ticket) on the host's behalf.

For further information see www.hmrc.gov.uk/vat/managing/charging/reimbursements.htm.

What if I'm doing some teaching?

A supply of private tuition is exempt from VAT provided it is a subject ordinarily taught in a school or university and is given by an individual teacher. Therefore, in theory, an author who is a sole trader could qualify under this exemption – so long as HMRC accepts that you are in this context a teacher. (Note: if you are on the VAT FRS, you will be penalised by such an arrangement because you would have to include the VAT-exempt income in your taxable turnover and pay VAT on it.) ●

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