The indirect tax provisions are found in section 97, Finance Act 2001. There are two areas, in particular, where I believe a direct and indirect claim can be made. Under section 97, Finance Act 2001 dwellings (referred to as 'Single Household Dwellings') which have been empty or used for storage for at least three years before the supply in question is made, will attract 5 per cent VAT on any works of renovation and related materials supplied as part of the building services. Therefore, say we refurbish a 1960s terrace of shops with two floors of flats above which are empty, then the empty property rule can apply if any of the flats have been empty for three years (or used for storage for that period). This is because a flat is a single household dwelling as required by section 97(1), which is the empty homes renovation relief, as defined in section 97(2) as 'a dwelling that is designed for occupation by a single household' providing it satisfies the rest of the conditions in sub-paragraph (4) of that part of the law.

If instead we chop the block about so that a different number of flats is obtained, say by making all the flats smaller etc., then the changed number of dwellings rule may apply and again the reduced rate relief would be available.

This rule is in paragraph 10 of the insert to the VAT Act 1994 headed 'Interpretation of paragraph 1(6) "changed number of dwellings conversion"' which can be found in section 97 to the Finance Act 2001.

Contributed by Rebecca Benneyworth, lecturer and tax consultant

150. Betting duty goes early

The Treasury has announced that the existing levy on betting will now cease with effect from 6 October 2001 rather than January 2002. In a press release dated 13 July 2001 the Treasury states that:

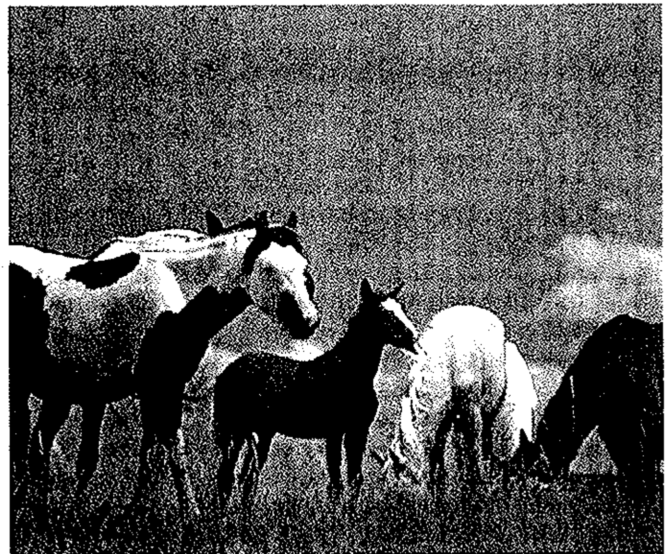
> 'Since the Budget announcement, rapid progress has been made both by the bookmakers in re-locating their off-shore operations to the UK and by Customs in preparing to switch to the new system. The Government has therefore decided to bring in the reforms to betting taxation a full three months early.'

The betting levy will be replaced with a tax on bookmakers' gross profits.

151. VAT on horse liveries

The VAT Tribunal case of John Window (17186) emphasised some important opportunities to save VAT on horse liveries. This could be of importance to horse owners, livery yards and farmers involved in diversification.

The Tribunal ruled that Mr Window was supplying a mixture of livery and stabling but found that, overall, there was a composite supply of services which was made up of the use of the stable as the main supply and varying degrees of care of horses as ancillary to that'.



The end result was that the whole supply was exempt as a supply of land, i.e. there was no need to charge VAT. Whilst it should be remembered that Tribunal cases are decided only upon individual facts of the case, Customs could appeal. However, this may be an area where there is scope for equestrian businesses and farmers to start to structure their affairs so that the livery is treated as an 'incidental' part of a supply of stabling. However, note that any livery provided independently of stabling remains standard rated.

Julie Butler, partner with Butler & Co, Alresford

152. Kingscrest and residential care

VAT planners who saw opportunities arising from the *Kingscrest Associates Limited & Montecello* (17244) VAT tribunal decision should proceed with caution. As strongly anticipated Customs have produced a Business Brief (number 10/01) which sets out their policy on the VAT liability of commercially supplied residential care, following this widely published decision.

The Tribunal decided that Kingscrest, a commercial body operating care homes for children, did not qualify for exemption and therefore would be subject to VAT at the standard rate. This meant that Kingscrest would then be able to reclaim input VAT on all overhead costs but the VAT charged to the local authority would not be a cost to the authority as they could reclaim it. This would, however, create difficulties for the provision of care to private clients who cannot reclaim VAT.

Customs are intending to appeal this decision to the High Court as they and the Government believe that residential care should not be subject to VAT. Customs have therefore said that until the appeal at the High Court has been heard, the VAT treatment of the residential care sector as a whole remains unchanged. Any residential care home that was properly exempting their supplies prior to the decision should therefore continue to do so. They also note that they are considering alternative means by which the VAT exemption for residential care can be maintained.

Contributed by The VAT Consultancy, Alresford