

VAT Agenda

VAT Claim Opportunity on Royal Mail charges!

Background

EU law provides a mandatory exemption from VAT for supplies of postal services made by the public postal services'. In the UK, the application of this provision is limited to Royal Mail and covers all of Royal Mail's postal services. All other postal operators are required to charge VAT at the standard rate on their services.

Following a legal challenge to the scope of the exemption as applied in the UK, the European Court of Justice (ECJ), in the case of TNT Post UK Ltd, has confirmed that Royal Mail, as the operator providing the public postal service, is the only postal body in the UK eligible to exempt postal services from VAT. However, it has also ruled that exemption applies to the public postal services (that is, Royal Mail) acting as such and does not apply to supplies made by Royal Mail for which the terms have been individually negotiated.

As a result, some postal services as supplied by Royal Mail – those which are individually negotiated or not subject to any price and regulatory control – which have been treated as exempt, will become liable to VAT.

Potential Claim opportunity

It is HMRC's view that all postal services provided by Royal Mail remain exempt from VAT until a future date. HMRC have stated that this will be with effect from 31 January 2011.

However, it is our view that businesses are due a refund of input tax which is 'embedded' in charges made by Royal Mail for services which it has incorrectly treated as exempt.

HMRC also appear to be trying to apply a very narrow definition to the types of services impacted, which is not supported in law.

We believe that there is potential to submit claims retrospectively as far as 1973. You will appreciate that this represents a significant potential for reclaim. We are urging our clients to consider submitting a protective claim for the period.

Please do not hesitate to contact us if you would like to discuss this opportunity in further detail.

Elysian Associates
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