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**Our ref**

**DX**

**Your ref**

Dear Mr Lordan

### Direct Marketing Supply Issues

I refer to your letter in respect of the VAT implications of certain arrangements involving supplies of direct mail when supplied with postal services and apologise for the delay in responding. I hope that this letter helps to clarify HMRC's approach to the VAT liability of direct marketing campaigns which involve postal supplies.

In your letter you ask for confirmation of HMRC's position in relation to what you term as "single source contracts" and say that you regard these as a single composite supply of goods.

Where two or more elements are being supplied, the VAT liability of supplies will depend on an analysis of the essential features of what is being supplied and the circumstances under which the supply is made in order to determine the *nature* of the supplies being made.

The supply of printed matter by itself can be zero-rated but once other services are included in the supply, it is essential to consider the precise details to ascertain whether a typical customer is being provided with a single supply, or with more than one distinct principal supply.

HMRC's position on single and multiple supplies was set out in Business Brief 02/2001, issued on 16 February 2001, which explained the European Court of Justice (ECJ) and the House of Lords decisions in the case of Card Protection Plan (CPP). These decisions affect the way in which businesses are required to decide whether they are making single or multiple supplies for VAT purposes. HMRC published further guidance on how to decide whether a supply is a single or multiple supply in VAT Information Sheet 02/01, published in July 2001. Updated guidance, taking into account more recent precedent case law, will be published later this year.

In some situations where there are different elements to a supply, one aspect can be regarded as ancillary to another if it is not essential to the main aim of the supply. This means the VAT liability is determined by the predominant characteristic and any ancillary supplies follow this liability.

Where other services such as postage services are provided in addition to the production of printed matter, HMRC does not view these additional services as ancillary to the supply of printed matter. Our policy in this area is set out in paragraph 3 Notice 700/24; if the postal services do not fulfil the criteria for disbursements, the supplies form part of the supply of direct mailing and the supply is standard-rated. These additional services cannot simply follow the zero-rating of printed matter as this would illegally extend the narrow interpretation of the zero rate.

The production of printed matter can only be zero-rated when it is supplied in isolation and qualifies for zero-rating in its own right. When other services are provided by a printer, or direct marketing business, the nature of the supply changes to one of providing a marketing service.

If a supplier is required to analyse or organise customers' details or is responsible for posting or distributing the marketing packs or leaflets in addition to printing the material themselves this is not simply a zero-rated supply of printed matter. Services such as these are not ancillary because they are essential to the distribution of the printed matter and so cannot be disregarded. The overall supply is properly regarded as one of marketing rather than a supply of printed matter with ancillary supplies.

I thought that it may be of assistance to set out some practical examples for you.

1) A business simply produces a direct marketing pack and sends it to their client without any other service being provided

The supply of the pack is of printed goods and can be zero-rated if the conditions for zero-rating are met (see Notice 701/10).

2) A business produces a direct marketing pack and is also responsible for arranging postage

If postal services are provided in addition to the printed matter itself then the supply is not a composite supply of goods to your customer, as you suggest in your letter, but is a supply of services as the "goods" are sent direct to the recipient rather than your customer. Even if the supply consists of different elements such as printed matter and postage, one element is not ancillary to another because they are both essential to the overall aim of the contract.

For example, the function of the direct marketing campaign is to send out the promotional material so the postage element is at least as important as the printed matter element. This is the reason that the postage is not ancillary to the printed matter because the nature of the supply has changed and so it cannot take the same VAT liability. As this supply does not fall within the zero or reduced rate, the whole supply must be taxed at the standard rate of VAT.

3) A business produces the printed pack. Its client provides a list of names and the marketing company pays postage costs on behalf of the client.

The supply of the printed material is a supply of goods.

The payment by the client to the direct marketing company in respect of the postage recharge is outside the scope of VAT as it is a disbursement providing all the following conditions are met:

- the contract for postage is between the client and the postage provider, not the direct marketing company and the postage provider
- the direct marketing company pays the postage fee on the client's behalf and does not receive a supply of postage for its own business
- the recharged fee is the exact amount paid by the direct marketing company
- the direct marketing company does not need to organise the names and addresses

The reason for the supply of postage not attracting VAT is not because it is ancillary to the supply of printed matter but rather the charge is a disbursement and so is outside the scope of VAT altogether. The business supplying the printer matter cannot recover the VAT on postage as this VAT will be incurred by the client.

If the conditions are not met, for example the direct marketing company recharges the postage cost and adds a profit element, then this is not a disbursement and the whole of the charge is taxable at the standard rate. This will include the amount charged for the printed matter as the supply is now one of marketing.

I hope that the above has assisted in clarifying HMRC's approach and would be happy to receive any comments that you may have.

Yours sincerely

Keith Parnell  
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