HMRC - VATSC36300 - Disputes Involving Suits For Damages

In some cases legal disputes will arise when a party will sue another because of libel, slander, unauthorised use of trading title etc.

Any payment by the offending party in order to settle the issue is not generally consideration for any supply by the aggrieved party. However, it is possible that, as part of such a settlement, the suing party will grant the offender a right - for example, permission for future use of a trading title - in return for a payment. In that case, the payment is consideration for a supply for VAT purposes.

This is supported by the Tribunal decision in the case of Cooper Chasney Ltd (LON/89/1409Z).

In this case Cooper Chasney (CC) discovered that another company had been using its trading name and logo and that this was damaging its business. As a result, it began proceedings against the offending party but subsequently settled the matter by agreeing to abandon its rights to the name and logo in return for a payment of £30,000 from the offender.

The Tribunal found that this payment was more than damages for unauthorised use of the name/ logo. It was consideration for CC giving up its rights to these items and tax was due.

As a final point, there is no supply for VAT purposes simply because a party agrees to settle out of court.

Previous page

Next page