HMRC - VATSC59200 - Ex Gratia Payments

Ex gratia means payment ‘as a favour’. It could be from a customer to a supplier, or vice versa and may be made to cover unexpected costs or as a goodwill gesture, for example in a complaint situation. It will be outside the scope of VAT provided

the amount is clearly additional to the price of any supply,

there is no obligation to make the payment, and

the supply will be made even if the payment is not given.

Where the payment is an additional charge under any agreement, the payment will be further consideration for that supply and so will follow the same liability. The Tribunal decision in Edenroc Limited (LON/88/1047X) illustrates a possible situation.

Edenroc

Edenroc entered into a contract to have one of its properties refurbished. Delays occurred that increased the costs of the contractor’s supply and a dispute also arose about the quality of some of the work. An arbitrator settled the dispute out of court and Edenroc was ordered to pay an additional amount in settlement.

It was argued that the additional sum was ex gratia and so outside the scope of VAT. However, the Tribunal ruled that it was further consideration for the supply and so was taxable.

Previous page

Next page