HMRC - VATDSAG08050 - High Court And Above: Richard Burrell

Richard Burrell (QB [1997] STC 1413)

In this case the judge, Mr Justice Ognall, held as follows:

‘. . . I accept for this purpose the way in which the matter is expressed in the helpful skeleton argument on behalf of the Commissioners. They contend that insofar as it was asserted that two separate businesses were carried on respectively by (1) Partnership of father and son and (2) The son alone acting as a sole trader, the tribunal should examine the substance and reality and should only conclude that there are separate taxable entities if; (1) the so-called separate business [sic] are sufficiently at arms length each from the other and (2) the businesses have normal commercial relationships each with the other.’

Therefore, you can consider treating businesses as a single entity where

the ‘separation’ between two or more business activities is slightly blurred (in other words, some attempt has been made to separate the various business activities but they operate ‘hand-in-glove’ with each other)

the relationships between the businesses are not what you would expect from normal, independent but nevertheless associated trading entities

several business activities are operated from the same or adjoining premises but the existence of one guarantees or underpins the viability of the other.

The decision in Burrell is also applicable in cases where the trader has split the business on a ‘temporal’ basis (for example, Mr Jones runs the business from 06:00 until 15:00 and Mrs Jones runs it from 15:00 until 00:00).

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