

Mixed and composite supplies

(Lecture B1064 – 21.30 minutes)

Introduction

Questions often arise as to the VAT treatment of supplies that contain more than one element where each element would have a different VAT rating.

Should they be treated as a single supply of the main element (a 'composite' supply - with the other elements treated as part of that supply) or should a different rate be applied to each element ('mixed' supplies)?

There are no definitions in the VAT legislation of composite and mixed supplies so we need to consider the findings of relevant cases that have been decided.

Leading cases

There are two important cases which act as precedents for current issues arising.

Card Protection Plan

This case produced three key findings:

1. Supplies which are genuinely separate should not be artificially combined
2. A genuinely single supply should not be artificially split
3. It is instructive to look at what the customer thinks they are receiving

In this case the supply of insurance against losses incurred on stolen cards card other documents was the main supply. Card and key replacement services were ancillary to the main supply so were included in the exempt supply of insurance.

Ancillary means 'something that does not constitute for customers an aim in itself but is a means of better enjoying the principal service supplied'.

Levob (Dutch case)

This case included the finding that there is a single supply where two or more elements are so closely linked as to form, from an objective point of view, 'a single, indivisible economic supply which it would be artificial to split'.

The case involved the supply of off-the-shelf software plus customisation services of that software that the court decided was a single supply.

Some cases relying on the leading cases

Purple Parking/Airparks

A courtesy bus service from an off-site car park to an airport is ancillary to the main supply of parking (so the whole supply is standard-rated).

The Honourable Society of Middle Temple

The lease of land together with a supply of water is a single, indivisible supply.

Courts Furniture Stores

Insurance sold on new goods against defects is ancillary to the sale of goods so single supply of standard-rated furniture. If the insurance was sold by another entity, this would be a separate supply unless HMRC could prove 'abuse'.

Goals Soccer Centres

The supply of league management services was found to be separate to the hire of the pitches.

EE

A credit charge for paying by card or cheque is ancillary to the supply of telephony so standard-rated. A customer does not think they are buying separate services when they receive their bill.

Factors where cases decided as multiple supplies

There is more than one supplier

But there are anti-avoidance rules for printed matter following Telewest case, even if supplied by another supplier where the printed matter is an integral part of the goods or services supplied

View of a typical consumer is they are buying two or more distinct/ independent supplies

- Leightons Opticians – dispensing services and sale of spectacles are separate;
- Natwest Bank – supply of personalised cheques were separate to banking services.

The terms of the contract and 'economic reality' indicate more than one supply

- Durham River Trips Limited - supply of zero-rated travel separate to meals which were optional;
- The Village Surgery Limited – the contract stated clearly chattels not included in sale of the building;
- Weight Watchers (UK) Limited – 'makes no sense from an economic point of view to pay (be charged) separately for the meetings and the publications' – single supply.

The intention of the legislation

Just because items are listed separately on an invoice does not mean it is a mixed supply.

Cases where decided there was a single supply

British Airways

- In-flight catering included in the ticket price was ancillary to main supply of air travel
- If sold separately, meals would be standard-rated

British Telecommunications plc

- Supply of delivery services by a car manufacturer ancillary to supply of a car, so input VAT blocked
- BT could have gone to the factory and collected the car but chose to have the manufacturer deliver it

Dr Beynon

- Injection of a zero-rated drug into a patient is a single supply of exempt healthcare

College of Estate Management

- Supply of printed manuals as part of an exempt supply of education was not a separate supply from an economic point of view – single supply of education

Supplies involving exempt, zero-rated and reduced-rated supplies

Exempt, zero-rated and reduced-rated supplies are derogations from the EU. Member states cannot extend them and so it is not possible to compound what would otherwise be a standard-rated supply into a zero-rated, exempt or reduced-rated supply if this has the effect of extending the reduced rating to items not permitted by the derogation.

The leading UK case on this is Talacre Beach Caravans. Talacre supplied non-mobile residential caravans including contents. It treated this as single supply of zero-rated accommodation to its customers.

HMRC argued that there were separate supplies of accommodation (zero) and contents (standard) as the items were physically and economically separable.

The ECJ effectively ruled that it was a single supply by Talacre but because the UK cannot extend zero-rating of new dwellings to contents, that element had to be standard-rated.

Linked goods concession

HMRC operates a concession where minor promotional items are supplied in a linked supplies scheme.

Where the minor article costs the supplier no more than 20% of total cost of the combined supply and the cost to the supplier is not more than £1 if included with goods

intended for retail sale or £5 otherwise, the supply is treated as a single supply of the main goods or service.

Examples include a book with an accompanying DVD which can be used independently of the book, and a children's colouring book issued with felt tip pens, where the pens are not restricted in use to the book they are sold with.

Two-part tariff

A two-part tariff arises where two or more payments involving apparently different transactions are made at different times but amount to the purchase of a single supply.

An example is a Student Railcard. The student pays for the railcard first then later pays for tickets at a reduced price. This is treated as single supply of rail travel so the supply of the Railcard is zero-rated.

Contributed by Malcolm Greenbaum