Constable VAT Consultancy

VAT Focus 31 August 2012

CVC welcomes new Consultant

We are pleased to announce that CVC now has an additional member of staff working at consultant level. Robert Thorpe has joined us from Fisher Michael in Chelmsford. Robert joined HMRC as a VAT inspector in 2004, completing both their basic VAT officer training and the more advanced VAT Legal and Technical qualification. He then spent four years visiting a wide range of small and medium sized businesses gaining a valuable insight into HMRC's systems and approach.

In 2008 Robert left HMRC to become a VAT Manager with Fisher Michael before joining CVC on 20th August. Robert enjoys dealing with a wide range of clients and has a particular interest in construction and sports clubs.

Over the coming months you may have the opportunity to meet Robert personally, but in the meantime he will be happy to assist by phone on 01206 321029 or email at Robert.thorpe@ukvatadvice.com .

HMRC issues guidance of the Cost Sharing Exemption

Revenue and Customs Brief 23/12 announces the introduction into law of the provisions enacting the Cost Sharing Exemption.

The exemption applies when two or more organisations (whether businesses or otherwise) with exempt and/or non-business activities join together on a co-operative basis to form a separate, independent entity, to supply certain services at cost and exempt from VAT to member of the Cost Sharing Group (CSG).

The exemption applies to supplies of certain 'qualifying services' that are 'directly necessary' for the exempt and/or non-business supplies made by individual qualifying members of the CSG.

This brief and the associated guidance in VAT Information Sheet 07/12 will be of particular interest to organisations with VAT exempt activities.

VAT Tribunal considers treatment of funds received by charity

Hope in the Community (the Charity) is a registered charity. The Charity's aims and objectives are to provide support for faith and voluntary sector groups seeking to regenerate the communities in which they serve. This can involve providing consultancy services, which the Charity accepted were subject to VAT and other grant funded work, which it believed was not linked to a supply of services.

The Charity made several claims to HMRC in respect of VAT paid on income received. The Charity believed this VAT was not due because the income did not relate to a taxable supply, being grant income. HMRC queried the claims made and looked in detail at the projects involved. The Charity's view was that in these cases, although reports and feasibility studies may have been required to satisfy funders, the underlying project did not involve a taxable supply by the Charity. HMRC took the view that in the cases presented there was a 'high degree of imposition as to how the appellant may utilise the funds paid to it, both in the objective to be achieved and the method of performance' and that as a result of the requirements stipulated in the agreements there was a direct link between the funding received and the Charity's supplies.

The case is interesting as it considers the relevant case law and indicators for a taxable supply in detail and also highlights HMRC's thinking on this issue. The Tribunal judge considered 'whether the constituents of reciprocal performance were exchanged from which to determine a clear direct link between them' and concluded that there was a 'direct correlation between the services undertaken and the level of funding'. This appears, in the Tribunal's view, to go beyond the usual 'good housekeeping' conditions charities will be familiar with.

DIY claim allowed where s106 agreement limits use and disposal

Mr Simon Jones converted agricultural buildings into a dwelling with separate adjacent office. As part of the planning consent a s106 agreement provided that the office could not be occupied other than by the occupier of the dwelling and up to 3 employees and that the barn or office could not be leased or sold separately from each other.

HMRC disallowed Mr Jones' DIY house builders claim on the basis that these restrictions meant that the residential part did not qualify as a dwelling. However, the Tribunal disagreed as it did not consider that the s106 conditions required the office to be used at all and as such did not affect the use of the dwelling, which could be occupied or sold without any use or occupation of the office.

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Thinking outside the box