Current VAT property issues

Indirect Tax

01 August 2015

An update on the current property issues being addressed

Key Points

- The CIOT has been inputting into European Commission work on the place of supply of land-related services
- HMRC are examining various issues on what can be zero-rated as a dwelling

The Indirect Taxes Sub-Committee has been working on VAT issues relating to property. They include working with the European Commission on defining what are and are not ‘land-related services’. In addition, we are commenting to HMRC on various contentious issues relating to what is a dwelling.

The place of supply of land-related services

Changes to the Implementing Regulation introduce new rules on the place of supply of land-related services from 2017. We have participated in the drafting of explanatory notes that will be published by the European Commission. The notes will not be binding but should help harmonise the way in which different member states address the question of what is and is not a supply in their territory.

Several non-tax problems have emerged, which we suggest is a continuing issue with EU law: countries understandably use their own terminology, and that does not always translate well into English. Consequently, we have emphasised the need for any English (as well as any other language) version of guidance to be examined for usage before the guidance is issued.

HMRC to give its views on some problem areas

Readers may recall that we wrote to HMRC some time back about the meaning of the term ‘dwellings’, as used in legislation zero-rating certain work relating to them following the tribunal decisions in *Catchpole v R & C Comrs* [2012] UKFTT 309 (TC) and *HMRC v Fox* [2012] UKFTT 264 (TC). Both cases dealt with the question of whether a dwelling may comprise two separate but related buildings. HMRC have indicated that they now accept that in some circumstances zero-rating may apply and will issue guidance.
They are also looking at other issues relating to work carried out on existing buildings:

- What is a façade and when does its retention as part of a new building not prevent zero-rating of construction work done.
- What is permitted development? This question is important in deciding whether works involving the conversion of certain buildings into dwellings can be zero-rated.
- The treatment of annexes following the case of *Colchester v R & C Comrs* [2014] UKUT 0083 (TC).

We welcome the development of clearer policy, which is at least in part a result of work with HMRC by the CIOT and other bodies, both directly and through our representation on the Land and Property Liaison Group.