HMRC - VATSC55600 - Consideration: The Newmir Case

In the case of Newmir plc (LON/92/900X) the two directors of Microlease, an established company, purchased Newmir to serve as a vehicle for purchasing all capital of Microlease. The directors prepared a detailed business plan for Microlease, mostly before the purchase of Newmir. Once the purchase of Newmir was complete, the business plan was sold to Newmir.

The directors, acting as directors of Newmir, contended the sale of the business plan together with the involvement of the directors in the running of Microlease constituted supplies of management services from Newmir to Microlease.

The Tribunal rejected this view. The two companies had common directors, and, using Polysar (ECJ case C 60/90) as a basis, the Tribunal decided that since the business plan was not prepared at the request of Microlease, its only function was to set out the long term strategy of Microlease as decided by Newmir, the holding company. Therefore the implementation of the strategy was not a taxable supply by Newmir to Microlease.

In addition, Newmir could not be supplying staff as the only functions carried out by the directors were the same as those functions carried out by the same directors on behalf of Microlease.

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