HMRC - VATSC95600 - Direction Of Supplies: Receivers, Liquidators And Other Insolvency Practitioners: Current Position

Having taken Counsel’s advice, HMRC are of the view that there is a good argument that in arranging the sale of repossessed property, mortgagees act under rights conferred by the mortgage agreement, and not as agents of the borrower. However, HMRC believe they can rely on the wider interpretation of “agent” contained in the Principal VAT Directive in maintaining their current view on agency. They face more difficulty with s105 of the Law of Property Act, as it may override the order of attribution in the BDR Regulations, but again the matter is not free from doubt.

In the circumstances, HMRC believe that the finely balanced nature of the legal advice allows some freedom of choice and they re introduced a form of easement.

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