



Tax Insights

Monthly VAT news and Budget summary March 2016

Outsourced insurance claims handling services are standard rated

The insurance industry in the UK could witness substantial changes to the VAT treatment of outsourced claims handling and settlement services following the Court of Justice of the European Union (CJEU) ruling in the Aspiro SA case (Aspiro), should HMRC decide to align UK legislation with EU law.

The court agreed with the Advocate General's Opinion that claims settlement services provided by a third party in the name of and on behalf of an insurance company, did not qualify as exempt under EU law. In order for the services to fall within the exemption for insurance intermediary services, two conditions had to be met. Firstly, the service provider (Aspiro) needed to have a relationship with both the insurer and the insured party. Secondly, Aspiro's activities must be linked to the essential aspects of the work of an insurance agent, such as finding prospective clients and introducing them to the insurer. Whilst Aspiro met the first test, it did not satisfy the second condition; therefore, Aspiro's activities could not be regarded as 'related services performed by insurance brokers and agents', and did not qualify as exempt from VAT.

Although HMRC has not yet confirmed any changes to the VAT legislation, it could face increasing pressure from the European Commission to address this issue; this could ultimately lead to additional costs for insurance companies. For further guidance on this matter, please contact our Indirect Tax Team, or our Financial Services Team.

Budget announcements

HMRC to tackle VAT evasion by overseas sellers using online marketplaces

The Government has announced various measures in the Budget aimed at tackling VAT evasion by overseas sellers who trade via online marketplaces, such as Amazon and Ebay. It is hoped the proposed changes will create a level playing field for all businesses.

Changes will be introduced enabling HMRC to direct an overseas business that should be registered for VAT in the UK, to appoint a VAT representative, with joint and several liability. HMRC will also have greater flexibility in when it can request some form of security. To strengthen this process, HMRC will be given new powers to make online marketplaces jointly and severally liable for the unpaid VAT of overseas businesses that sell goods in the UK via that online platform. If the overseas business is non-compliant with UK VAT rules, HMRC will issue the online platform with a notice, and it will have 30 days to either secure compliance of the business, or remove it from its online marketplace. If no such action is taken, the online platform will be held jointly and severally liable.

A due diligence scheme for fulfilment houses, where overseas businesses store their goods in the UK, will also be introduced from 2018. It will outline new standards of due diligence and record keeping, and introduce penalties for non-compliance. A consultation inviting views/opinions on the scheme has been launched, and businesses have until 30 June 2016 to comment.

If you are concerned about the changes, or would like further information on the proposals, our Indirect Tax Team can assist.

VAT refund scheme for museums and galleries to be widened

It was announced in the Budget that the eligibility criteria for the VAT refund scheme for museums and galleries will be widened to promote more free access to museums and galleries across the UK. This scheme was previously only available to national and university museums and galleries, allowing such bodies to recover VAT incurred on goods/services purchased in order to grant free access to their collections.

To qualify for the scheme, the museum or gallery must be open to the public for at least 30 hours a week, offer free entry (without prior appointment), hold the collections in a purpose-built building, and display opening hours and details of free entry on its website. The museum or gallery must also prove that it has Arts Council England Accredited status (or equivalent), be willing to provide visitor figures, and provide information on planned educational and community projects.

For further details on the scheme, please contact our Indirect Tax Team, or our Not for Profit Team.

Air Passenger Duty (APD) – rates set to increase and extension to the child exemption

The Government announced in the Budget that APD on Band B flights (ie. flights over 2,000 miles) will increase from 1 April 2017. The Band B reduced rate will increase to £75, the standard rate will increase to £150, and the higher rate will increase to £450.

As announced previously, from 1 March 2016, children under 16 are now exempt from APD when flying in the lowest class of travel. Airlines should ensure they have adjusted their systems to take this into account when declaring their APD.

Standard rate of IPT to increase

The Chancellor has confirmed that the standard rate of IPT is to increase from 9.5% to 10%. It will come into effect from 1 October 2016, except where insurers use a special accounting scheme. From 1 February 2017, the new rate will apply to all premiums, regardless of when the contract was entered into.

Thresholds for VAT registration and deregistration set to increase

It was announced in the Budget that the VAT registration threshold is to increase from £82,000 to £83,000 from 1 April 2016, and the VAT deregistration threshold will increase from £80,000 to £81,000.

Restriction to VAT recovery for holding companies carrying on a business to be reviewed by CJEU

Holding companies that actively manage their subsidiaries, in addition to carrying on taxable business activities, may be affected by a Hungarian case concerning MVM Magyar Villamos Művek Zrt (MVM) which has recently been referred to the CJEU.

MVM operated a power company, as well as managing several of its subsidiaries who were involved in the sale of electricity and grid management. MVM effectively performed its holding company duties free of charge. MVM, along with its subsidiaries, formed a group of companies, and MVM purchased various legal, business and advertising services on behalf of the group. MVM had purchased these services for its own taxable business activities, for the activities of the entire group, and for its holding company role. The company sought to recover this input VAT, but it was declined by the Hungarian tax authorities, on the basis that most of the services purchased were not directly attributable to MVM's own taxable business activities.

The CJEU is set to consider whether MVM qualifies as a taxable person for VAT purposes with regards to its holding company activities, and whether it is entitled to recover this VAT.

We recommend that holding companies across the EU carefully monitor their VAT position while we wait for the outcome of this case. Our Indirect Tax Team can offer assistance in this area, if required.

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