HMRC - VATSC99200 - Illegal Supplies: Non-Existent Goods

A supply of goods is made only when they are passed to someone. For a supply to take place, the goods must exist. Therefore where goods do not exist and do not later come into existence, no supply occurs: no output tax is chargeable and no input tax is claimable.

The tribunal case of P Howard (LON/80/457) made it clear that:

If the goods comprised in the agreement between two taxable persons do not exist at the date of that agreement, and do not exist at the time when the agreement provides for their transfer, no supply takes place upon which any tax is chargeable unless the goods later come into existence and the agreement then becomes operative.

The same line was followed in:

Theotrue Holdings Ltd ((1983) VATTR 88)

Mary Sibbald Munn ((1989) VATTR 11).

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