On my desk this week

Lucy Knighton discusses the tax treatment of horse liveries.

A client approached me recently with what they assumed was a simple question: what is the VAT treatment of horse liveries? If only there was a simple answer.

Horse liveries are a very complex area of VAT. Within the one livery yard there can be three different rates of VAT charged on a variety of liveries:

- Zero: Grass livery.
- Exempt: Supply of a stable with little additional services.
- Standard 20%: Supply of serviced liveries which can be part or full livery.


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So which is it?

Generally speaking, the question that has to be asked is what is the principal supply being offered and why has the livery customer come to your yard? If the principal supply is the stable then an exempt right of land applies and the livery can be exempt. If the services go beyond this then it is standard rated. Similarly, for a special purpose yard (eg showjumping), then the reason the customer has come to the yard is no longer the principal supply of the stable and VAT should be charged. Of course it is important to look at the individual cases but this gives a broad overview.

Where the equine operation provides riding lessons/riding school facility there is also what is known as 'working livery'. This is where the horse owner allows their horse to be used in the school for lessons for other customers. Matters are complicated in that nearly all yards have a different design and structure and a lot can be driven by the type of customers, customer demands, etc.

Therefore, working liveries are something extra to add to the complex VAT position as they can take many forms. The actual arrangements have to be analysed – what is the horse allowed to be used for in the riding school? What value does the use for lessons have? What livery services is the 'working element' being offset against? This will all affect the VAT charge. At one end of the spectrum is the owner who mainly needs the stable but mostly wants to look after the horse themselves. At the other end of the spectrum is a 'gold star' type full livery – so it is important to understand what the working element is being offset against to define livery status and VAT treatment. Forensic analysis will be required.

So I couldn't give my client an instant answer – but together we built up a picture which enabled me to give them enough guidance to decide on the appropriate VAT treatment.

What about other taxes?

Of course I couldn't just consider VAT alone. There is every possibility that the business will be sold for a housing development or other commercial venture as the land has already moved away from agriculture, so CGT compliance for rollover relief and BADR needs to be considered.

Likewise, the owner could die owning the land separately or as part of a farm operation so business property relief for IHT will be important, especially with the high value. Therefore knowing the level of services provided to understand whether the operation being carried out is a trade or investment activity is important. While many clients may want to minimise services to retain exempt VAT status, this can have a negative impact on the capital taxes. The key IHT case which gives guidance on livery definition is *CRC v the personal representatives of Maureen Vigne (deceased)* [2018] UKUT 0357, where the Upper Tribunal discussed the status 'enhanced livery' which falls between 'do it yourself' and part livery.

Any barter arrangements should be shown clearly in the accounts. The advantage of having the full income and costs shown is that it is more informative for commercial analysis and also an understanding of the nature of the business for capital taxes.

As with all tax planning, the work should be looked at in the round with analysis of what is happening in the business, what the commercial plans for the business are, trying to protect tax reliefs but being mindful of those that conflict. Good VAT planning is needed for business survival as the 20% VAT can be a negative for private clients.

IHT planning is needed so the business can pass to the next generation. Quite the task for the tax adviser.

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