HMRC - VATSC72200 - Customer’S Own Gold Transactions

It is the practice for some jewellers to accept gold jewellery from a customer before supplying a new gold article. The charge for the new item is based on only the additional quantity of gold plus a fashioning charge. There are two possible supply positions in these cases, a barter of goods or a supply of services of refashioning a customer’s goods.

There have now been three cases on this area all providing differing results.

Sharuna

In Sharuna Jewellers (1979) VATTR 14 the Tribunal found that the gold used to make the new item was the same gold contained in the item the customer had brought in. Title to the old item had not passed to the jeweller. VAT was therefore correctly accounted for upon the labour charge and the additional gold.

Babber

In Harish Roy Babber t/a Ram Parkash Sunderdass (LON/89/341) it was found that there had been a barter of the customer’s old jewellery for the new. The customer’s gold was melted down and put into a general “pot” from which the new item was made. The customer did not receive the same gold back that had been put in. Title to the original item had therefore passed to the jeweller. As a barter transaction tax was due on the full value of the new item.

Sai Jewellers

In Sai Jewellers - CO/3062/94 and CO/3085/94 the facts as to how the business operated, and whether the customer’s gold was kept separated from the general stock, were not clear, with both parties maintaining opposing positions. As a result of this the tribunal imposed its own test to establish what had been agreed between the jeweller and the customer. The test was based on whether the new item contained 25% more gold than the old one: if it did the arrangement was barter; if not the original item was being refashioned. Where the new item was of a different cartage the agreements were for barter. This decision was appealed to the High Court by both parties. However, both appeals were dismissed and the Tribunal decision was upheld. While this case does not alter any of the principles established in Sharuna and Babber it does demonstrate the need to establish exactly what the trading practices are.

Conclusion

These three cases demonstrate that it is vital to establish exactly how the jeweller operates in order to ascertain the correct VAT position. If it can be established that the jeweller keeps the gold brought in by the customer separate from the rest of his stock and that this gold is then used to make up the new piece of jewellery, there is no barter of goods. VAT is therefore due on the refashioning charge and the additional gold only. Alternatively if the jeweller has no method of keeping the customer’s gold separate from the rest of his stock then there has been a barter of goods, the old item acting as part of the consideration for the new item.

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