

## **How many £85,000s do I get? (Lecture B1385 – 22.49 minutes)**

The £85,000 limit applies to each person: a sole trader, a partnership or a limited company. So if a VAT registered sole trader was looking to buy a furnished holiday let (FHL) it would be unwise to buy it in their sole name. Income from FHLs is taxable and any taxable income that person has would fall under their sole trader VAT registration. VAT would need to be charged on their FHL income.

The client would be better advised to buy the FHL in joint names with their spouse. This would then be a partnership for VAT purposes and a fresh £85k limit would be at the partnership's disposal. No VAT would need to be charged on the partnership's FHL income until the partnership breached the £85,000 limit.

If the VAT registered sole trader was then considering buying a residential buy to let (exempt income) we would be advising the client to buy that property in their sole name. This would make the sole trader partially exempt but this would facilitate input tax recovery of up to £7,500 pa on their residential buy to let costs under the partial exemption de-minimis rules. VAT on repair costs, agent's fees, furniture etc would then become recoverable providing the total input tax on the buy to let costs were no more than £7,500 per VAT year and the sole trader turnover exceeded the rental income.

The trader would need to manage their costs on their buy to let as exceeding the £7,500 by £1 or more would mean £nil recover on the buy to let for that VAT year. VAT years are 31 March, 30 April or 31 May depending on their VAT stagger i.e. VAT quarters. It would be wise to spread a major refurbishment over two VAT years to maximise recovery i.e. keeping both years below £7,500. So if we assume the sole trader has a residential buy to let in their name and an FHL in joint names what would your advice be if he wanted to buy a second buy to let?

It would not be advisable to buy the third property in their sole name as that might jeopardise the input recovery on the first buy to let i.e. only one £7,500 de-minimis limit per person. Ideally the property should be bought in joint names so if the FHL ever breached the £85,000 limit it would open up input tax recovery on the buy to let as the partnership would have their own £7,500 de-minimis limit.

It should also be noted that partnerships with different partners are treated as different persons from a VAT perspective. So, a partnership of Mr and Mrs A and a second partnership of Mr A, Mrs A and Mr B would be two separate persons from a VAT perspective i.e. each would get their own £85k registration limit. It does not matter if Mr A and Mrs A have the controlling interest in the second partnership – the key issue is that the partnerships are not identical in terms of named partners.

If a client had two companies, then they would be two separate persons from a VAT perspective. Common control is irrelevant.

### *Aggregation*

HMRC have the power to join (aggregate) businesses ("persons") together where they believe one business has been artificially separated so as to avoid one or more VAT registrations.

HMRC will look at the economic, financial and organisational links to determine whether a direction is needed. It should be noted that aggregation directions are only valid from the day they are issued i.e. they cannot be backdated.

So if the operator of a local laundrette formed three companies to operate their three laundrettes we may have an issue. Especially if the public perceived them to be one and the same e.g. same/similar names.

Aggregation directions are often sought in husband and wife situations e.g. sole trader hairdressers working from home (albeit different parts of the home) or a pub where one spouse trades as a sole trader for the wet sales and the other spouse trades as a sole trader for the food. The wet sale spouse is VAT registered, while the catering spouse is not.

*Contributed by Dean Wootten*