

# VAT

## *Overturning a VAT penalty charge*

### Case study

Our case study relates to a business that was subject to a routine **HMRC VAT inspection** which uncovered a number of VAT reporting errors. HMRC raised an assessment and decided to apply a **penalty charge**.



**Gavin West**, Head of VAT and Indirect Taxes at Smith Cooper conducted a thorough **review** of the business's circumstances, helping justify to HMRC that the company had in fact taken **reasonable care** in respect of its VAT reporting processes.



HMRC's penalty regimes can be notoriously harsh, and equally complex to overturn, but following our intervention, HMRC decided to **reconsider** their decision, **suspending** the penalty charge, saving our client a considerable sum.



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Our client had been the subject of a routine HMRC VAT inspection, which uncovered several VAT reporting errors, deemed to be 'careless' by HMRC. As a result, HMRC imposed a penalty fine calculated at 30% of the VAT incorrectly recovered and not properly accounted for.

Although mistakes had evidently been made, it was our job to mitigate the penalty charge, which was arguably disproportionate given the nature of the errors.

## How we helped

Our analysis showed that the errors did not relate to a single accounting period but had instead occurred over a longer period of time. During this period, the business had undergone significant change, which included the amalgamation of two businesses, the implementation of a new accounting system, and a change in personnel within the accounts team. We presented our findings to HMRC which illustrated that these errors related to a particular set of circumstances, which meant the business was not able to conduct operations as usual, or as accurately as required. It was clear that the errors had not been repeated in more recent periods, which provided the business with a reasonable explanation as to why the errors were made.

Our specialist VAT team also prepared an aide memoire for the accounts team responsible for VAT reporting within the business, to provide staff with guidance for classifying the VAT treatment of income and the deductibility of VAT incurred on expenditure across the business. This enhanced existing reasonableness checks that had been implemented and provided HMRC with further evidence that the business was seeking to avoid any future VAT errors.

## The result

HMRC reconsidered their decision and replaced the penalty charge with a suspended penalty. Assuming that the business meets certain conditions associated with VAT compliance and avoids repeating the VAT errors over a six-month period, no penalty charge will apply.

Lesson learnt: If faced with a penalty charge, it's vital to analyse how, where and why mistakes were made. In this instance, HMRC realised the mistakes were made in honest error. It also shows just how important it is to ensure the correct VAT treatment of supplies, purchases and services, and that those responsible are up to date with VAT reporting models.



## GET IN TOUCH

Gavin West is Smith Cooper's Head of VAT and Indirect Taxes and has extensive experience dealing with VAT and other indirect tax issues from all perspectives. From compliance reporting and in-depth process reviews, to general consultancy and advice on transactions, Gavin and the wider VAT team provide bespoke services, tailored to meet individual requirements.