HMRC - VATDSAG05150 - Disaggregation: The Law

The provisions in Schedule 1, paragraphs 1A and 2 of the VAT Act 1994 originate from Article 11 of the Principal VAT Directive.

Schedule 1,1A (2) requires that, in determining whether any separation is artificial, due regard is had to the extent to which the different persons concerned are closely bound to one another by

financial

economic, and

organisational

links.

Schedule 1, 2(2) lays down three conditions which must be met before we can issue a Notice of Direction to any person:

he is making or has made taxable supplies

those taxable supplies form part of wider activities carried on concurrently or previously (or both) with one or more other persons

the totality of the disaggregated activities gives rise to a liability to be VAT registered.

We are not required to prove that there was an intention to avoid VAT. We are required to prove that the artificial separation resulted in an avoidance of VAT.

Before you can ask the VAT Registration Service (VRS) to issue a Notice of Direction, you will need to be satisfied that all the criteria in the VAT Act 1994, Schedule 1, 1A and 2 are met.

You should consult (This content has been withheld because of exemptions in the Freedom of Information Act 2000) and (This content has been withheld because of exemptions in the Freedom of Information Act 2000) before you reach any conclusions.

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