HMRC - VATSC81100 - HMRC’S Approach

As explained in VATSC80400, there is now a weight of case law where - when applying the tests in CPP and in Levob to the facts of a particular case - the courts have concluded that there was a single supply. However, in the following four types of situation the courts have held that there were multiple supplies:

(i) There is more than one supplier.

(ii) The view of a typical consumer is that they are buying two or more distinct and independent supplies.

(iii) The terms of the contract and ‘economic reality’

(iv) The intention of the legislation.

There is no single decisive factor, but a significant feature common to all cases is whether an arrangement is artificial, either to split out elements into multiple supplies or bundle them together into a single supply.

All four indicators should be considered in all cases and the individual circumstances will dictate which of them will be of the most importance. They are not presented in order of importance; whether an indicator will be relevant will depend upon the precise circumstances of the transaction.

The majority of examples quoted in each section in support of the indicators are from court decisions ruling there were multiple supplies and so these factors are considered as a positive indicator ie they are present in the circumstances considered by the court as opposed to single supply indicators not being present. The quotes used as evidence for each indicator are there solely to illustrate the point being made, but if you need to use these examples further you must read the whole judgement rather than simply repeat these quotes out of context.

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