HMRC - VATSC23600 - Goods Which Are Business Assets On Hand At Deregistration

Schedule 4, paragraph 8 of the VAT Act 1994 deems a supply of goods to take place when a person ceases to be a taxable person and has goods on hand which form part of the business assets and on which input tax has been allowed. This is to prevent a deregistered person obtaining an unfair advantage over other unregistered persons by continuing to have the use of VAT-free goods. The goods would exist in circulation without any possibility of tax due on any final sale being received. Assets include those goods purchased where title has not yet passed to the taxable person but where input tax on the purchase has been allowed, for example goods on hire purchase (HP), lease purchase and goods subject to reservation of title clauses. Also included are goods manufactured by the taxable person where input tax has been allowed on the component parts of the finished article.

There is no deemed supply if:

the business is transferred as a going concern to another taxable person

the business is carried on after the death, bankruptcy or incapacitation of the taxable person, by a person who can be treated as a taxable person under Section 46(4) of the VAT Act 1994

the tax on the deemed supply would not be more than £1000, or

the person ceases to be a taxable person because he has joined the agricultural flat-rate scheme.

Output tax is also due in the following circumstances although there was no input tax to claim:

the goods were acquired as part of the assets of a business transferred as a going concern

the goods were acquired before VAT was introduced and were allowed a rebate of purchase tax or revenue duty under Section 4 of the Finance Act, 1973.

Both the above concern goods which would otherwise be in VAT-free circulation. The former refers to a situation where no VAT has been charged to the purchaser and the latter covers goods which would have had purchase tax or revenue duty rebated upon the introduction of VAT. The purchaser would not have had to pay tax at purchase which has the same effect as paying input tax and then reclaiming it.

Queries on assets at deregistration tend to arise where a trader has purchased land where the supply to him was exempt and holds the asset at the time of deregistration. These queries fall into three categories:

The trader has opted to tax the land after its original purchase. Because the supply to him was exempt no tax was charged on its purchase, so there was no input tax to claim. As the owner has claimed no input tax, there is no deemed supply, therefore no output tax is due.

The trader incurs input tax on improvements made to an existing building. As above, the land was purchased exempt, then the trader opted to tax. Even if he then recovered input tax on refurbishing a building on the land, as the asset purchased was the land, on which no input tax was claimed, there is, again, no deemed supply, and therefore no output tax due.

If a trader did reclaim input tax on the purchase of land (for example a fully taxable trader buying a new commercial property), and at the time of deregistration this sale would be exempt (that is, he has not opted and the building is now over 3 years old) the tax due on a supply of the land would be nil and so not exceed the £1000 limit. Therefore there will be no deemed supply in this instance. (If tax on other assets exceeds £1000, there will be an exempt supply of the land). If the land is a capital item, within the meaning of VAT Regulations 1995, regulation 113, then regulation 115(3) (b) requires an adjustment of the input tax originally claimed for each of the remaining intervals under the period of adjustment for the item. For further information see the PE- VAT Partial Exemption Guidance

Where a taxable person has standard-rated land or property on hand at the time of deregistration and the taxable person claimed input tax on the supply to him of that property, then the land or property is deemed to be supplied by him on deregistration. However this burden can be avoided by deferring cancellation of the trader’s registration until the property is sold. The trader will then be required to account for output tax on the actual sale of the property.

VAT Deductions and Financial Services Team recommend that such traders be allowed, if necessary, to defer the cancellation of their registration longer than the normal 6 months, until after the property is sold.

Previous page

Next page