HMRC - VATSC05210 - Business Assets Sold In Satisfaction Of A Debt

A creditor may arrange to sell goods belonging to his debtor in satisfaction of the debt. This sale in satisfaction of a debt is nonetheless a supply by the debtor because he or she retains the title to the goods, even though the creditor is making the sale. The person who does not own the goods, that is the creditor or a bailiff, merely has a power to sell. If the debtor is a taxable person, then VAT Act 1994 Schedule 4 paragraph 7 makes such a sale a deemed supply:

Where in the case of a business carried on by a taxable person, goods forming part of the assets of the business are, under any power exercisable by another person, sold by the other in or towards satisfaction of a debt owed by the taxable person, they shall be deemed to be supplied by the taxable person in the course or furtherance of his business.

Where appropriate therefore VAT is due on the supply. Regulation 27 of the VAT Regulations 1995 requires the auctioneer or other person selling the goods to account for the tax. This does not apply if the debtor is not a taxable person, or where the assets do not form part of the debtor’s business assets. Then the supply is outside the scope of the tax.

Goods may also be sold as a result of a lien held over them. A lien is right over another’s property to protect a debt charged on that property, for example accountants sometimes exercise a lien on a client’s books and records. In some industries, for example textiles, contracts provide for processors to hold a lien on the clients’ goods. If the debt is not discharged, they can exercise the lien on the goods, and sell the goods. They must then account for the tax on the goods.

The method of accounting for the tax in these cases is described in Notice 700 The VAT guide. Where goods sold in satisfaction of a debt are eligible for a second-hand margin scheme the seller may only use the scheme for entitled goods when evidence of the purchase price is held. (A written statement from the debtor may be acceptable where the invoice is not available).

This paragraph only applies if the creditor has the power in law to sell the goods. It does not apply for example to cases where the seller has illegally repossessed, that is stolen, the goods.

Next page