

Constable VAT Consultancy

VAT Focus 30 September 2012

CVC welcomes New Consultant

We are pleased to announce that CVC has appointed Ian Marrow as a Senior VAT Consultant. Ian spent 10 years as an officer and higher officer in HMRC. Since then he has worked for a variety of Big Four and mid tier firms. He enjoys the variety that VAT affords but has special interest in property, education and charity sectors.

Over the coming months you may have the opportunity to meet Ian personally, but in the meantime he will be happy to assist by phone on 01206 321029 or email at ian.marrow@ukvatadvice.com.

Trustees of Pensions Scheme – “Pyrrhic Victory”

A professional trustee company (“J”), acting as independent trustees for several pension schemes where the employer had become insolvent, sought to recover the VAT on professional fees in connection with their activities, even though the costs were met by the relevant fund. J argued that this VAT recovery would put the schemes in the position they would have been in had the employer remained solvent (as the VAT would have been incurred in the course of that employer’s business).

Whilst the Tribunal found that the VAT on the costs were recoverable by J it also ruled that the amounts paid out by the fund were consideration for an onward supply by J and subject to output tax, offsetting the input tax claim.

Adjacent buildings - ask the right questions

A couple operated a Bed & Breakfast business on which they accounted for VAT. They also owned an adjacent building containing studio flats some being leased to the local authority which they treated as exempt. In their submission the couple made reference to two calls made to the National Advice Service (NAS) which, in their view, confirmed this VAT treatment. However, after a VAT visit, HMRC issued an assessment for the VAT under declared on the studio flat supplies contending that the premises were a ‘hotel or similar establishment’.

The Tribunal agreed with HMRC that the whole premises should be treated as a “hotel or similar premises”. Whilst it appeared to sympathise with the couple the Tribunal noted that they “did not ask the right questions”. The Tribunal also found it significant in reaching its decision that it would not have been possible to sell the studio flats as residential units and that the premises were rated as non-domestic.

Income Tax = No VAT Penalty?

A sole proprietor became liable to register his business as a painter/decorator for VAT in January 2007 but failed to notify HMRC. In 2011 HMRC discovered this and imposed a belated notification penalty. The taxpayer appealed saying that as he had accounted for income tax on his total turnover, rather than his net of VAT turnover the penalty should be mitigated. The Tribunal agreed and mitigated it by 100%.

Partial Exemption Special Method

Since 2008 a self storage company had been in discussions with HMRC about the use of a special partial exemption method, which gave 99.98% recovery as opposed to the standard method’s 94%. The taxpayer was able to establish that the use to which they put their costs meant that the special method was fairer than the standard one and the tribunal allowed their appeal observing that the taxpayer ‘uses the goods and services supplied to it in connection with the construction, maintenance and operation of its stores almost exclusively for the purpose of making supplies of storage’.

HMRC Publications

Several of the “borderline anomalies” changes announced in the Budget come into force on **1 October 2012**. These include changes to the VAT liability of:

Sports Nutrition Drinks; self storage; hairdresser chair rentals; approved alterations to listed buildings and hot takeaway food. These have been summarised by HMRC in Revenue & Customs [Brief 27/12](#), which, also includes the changes to caravans although this occurs next April.

HMRC have announced the proposed withdrawal of the reduced rate on the installation of energy saving materials in buildings used for relevant charitable purposes in Revenue & Customs [Brief 26/12](#).

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Visit our [website](#) for current news updates. To discuss any of the above issues please contact us on 0207 830 9669 or email: info@ukvatadvice.com. You can also follow CVC on [Twitter](#)

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Thinking outside the box