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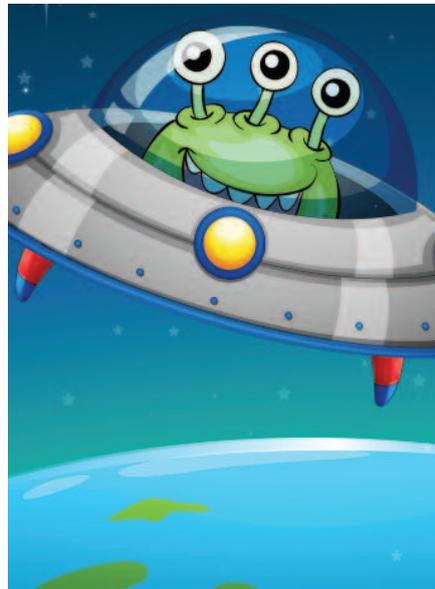
Bespoke VAT consultancy and advice

A look at the weird and wonderful in the world of VAT.

All VAT officers are aliens!

Although the above statement is clearly not true, it is certainly the case that I've heard more than one client ask the question "What planet are they on?" when talking about some of the decisions that have been made by VAT officers. I'm aware many accountants, and indeed other tax professionals, believe VAT to be very different to all other taxes and, from their perspective, a bit weird.

So in this document we take a somewhat irreverent look at some of more interesting aspects of VAT. We've also thrown in



some anecdotal stories from our time working for HM Customs and Excise.

Anthony Perrinott Lysberg Barber, who was Chancellor of the Exchequer when VAT was introduced said "VAT is a simple tax".

This statement may have been one of the funniest ever made about VAT. Hopefully, some of the contents of this document will at least make you smile. ■

Gill Yates
Associate, Head of VAT Services

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08458 502360

enquiries@vat-penalties.co.uk

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The bizarre and baffling world of VAT



Don't dress your gingerbread men, at least not in chocolate. No VAT is charged if the figure has two chocolate spots for its eyes, but any chocolate-based additions, such as buttons or a belt, mean VAT is payable.

The sale of a horse is standard rated. However, the sale of a dead one (for horse meat) is zero rated.

A downloaded purchase of the bible is standard rated while "saucy" top shelf magazines are VAT free.

From HMRC guidance - "For the purposes of establishing the place of supply of services, stallion nominations (the right to nominate a mare to be covered by a stallion in one breeding season) and the covering of mares is treated as 'work carried out on goods'".

Food for wild birds is zero rated while food for caged birds is at 20%.

Fancy That! Jaffa cakes are cakes, Pringles are crisps and Lucozade Sport is a beverage.



That's what the Tribunals have ruled over the years. So now we know.

Orange juice is zero rated. Lemon juice is zero rated. Mix them, and you have a standard rated product.

Peanuts in shells are zero rated, salted peanuts are standard rated.

If their shop is burgled, an owner should protect their takings, not their stock. No VAT would be due on goods that have been stolen, but if cash (which customers have paid for goods) is taken from the till, a VATable supply has still been made and VAT is due on it.

Sales of kangaroos are standard-rated but kangaroo steaks are zero-rated, yet both Ostriches and Ostrich meat are zero rated.

Sales of pets are standard rated. Rabbits are zero-rated, even if sold as pets.

The sales of counterfeit (illegal) goods are subject to 20% VAT, but the sale of



counterfeit banknotes are not.

There is a planning scheme called the golden brick but it doesn't matter what colour the brick is.

Ferret food has recently been ruled to be subject to 20% when it was VAT free from 1973.

Children's clothing trimmed with rabbit and gazelle fur (and even dog skin) is zero-rated but if it has Tibetan or Mongolian goat fur it is subject to VAT.

Tuition provided by a sole practitioner is exempt, but if the tutor incorporates then their supplies become standard-rated.

Under some VAT schemes, zero rated and exempt supplies are subject to VAT (and even some which are "Outside the scope of UK VAT").

Dog food for a poodle is subject to VAT but exactly the same food can be zero rated if it is for a labrador or a greyhound. ■

War Stories



Gill's earliest years in HM Customs and Excise were spent as a Customs Officer working at a dock. One of the funniest things that happened whilst she was working there occurred when a colleague of hers actually lost a ship! At that time, Customs officers had to board cargo vessels within a pre-determined time after their arrival, day and night. One night, one of her colleagues, let's call him Chris, was required to board a vessel at the other side of the dock from the office. He returned to the office much earlier than was expected, wearing a bemused look, and it was soon discovered why. It was a particularly foggy night and when he'd arrived at the berth in question he couldn't find the ship he was supposed to be boarding! When the following morning's shift arrived at work, Chris explained to them what had happened. He got the micky taken out of him thoroughly, especially when fellow officers "found" "the ship exactly where it was supposed to be.

In the good old days, HMRC Officers carried a paper copy of their Commission with them to show that they were legally entitled to take the action that they were taking against businesses. Whilst working as an Enforcement Officer for HMRC, David was once challenged by a business owner to demonstrate that he was entitled to seize his goods. David produced his Commission

which the taxpayer promptly seized, shredded into confetti and threw over David's head whilst telling him that he could place it where the sun doesn't shine! The taxpayer lost his goods.

When you are a VAT Inspector, you get used to businesses not exactly welcoming you with open arms. You know that you are an unwelcome intrusion into people's working day and that they will breathe a sigh of relief when you have left their premises. Even though Gill knew all of this, she was still surprised when she arrived at a plumber's premises for a pre-arranged visit and was told that there was nowhere for her to work. The owner informed her that the only place available for her to sit was on the loo. Undaunted and much to his evident horror, she took him up on the offer and was rewarded with finding several errors that she duly issued an assessment for.

The moral of the story is that it always pays to treat officers of HMRC with courtesy. Failure

to do this can render them particularly keen to go for the jugular!

A carpet fitter who had been avoiding paying VAT and tax for years eventually agreed to meet David and a colleague at his house to discuss his tax affairs. Having offered them a cup of tea, the game was up when he couldn't find the tea, sugar or cups! Turns out he had "borrowed" the small terraced house from a friend for the day so he wouldn't have to admit that he owned a substantial detached property in another part of town! ■



What the Tribunals have said

"It is not in dispute that the Appellant's products are prepared food. Nor is it in dispute that the products are normally eaten with the fingers. For current purposes, the Appellant accepts that the target age of the consumers is not definitive of the meaning of "normally", and that it is appropriate to disregard the age of the consumer. The tribunal was somewhat relieved to be told that, as from its own experience it was aware that the target consumers of these products – young children or toddlers – eat just about everything with their fingers. It had visions of having to include some kinds of fries, fish fingers, baked beans, jelly and a wide range of other foods within the definition of "confectionery" if read and applied literally."

Dr David Williams, Organix Brands PLC, (LON/2005/19134)

"This tribunal recalls that Dr Johnson once defined oats as a grain which in England is generally given to horses but which in Scotland supports the people. As we are here concerned with laxatives, and no doubt oats can fall into the bulk-forming category, the tribunal heeds the doctor's warning."

Brewhurst Health Food Supplies,
(LON/91/2488Z)

"Beyond the everyday world, both counsel have explained to us, lies the world of VAT, a kind of fiscal theme park in which the factual and legal realities are suspended or inverted."

Lord Justice Sedley, Royal & Sun Alliance Insurance Group Plc, Court of Appeal, 09 October 2001

Unexpected Tribunal Decisions



In 1993, it was only 27 years since England had won the World Cup, HM Customs and Excise was the Government department responsible for VAT and Pray, by Take That, was number one in the UK chart (quite appropriate since this is sometimes what taxpayers are reduced to). It was a momentous year for VAT since a clause in that year's Finance Act put an end to some of the more entertaining VAT tribunals. Since that time, a tribunal can only consider whether the decision under appeal was reasonable given the facts of the case. A tribunal cannot substitute its decision for

that of HMRC. In the paragraphs below, we take a nostalgic look back at some of our favourite decisions on such matters.

Probably our favourite is the ruling which stated that it was ok for a jazz musician to recover the VAT he incurred on the purchase of a wig. Apparently, he had always worn his hair long and he argued that appearing to have a full head of hair was an essential part of his image!

Running the above decision a close second is the ruling relating to a fur coat purchased by an authoress. She purchased the coat in order to wear it to attend meetings relating to a lucrative contract. She believed that it would impress those that she was meeting and thus boost her chances of winning the contract. The Tribunal accepted that the coat had been partly purchased for professional reasons and allowed her to recover some of the VAT she incurred.

Coming a commendable third, is the following decision. Customs issued an assessment to an actor in respect of input

tax he had recovered on the purchase of a mirror. He appealed to the Tribunal where he gave evidence that this was a special mirror installed for professional use so as to allow him to achieve the required appearance before going to work. He said that this was a mirror with special lighting. Clearly, for the Tribunal, and appearances were everything as they allowed his appeal.

Finally, an actor reclaimed the VAT he'd incurred on his health club membership. He stated that its facilities allowed him to achieve the physical fitness and confidence for a dynamic role that he was playing in *Howards Way*, a BBC series. The tribunal chairman may have been a *Howards Way* fan as they allowed his appeal. ■

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Contact your VAT Team:

Gill Yates gill@vat-penalties.co.uk
David Pegg david@vat-penalties.co.uk
Gareth Page gareth@vat-penalties.co.uk