HMRC - VATREG25350 - Change Of EDR To A Later Date

You may receive requests from registered traders to amend their EDR to a later date than that already allocated when they realise that they need not have registered when they did.

In limited circumstances, we may permit a retrospective change to the EDR if there has been a genuine error in completing the VAT 1 by the person registering.

The VAT Act 1994, Schedule 1, paragraphs 5 & 6 and paragraphs 9 & 10 do not allow an EDR to be varied after a trader is registered. When the trader applied for registration, he had the opportunity to negotiate his EDR: the registration legislation does not allow this date to be changed retrospectively. Also, the trader should have charged VAT from his EDR and any change to the EDR will present difficulties with accounting procedures and may lead to the possibility of unjust enrichment.

However, our collection and management of the tax powers at Schedule 11(1) give us some leeway to agree to an EDR change request where it would be unreasonable for us not to do so.

The eligibility criteria which we would usually apply when we are considering a request to change an EDR are

the EDR given must, at the time of registration, have been a backdated EDR. In other words, at the time of application, the trader voluntarily applied for an earlier EDR

the trader must demonstrate that there was a genuine misunderstanding or error in completing the application form. That does not include an error of judgement, for example, he thought he would be in repayment but found in fact he was a payment trader

the request must be made before the due date of the first VAT return (that is, one month after the end of the first period), which must not have been rendered.

the trader must return the original VAT 4 certificate.

You are not expected to work on the mechanistic basis that every business which does not meet all four of the change eligibility criteria must automatically have its change request refused. You should consider each trader’s circumstances separately and think about how a First Tier Tribunal judge might regard those circumstances should the trader appeal against your decision to refuse the request.

The test of any decision is that it is reasonable and proportionate in all the circumstances of the case.

It is important that you:

look at each case on its own merits

take account of all the relevant factors

don’t allow irrelevant factors to prejudice your judgement

weigh the impact (if any) granting the request would have on overall tax yield against the impact refusing the request would have on the trader’s business.

You should keep a written record of every decision - this is particularly important where you have refused the request. This should include the factors you considered and any other relevant information that you took into account. Save the record to EF so that, if the trader appeals against your decision, your appeals team colleagues will be able to see how you reached it.

You should discuss cases of difficulty with your team leader. In cases of doubt, or where you feel that there is a need to do so, you should submit a Technical Advice Request (TAR) with full details and a reasoned recommendation to the VAT Advisory policy team.

Guidance about the process for submitting requests to the VAT Advisory policy team can be found in VPOLADV

Additionally, we may have to allow such requests if there has been an element of Departmental error. It is important to ensure that there are no doubts as to the EDR requested by the trader when processing VAT 1 applications. As outlined in VATREG25200, contact the trader if any information regarding the EDR needs clarification. The importance of this approach has been highlighted by the tribunal cases of AJ & AE Rowe t/a Arthurs (LON/95/423A), Simon Damels and Stuart Stevenson trading as Homeforce (LON/02/58), and Yee Mei Yeung (MAN/02/405) which the Department lost.

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