

Constable VAT Consultancy

VAT Focus 12 March 2012

Potential for VAT refunds on 'Photo-Books'

HMRC has issued Revenue & Customs Brief [04/12](#) following the recent case of Harrier LLC, which concluded that supplies of photo-books could be zero-rated in certain circumstances. Harrier provided customers with a photo book that comprised a number of photographs taken by the customer. Typically, the customer uploads photographs and other images of text, drawings etc on to a third party website. The customer chooses the particular photo book template and can arrange the layout of individual pages. Harrier claimed that the photo books were zero rated for VAT purposes as they fell within the definition of a book under the law.

HMRC now accept that a photo-book which is bound and possesses as a minimum, several pages and a cover stiffer than its pages, will qualify for zero-rating as a book if it is also designed to be read or looked at. Businesses who consider that the supplies they make are on 'all fours' with those of Harrier may be able to reclaim VAT incorrectly paid on these books. Please contact CVC to discuss if you have a potential claim.

VAT Tribunal decision in *Paymex Limited v HMRC*

On 20 September 2011 HMRC published guidance to deal with the implications of the *Paymex Limited* VAT Tribunal decision. HMRC has subsequently undertaken a review to provide certainty to the insolvency profession as to where the exemption applies. Following completion of this review, it is [HMRC's position](#) that the VAT exemption arising from the *Paymex* ruling applies to:

- Individual Voluntary Arrangements
- Company Voluntary Arrangements
- Partnership Voluntary Arrangements
- Protected Trust Deeds (applicable only in Scotland)

Insolvency practitioner services in all other insolvency processes remain liable for VAT at the standard rate.

E L Flood & Sons – Zero-rating of an approved alteration to a listed dwelling

E L Flood & Sons (EFL) were engaged by Alisa Properties Ltd, which was renovating a small Grade II listed building, comprising two flats, to re-plaster the ceilings in the bedrooms of the flats. At some time in the past the bedroom ceilings had been covered in plasterboard. When the building was empty prior to the renovation work commencing the ceilings had been damaged by water. The local authority required the original integrity of the listed building to be re-instated and insisted that the ceiling be created in its original form of laths and lime plaster. EFL were engaged because this work required specialists and could not have been undertaken by the main contractors.

The Appellant argued that there was an alteration which was approved, principally because the new ceiling was an inch lower than the previous one. HMRC contended that because the ceiling clearly needed 'repairing', it ceased to qualify as an approved alteration. The Tribunal accepted that the old ceiling had been damaged and that it needed repairing; however, whilst they did not dispute this, the alteration did not result from the need to repair the ceiling, but solely and simply from the planning authorities insistence that, at four or five times the cost, the original integrity of the building should be reinstated. The Tribunal therefore allowed the appeal.

VAT liability of caravan pitch rentals

HMRC has issued Revenue & Customs Brief [05/12](#) introducing new guidance on the VAT liability of caravan pitch rentals to reflect minor amendments that take effect from 1 March 2012. From this date, the criteria for treating pitch fees as exempt will be stricter to ensure that only residential pitches qualify for exemption. You should review the VAT liability of your supplies if you currently treat caravan pitch fees as exempt in any of the following circumstances:

- the pitches are provided for less than a year
- the pitches are subject to an occupation restriction which prevents them from being lived on at all times throughout the period for which the pitches are provided
- the pitches are on a holiday/leisure site.

Visit our [website](#) for current news updates. To discuss any of the above issues please contact us on 0207 830 9669 or email: info@ukvatadvice.com. You can also follow CVC on [Twitter](#)

This newsletter is intended as a general guide to current VAT issues and is not intended to be a comprehensive statement of the law. No liability is accepted for the opinions it contains or for any errors or omissions.

Thinking outside the box