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VATease VAT Newsletter

November 2005

VAT has seen another relatively quiet month. There have been developments that will interest distance learning providers, funded pension scheme providers, charities, large retailers and betting shops / casinos.

Distance Learning Packages

A recent House of Lords decision will disappoint providers of distance learning courses. The College of Estate Management ran distance learning courses and had historically treated them as exempt from VAT as a supply of education. The College decided that the supply was in fact 2 supplies, one of education and one of zero-rated printed matter. This treatment allowed them to recover VAT on costs associated with the supply of printed matter and a percentage of their overheads.

The VAT Tribunal disagreed with the College, as did the High Court, but the Court of Appeal agreed. HM Revenue & Customs appealed to the House of Lords. The House of Lords overturned the Court of Appeal decision this month and ruled that the College had in fact made a single VAT exempt supply of education.

Purchasing Goods Online

HM Revenue & Customs have recently been alerting the public to the

VAT and Duty implications of purchasing goods online from outside of the EU.

If the total value of any package is more than £18 then VAT will have to be paid. If any Duty due is more than £7 then it too must be paid. Goods delivered by post have the VAT and Duty charged at the Customs Postal Depot and will not be released to customers until the Royal Mail has been paid.

Channel Islands tax loophole may be closed

We have covered in previous newsletters how large retailers are using the £18 limit for VAT and Duty free goods, as mentioned above, to undercut high street stores by retailing items such as CDs, DVDs and other goods from online stores based outside of the EU, usually in the Channel Islands.

HM Revenue & Customs, which is losing an estimated £200 million per year, has 2 possible options available to it. Firstly it could reduce the £18 limit to a value below that of the usual goods bought through these online sites. Secondly it could request dispensation from the EU to close the loophole completely, as the Danish Government has already been granted.

Funded Pension Schemes

In Business Brief 15/05, covered in our [September VAT Newsletter](#), HM Revenue & Customs announced that they were withdrawing the agreement that allowed employers to recover 30% of the VAT incurred on fund management charges. Initially due to take effect from 1 October 2005, the change was put back to 1 January 2006. HMRC have now announced that the change will be put off indefinitely. Employers can continue with current VAT recovery arrangements until a possible further announcement is made.

Charity Fundraising Activities

Also covered in our [September VAT Newsletter](#) was the outcome of an appeal regarding costs incurred by charities on its fundraising activities. HM Revenue & Customs have published its opinion of the appeal ruling and how it views the effect on charities' activities. Very briefly; where a charity incurs VAT on the cost of a fundraising activity and that activity is not a business activity in its own right, that VAT can be attributed to and apportioned in the ratio of the charity's whole activities. Again, the details of the ruling are complex and its

implications will be different for every charity. However, there is an opportunity to revisit costs incurred over the last 3 years and to ensure that VAT is recovered correctly.

HMRC's Policy on Email Correspondence

It is understood that HM Revenue & Customs has confirmed its policy regarding communication with taxpayers and their advisors by email.

HMRC is concerned that email is not a secure form of communication and, if it should send confidential information, it will not be meeting its requirements to protect the confidentiality of taxpayers. HMRC will send general, non-taxpayer specific information by email but, regardless of authorities given by taxpayers, will not send anything that may break confidentiality rules. If you require immediate communication with HMRC you should request documents to be sent by facsimile.

HMRC will continue to accept communication by email as this is sent at the sender's risk.

HMRC are trialling a secure form of online, shared workspace that Officers of Revenue & Customs and taxpayers or their advisors can access. This limited trial is currently restricted to former Inland Revenue Officers undertaking investigations in specific geographical areas but it is said to be going well.

HMRC strike back at High Street VAT Avoidance Schemes

Following its success in the "Debenhams Credit Card Handling Case" at the Court of Appeal, covered in our [August VAT Newsletter](#), HMRC are looking to strike back at those who implemented similar schemes, possibly leaving them worse off than if they hadn't implemented the schemes at all.

The schemes required those operating them to set up separate companies that were to provide card handling services to the shop's customers. These card handling companies were making exempt supplies and will not be able to recover VAT on any costs they incur. HMRC are likely to ensure that all costs proper to the card handling companies are correctly invoiced at appropriate values.

Meanwhile, Debenhams is requesting leave to appeal the Court of

Appeal's decision to the House of Lords. Further developments are also reported in the EU where we believe a new regulation may be introduced with effect from 1 January 2006. It states that where the total amount payable for goods or services remains unchanged, regardless of the method of payment, the amount of VAT due will not be affected if a card handling fee is charged.

Touch Bet / Fixed Odds Betting Machines

Touch Bet / Fixed Odds Betting machines allow users to gamble on a video roulette wheel using a machine very similar to a Fruit Machine. For Gaming Duty / Licence purposes these machines are treated similarly to Fruit Machines and are allowed within betting shops. For VAT purposes they are treated similarly to "hard gambling" and income is exempt from VAT.

There are rumours that The Chancellor may address this perceived imbalance in the next Budget by making income from these machines subject to VAT.

HMRC Fraud investigation procedures

HM Revenue & Customs have published details of its new, merged procedures for investigating serious tax fraud that will apply to all taxes collected by the Department.

There are 2 main changes of interest. Firstly, there will be just a single opportunity for the taxpayer to make a full disclosure of all undisclosed tax to obtain the maximum reduction of any penalties. Secondly, and probably most importantly, any disclosure will be expected to cover both Direct Tax and Indirect Tax underdeclarations at the same time.

The Guardian Newspaper reports on Carousel Fraud

VAT "carousel" or "missing trader" fraud has been in the news a lot of late. The Guardian [published an article last week](#) with an in depth look at 4 fraudsters, including a former member of pop group Living in a Box, convicted of perpetrating such a fraud. Sentences totalling 21 years were given.

HMRC officers looking for industry

secondments

HM Revenue & Customs are looking to increase the commercial awareness of some of their senior managers by placing them on short-term secondments in business. The scheme, referred to as the "Week in Business Scheme", will see officers identifying their own prospective targets but HMRC are welcoming volunteer businesses.

If you require further information please contact us on 0121 778 4299.

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