

September 2007

Welcome to the inaugural edition of VAT wire, a bite sized approach to keep you up to date with developments in indirect tax.

Advisory Fuel Rates

New tables have been published. VAT invoices must be maintained for a valid claim and be aware that paying more than the advised amount may attract additional NIC/taxes.

Transfer of a Going Concern (TOGC)

A seller is required to pass records to the buyer, unless the seller has permission from HMRC to retain the records. Since 1 September 2007, the seller can retain records without permission, the exception being when the buyer retains the seller's VAT No.

School Fees Refund Scheme

Some fee paying schools operate an 'insurance' scheme where parents pay an additional fee which refunds partial fees should the child be absent. A recent tribunal has noted these charges are standard-rated and not exempt. If a school operates such a scheme, then it may need to consider the contractual structure of the offering to achieve exemption and to review historically any previous non-payment of VAT.

Compound Interest

The Lords recently determined that a company could claim compound rather than simple interest on historical payments of advanced corporation tax. The decision would also appear to apply to VAT. Any business that had a previous back-dated VAT claim and interest paid using the simple method should now seek further payment of interest. This will only likely benefit those who have either made or intend to make a large claim.

Tribunal Updates - MOT Fees and Flat Rate Scheme

Two garages which used a third-party to supply MOTs and passed this cost onto the client have been shown to be outside the scope of VAT (as MOTs are when provided by a registered MOT station). The other charges for arranging the MOT test were taxable; HMRC's contention being the whole amount should be taxable. All previous cases ruled that VAT was due on the whole amount unless the MOT fee and additional charge were shown separately on the invoice. Anyone that has previously been assessed for VAT or paid VAT on the whole amount should now consider submitting a claim.

A business registered for VAT in 2001 and in 2006 requested to use the Flat Rate Scheme with effect from April 2002. HMRC refused to back-date, but the tribunal found the HMRC had no power to do so, provided the business was eligible to use the scheme from the requested date.

Recent Successes for Cooper Parry

We have recently successfully challenged two assessments from HMRC for £500,000 and £350,000, both relating to land and property transactions. In one case HMRC only conceded defeat the day before the tribunal hearing. Businesses should not automatically accept that HMRC are correct when they raise an assessment. Even if it is correct there may be a way of recovering any assessed VAT.

VAT Training

We are holding training sessions in October 2007, offering an Introduction to VAT. The course is aimed at those that deal with, or manage, VAT paperwork or systems and is suitable for those new to VAT or as a refresher course. It is designed to provide an overview of the law, what is needed to ensure compliance and getting it right first time. It is also an opportunity to raise any specific VAT queries.

For further information on any of the above topics please speak to your usual contact or:

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