HMRC - FRS6400 - Anti-Avoidance Rules: Are There Any Circumstances In Which HMRC Can Allow Associated Businesses To Join Or Remain In The Scheme?

No. Any business that is associated with another cannot be accepted on to the scheme. Similarly, a business must leave the scheme if it becomes associated with another.

There is discretion under Regulation 55L(3) of VAT Regulations 1995 to allow small businesses to join the scheme where they have been associated with another person in the 24 months prior to application. This discretion is available only where the association has ceased prior to their scheme application. When using the discretion, bear in mind the policy objective of assisting small, stand-alone businesses. It will be appropriate where there is no evidence of an intention to avoid, the association is fortuitous and has a clear business rationale and there is no risk to the revenue.

The law provides for the exercise of the discretion “where the Commissioners are satisfied there is no risk to the revenue” and this puts the onus on any applicant to satisfy you that there is no risk. As with all discretions, however, it has to be used reasonably taking into account all the circumstances of the case and you should record the reason for your decision.

Previous page

Next page