



Indirect Tax Directorate

VAT Liability Policy Team
Room 3/34
100 Parliament Street,
London
SW1A 2BQ

Mr. M Lordan
Director of External Affairs
The Direct Marketing Association (UK) Ltd
DMA House
70 Margaret Street
London
W1W 8SS

Phone 03000 585 735
Email: keith.parnell@hmrc.gsi.gov.uk

Fax 03000 586 921

www.hmrc.gov.uk

Date 30 September 2014

Our ref
Your ref

DX

Dear Mr. Lordan,

Direct Mail: VAT Treatment

I refer to our previous correspondence and in particular your letter of 21 August 2014.

You highlight a number of areas where you disagree with the contents of my letter of 16 July and I will try to deal with them in the same order that you have and under the same headings.

You first comment on the length of time taken to provide clarification and I apologise for the delay.

I note that the points that were made in my letter were originally put to you at the meeting in June 2012.

You quote from Notice 700/24 – Postage and delivery charges – and in particular paragraph 2.3 which refers to making a supply of “delivered goods” whereas in my letter I refer to section 3 which deals with “direct mailing”.

The difference here is that, as I explained in my letter of 16 July, it is not delivered goods that are being supplied by your members but a combination of goods and services which are actually a single supply of services to their client. Paragraph 3.4 of the notice makes it clear that if the conditions for disbursements (listed in paragraph 3.3) are not fully met then the mailing charges (i.e. the postage) are part of an overall supply which will normally be standard-rated.

Separate supplies of postage

Under this heading you mention 2 pieces of advice from my letter and ask

Information is available in large print, audio and Braille formats.
Text Relay service prefix number – 18001



Awarded for excellence



DMA Reply To 21 8 Letter

“What criteria would you expect to see from a mailing house to be satisfied the direct marketing firm is acting as agent for the client?”

The scenario that you quote from the guidance (VTAXPER43000) is the situation where there are no other services and is covered by section 2 of the VAT Notice rather than section 3. I have explained in more detail below under “other services”.

‘Other services’ ancillary to the supply of printed matter

You ask for further clarification around the criteria that determine when a supply of zero-rated printed matter changes to a supply of a “marketing service”.

Leaving aside postal services, if someone is making a supply involving printed matter we have to consider exactly what is being provided i.e. the essential features of the supply and the other services involved in order to decide if it can be regarded as one of printed matter only. If the other services are artwork, design or similar leading to the supply of printed matter then HMRC would generally accept that this is a zero-rated supply of printed matter.

However, if the other services include activities such as data handling, data management/processing, targeting of potential customers, distribution, media inserts, response recording and analysis, follow up to responses and similar then the essential features are likely to show that it is more than a supply of printed matter.

What the printer is essentially being asked to do is to produce a mail pack which is delivered to a large number of recipients to get a message across; it cannot in our view be merely characterised as providing printed matter.

Conflicting guidance

You say that following the introduction of VAT on the bulk postal charges there was intense pressure on the industry to find ways of mitigating the increased costs for charities and that the general belief, based on published guidance, was that this could be done by including postal charges with a zero-rated supply of printed matter.

You go on to say that the industry has to work with existing guidance that is in the public domain that appears to suggest a different interpretation from the guidelines in my letter.

As mentioned there is a difference between sections 2 and 3 of the VAT Notice. Section 2 deals with delivered goods, for example where a mail order business sends a zero-rated book to a customer the postage will follow the liability of the goods. In such cases, section 2 applies as there is a contract with the customer to supply ‘delivered goods’.

Section 3 of the Notice concerns ‘direct mailing’, which is the issue here. . The supply being made by the direct mailing company is not of delivered goods to their client, but of unsolicited mail – not mail delivered under contract with a recipient – but distributed at the request of a customer. What the printer is being asked to do is to provide a full service for their client which results in the distribution of a message to a wide audience rather than simply supplying delivered goods.

This was explained in some detail by Aidan McDonnell at the meeting in 2012 and is clear from the correct part of the published guidance.

However, I appreciate that businesses may have considered that the guidance given in section 2 of the Notice was relevant and may not therefore have fully considered section 3. Although the published information is correct, it was written before this type of scenario was common. As I mentioned previously, guidance is currently being updated to reflect this.

Not meeting your charter commitments

I apologise for the delay.

Finally

I should also like to mention that, although HMRC consider that the published information contained in guidance is correct, we will consider each case on its merits including the specific circumstances where direct marketing services may have been incorrectly zero-rated, but only to the extent that they include printed matter that would be zero-rated if it had been supplied separately from the other elements of the overall supply of services. We do however expect these supplies to be treated correctly from 1 October 2014.

Yours sincerely

Keith Parnell
Senior Policy Advisor