HMRC - VATSC51970 - Grants: University Of Southampton

Court Reference: [2006] STC 1389

The university appealed against a refusal to allow input tax recovery on research undertaken which was publically funded. The Tribunal dismissed the appeal and the High Court confirmed this decision concluding the payment was not in respect of a business activity.

The publicly funded research was funded by grants from research councils, government departments or charities. The university also undertook commercial research funded by industry and commerce in the UK and also the European Commission, the US government and NATO. Some research projects had both private and public funding.

The majority of the decisions’ points were about entitlement to input tax recovery, but the factors considered relevant in deciding the payment was not consideration for a supply were:

evidence from the funders was that the payment was provided either with the aim of advancing knowledge or for the benefit of the community

whether there is an economic or business activity is a question of fact

in this case the research was not carried out with the aim of the funder acquiring exploitable Intellectual Property rights – grants were given on the understanding that the research would be published, but ‘there was no requirement or expectation that results of industrial or commercial value should be obtained’

there was no direct and immediate link between VAT incurred in respect of the publically funded research and any output transactions

therefore the research was not part of the university’s economic activities and was ‘completely distinct from its other business activities of education and commercial research and is not part of one single business’

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