HMRC - VATSC95500 - Direction Of Supplies: Receivers, Liquidators And Other Insolvency Practitioners: Introduction

Business Brief 20/93 indicated that Customs and Excise were prepared to see lenders as agents of the borrower in arranging the sale of repossessed property, and hence allow them to claim bad debt relief (BDR), where appropriate, on the VAT incurred on selling costs. However, Customs and Excise subsequently became aware that the order of attribution of the proceeds of sale under s105 of the Law of Property Act 1925 might override the Bad Debt Relief Regulations. This is because under s105 the proceeds of sale are allocated first to costs such as those incurred in selling the property, which threw some considerable doubt over whether a bad debt was created on which relief could be claimed.

Doubts arose also about the status of lenders as agents and there was concern that some claims had included costs which went beyond the terms of the Business Brief. Customs and Excise therefore issued a further Business Brief 5/94 suspending the processing of claims, until such time as they could take legal advice and examine more fully the issues involved

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