HMRC - VATSC49400 - Consideration - Issues To Bear In Mind When Considering Salary Sacrifice

Generally in the case of benefits provided to employees by their employers it is necessary first to establish the input tax position of the items before being concerned about whether consideration is paid by the staff for the benefits. It is unnecessary to worry about output tax if an item is non-business and no tax is recoverable in respect of it.

Salary sacrifice is not the same as deduction from salary. If a charge is made against a salary or wage and accordingly deducted from staff pay, such charge is consideration for any benefit an employer gives in return.

The salary sacrifice arrangements indicate there is no consideration paid for the benefits. However, this does not mean that no output tax is due in respect of staff benefits generally. In some cases there may be deemed supplies under Schedule 4 sections 5(1) and 5(4) of the VAT Act 1994 or the Supply of Services Order (SI 1993/1507). Further information on this is to be found in V1-13 Input Tax parts 5.20 - 5.24.6.

The VAT Deductions and Financial Services Team are reviewing their guidance about the circumstances where the Supply of Services Order applies. In particular you should contact them for advice before issuing any assessments for output tax where services are provided to employees for no consideration.

A Statutory Instrument (SI 1992/630) formally holds that an employer makes no supply of goods or services in respect of a right given to an employee to use a car privately where the employee has had the option to do so in lieu of a reduction in wages, salary or emoluments. At the time this involved a position where tax was blocked on employers’ purchase of cars but they were still liable to output tax because the opted salary sacrifice was believed to represent consideration. The SI might suggest that only salary sacrifice car schemes involve no consideration. However, the principles of the decision in the Co-op case (which came out about the time the SI was made) cannot be restricted to any particular items.

Previous page