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Livery and VAT

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There has been much written about VAT and liveries since the VAT Tribunal case of John Window v Commissioners of Customs and Excise (17186), and 2001's business brief (Customs and Excise Brief 21/01).

The basic interpretation by the equine industry was that all liveries are exempt. The understanding failed to emphasise the need for conditions to be met and the VAT status of special purpose yards. It also failed to point out that a genuine grass livery, where the grass livery is the predominant supply and any minor amount of services is ancillary, is actually zero-rated. Business brief 21/01 has now been withdrawn and guidance is given in HMRC's Notice 701/15 of December 2011 and VFOOD 3140.

Greater clarity (or greater confusion with the interaction of the previous guideline) is given with regard to special purpose yards. The essential point of the John Window Tribunal was that the supply of the stable was the main VAT supply. All the services could not have been provided without a stable. In a special purpose yard, such as dressage, eventing, show jumping, showing etc, if a horse owner and livery user has gone to the yard for that special purpose, (ie, not just a livery yard), then it cannot be argued that the stable is the principal supply. Therefore the overall supply is standard rated.

However, the exempt supply creates a lot of partial exemption problems, particularly for farmers who are perhaps diversifying with a few liveries. These farmers are not charging VAT on the livery because it is an exempt supply and therefore their VAT returns should reflect the partial exemption element of restriction on input VAT to be claimed.

The ability to be able to deal with livery as an exempt supply for VAT is very important for a large number of livery yards – a 20% increase in the livery charge would seriously impact on their profit margin as so many of their customers are private as opposed to businesses. It appears that very little protection work has been taken by the livery yards to make sure that the exempt status can be achieved. There should be a "licence to occupy" agreement included in the terms and conditions for the livery, and there should be clear evidence of a dedicated stable, for example the name of the horse or the customer on the stable, clearly showing that the principal supply is the supply of the stable.

It has always been that training, ie, racehorse training and the supply of livery and nomination when going to visit a stallion, has been standard rated. Many have misinterpreted the importance of the schooling and breaking side that was mentioned in the original business briefs. A lot of yards do supply special schooling of the horse in their part or full livery and this can become a very grey area.

Action Plan

The action plan for all livery yards is to review their VAT status. Are they charging the correct exempt supply and are the conditions in place that would help them through a VAT investigation? Is the zero rate being correctly charged and, again, is the standard rate being correctly charged if indeed the turnover is above the limit? If the yard is VAT registered is the partial exemption calculation being carried out correctly?

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