HMRC - VATSC99500 - Illegal Supplies: Operation Of VAT Relief For Goods Obtained By Fraud

When a supplier is defrauded of goods, output tax may be adjusted in cases where the police are satisfied that a fraud has taken place, or where the fraudster has been convicted.

Authorisation

Traders must get authorisation before adjusting their accounts, and adjustment is specifically to the VAT account. Credit notes must not be used. The procedure is as follows:

The trader must apply to their local office enclosing:

\* evidence of fraud (see below), and \* a copy of the invoice.

The local office must carry out the following procedure:

\* check the evidence and authorise the adjustment \* check whether the invoice is a tax invoice and whether the fraudster is registered, and if so send the invoice to the fraudster’s local office \* note the trader’s folder with details of the adjustment.

The fraudster’s local office must check whether input tax has been deducted and, if so, issue an assessment.

Evidence

You should see:

evidence that the trader has been victim of the fraud proved in the courts or, where the fraudster goes missing, you should check with the police that they are satisfied that a fraud has actually taken place

evidence that the trader has made a statement to the police for use in the prosecution

a verifiable description of the goods involved.

Suitable evidence might take the form of police letters and press reports describing the injured party and the goods.

Part payments

If a fraudster is convicted, any part payment made in the course of the fraud (for example by paying some cash and the balance by fraudulent cheque) cannot be the consideration for a supply and is outside the scope of the tax. If the fraudster is ordered to make restitution, that is compensation and outside the scope of the tax.

But if the trader pursues the customer for payment and is paid there is a supply and not a fraud. If payment is made after conviction and output tax has been adjusted, there is a new contract or agreement and any supply would have to be considered on its own merits.

Decision chart

The Fraud Relief Flowchart sets out the process for deciding whether or not tax is due. Alternatively, you may find it easier to follow this step-by-step guide.

Action when trader sends evidence of fraud to his local office

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