HMRC - VATSC72000 - The General Rule

Possession is transferred when the use of goods is given to another party, for example when goods are hired. After an agreed period, the goods will be returned to the owner, who has retained title to the goods during the period of use.

In Creditgrade (see VATSC70400) after considering the transfer of the whole title in the machines, the tribunal then looked at the question of whether possession had passed. The chairman referred to the case of TAs Stage ((1988) STC 436) and the definition from the Oliver case. He considered that in the case of Creditgrade the immediate facility for use of the goods remained with Creditgrade. The recipient had no right of access to the machines, no interest in having the use of them and no power to use or control their use. Thus, there had been no transfer of possession.

Where there are doubts about whether possession has been transferred, you should consider the following:

who has control over the goods

the wording of any agreement/contract

the intention of the parties

who carries the risk for the goods.

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