



Tax Insights

Monthly VAT news – December 2015

Contradictory decision reached on “temporary staff” case

The long-awaited tribunal decision in the Adecco case has been announced, with potentially significant implications for organisations that use temporary workers such as charities, financial/insurance service providers, and those that are not VAT registered or cannot recover VAT on costs in full.

The judge determined that Adecco was providing temporary staff to clients in return for a fee (wages plus commission), and it must account for VAT on the full fee, as opposed to only accounting for VAT on the introductory services. On this basis, the judge rejected Adecco’s £11m claim for a refund of VAT overpaid on such services.

This decision contradicts the 2011 ruling in the Reed Employment case, with the judge admitting that she expects this outcome to be appealed, and for a higher authority to confirm the correct VAT treatment. In the meantime, affected businesses are encouraged to submit protective claims if they are yet to do so. Our Indirect Tax specialists are here to help.

Partial exemption changes for finance and insurance companies

HMRC has released business brief [22/2015](#) to clarify the partial exemption changes that will come into force from 1 January 2016. The changes have been introduced following the Court of Justice of the European Union (CJEU) ruling in the case of Le Credit Lyonnais.

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As a result of this case, partly-exempt businesses will need to exclude from their partial exemption calculations supplies made from establishments outside the UK, and those using a special method will need to be aware of the restrictions to sector-based special methods. Businesses will need to ensure they keep sufficient records, demonstrating that they are compliant with the new legislation.

HMRC anticipates that the changes will only affect a small number of businesses, since any recent special methods would have been approved in accordance with the new rules, but if you have any doubts on this, please contact our Indirect Tax and Financial Services teams.

Construction of sports pavilion fails to qualify as a zero-rated village hall

The Upper Tribunal has agreed with the First Tier Tribunal in the New Deer Community Association case. A sports pavilion was constructed by a charitable community association, with the latter seeking to treat the construction as zero-rated for VAT on the basis that it was to be used “for a relevant charitable purpose” (i.e. as a village hall or similar, providing social/recreational activities for a local community). The Upper Tribunal decided that the building was to be used primarily to provide changing room facilities and storage for sporting equipment, which did not meet the criteria, and as a result the construction was subject to VAT at 20%.

Not for profit organisations planning to carry out similar construction work should carefully consider the primary use of the new building, its design and its potential use in determining the VAT liability of the work. We can provide guidance in this area, if necessary.

Zero-rated certificates for charity’s listed building work declined

Charities and not for profit organisations should review their past zero-rated building projects, as they could face hefty VAT costs if their circumstances are similar to the registered charity, French Education Property Trust (FEPT).

The charity renovated a listed building in June 2010 and issued zero-rated certificates to contractors. The work would have qualified as zero-rated if the property had been intended to be used by the charity for non-business purposes (a provision which has since been repealed from 1 October 2012).

However, after FEPT renovated the property, it leased it to another charity, which in turn used it to operate a fee-paying college. Although FEPT received donations to help finance the property renovation, the Tribunal found that these sums of money were minor, and the overwhelming impression was that the college was a professionally run business. Consequently, the letting was considered to be an economic/business activity, so the building work had to be regarded as standard rated for VAT purposes.

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