

Keith Parnell
Senior Policy Advisor
VAT Liability Policy Team
Room 3/34
100 Parliament Street
London
SW1 2BQ

21 August 2014

Dear Mr Parnell

Thank you for your letter of the 16th July with guidance on the VAT implications relating to the supply of Direct Mail, which responds to my letter of 25th February 2013. I must say that it is disappointing, to put it mildly, that it has taken HMRC almost a year and a half to respond to my letter, which in itself was written, as we had not had a formal response from you, to a meeting that was held in June 2012.

We have reviewed the guidance that you have provided for the 3 examples and after discussion with members we are surprised by your view in example 2 where postage is included as part of a zero-rated single source supply. Not only are we aware of instances where companies, after receiving clearance from HMRC's written enquiries team, have entered into contracts that include postage (example attached in appendix 1) but this appears to contradict guidance relied upon by many members.

Many members have relied upon HMRC Reference Notice 700/24 dated April 2003 in that Section 2.3 clearly states:

The important test is whether delivery is included in the contract. You are making a single supply of delivered goods if, under the contract, you have to deliver the goods to a place specified by the customer. This might include the customer's:

- *own address;*
- *friends or relatives; or*
- *their own customers.*

*The position is not affected by whether the charge you make for delivery is separately itemised or invoiced to the customer. **In either case there is a single supply for which the VAT liability is based on the liability of the goods being delivered.***



In The VAT guide (HMRC Reference: Notice 700 of August 2013) Section 8.3 is even more explicit and states that:

If the terms of your agreement with your customer for the supply of the goods require you to deliver or post them to the customer there is no separate supply of delivery or postage. This applies even if you show a separate charge.

*Then this means that you make **a single supply of delivered goods and, if the supply of the goods is zero-rated, then the zero-rating also covers the delivery or postage.** This applies to most mail order transactions, but not if a delivery service is available at an extra charge for customers who request it.*

Separate supplies of postage

You provide two pieces of advice about postage which without further clarification our members will not properly grasp. These pieces of advice are as follows:

1. *'If a supplier is...responsible for posting...the marketing packs...this is not simply a supply of...printed matter...The overall supply is...marketing services...'*
2. *'The payment by the client to the direct marketing company in respect of the postage...is a disbursement providing all the following conditions are met...'*

We presume the advice in the Guidance Manual (VTAXPER43000) is still sound. This is as follows:

'... some firms, particularly in the direct mail field, specialise in providing a service of posting material on behalf of their client. This service usually involves receiving a list of customers from their client, addressing and printing material, putting the material in envelopes and taking it to the Post Office. The responsibilities of the direct mail firm cease when the material is accepted for safe delivery by the Post Office, and thus in these circumstances, the supply of postage is by the Post Office to the client, with the direct mail firm acting as agent of the client.....'

As we see it, the important principle here is that a direct mail firm may, as an agent, arrange postage for their client.

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?

There is one other issue about which we seek further clarification. This is about making sure we and our members fully understand how they show, to your satisfaction, what 'other services' are ancillary to the supply of printed matter and any liabilities accruing during the period when we sought clarification from you.

'Other services' ancillary to the supply of printed matter

We would like some further clarification around the criteria that determine when a supply of zero-rated printed matter changes to the supply of a “marketing service”. In your letter you say “*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.*” And that “*If a supplier is required to analyse or organise customers’ details..... in addition to printing the material themselves this is not simply a zero-rated supply of printed matter*”.

Nowadays all bulk mail must be presented to the postal service provider in a specific way in order to qualify for discounts. There are in fact penalties applied to mailings that don’t meet certain requirements. These requirements can vary from simply sorting the mail into a specified order e.g. by postcode, to printing a barcode on the envelope and of course, apply equally to sending out invoices and bills not just marketing mail.

Although this will require “*organising customer’s details*” we believe that preparing the print so that it is ready for mailing, is an integral part of the print function and should be viewed in exactly the same way as if the customer had asked for print to be delivered on pallets or wrapped in plastic. As we have said above, exactly the same process needs to be carried out whether you are sending a bill or advertising material so it really should not be considered as a “marketing service”.

Most marketing print is produced to a specification to help with distribution – whether it is a specific size or weight to comply with a newspaper or magazine requirement, to fit a brochure rack, or even the number of items in a box. Supplying print that is “fit for purpose” i.e. the customer just needs to hand it over to the postal provider, should not therefore be viewed as a “marketing service” and would simply be a slight variation on your first example:

*1) A business simply produces a direct marketing pack **that meets the postal provider’s specifications** and sends it to their client without any other service being provided*

The issue of “other services” still remains unclear and we would welcome your views on the comments above.

Conflicting guidance

In the months following the imposition of VAT on many postal services, we became aware of the significant consequences this was having for our members. We wrote to you about this in February 2013 after not having received a response from our meeting in June 2012.

The direct mail industry is very competitive and used greatly by charities and financial institutions. The advent of VAT on postage significantly increased costs for charities using direct mail as a means of raising funds. There was then intense pressure on the industry to find ways of mitigating this.

The general belief in the market place, based on the existing published guidance, is that VAT on postal supplies could be mitigated by including postal charges with a zero rated supply of printed matter.

As a result many direct mail firms have been openly advocating and practicing this approach and in many instances members and non-members tell us they had clearances on this from the written enquiries team. Until such time as you officially notify the industry of different guidance, our members and the industry as a whole, have to work with the existing guidance that is in the public domain that appears to suggest a different interpretation from the guidelines that you have provided in your letter. Unfortunately your letter has not provided the clarity we were seeking and there is still some ambiguity about this issue.

Not meeting your Charter commitments

We refer to 'Your Charter' which is available on your website. It sets out the level of service which HMRC will provide to its customers. Two of the services levels particularly relevant to our dealing with you are as follows:

- Help and support you to get things right; and;
- Respond to your enquiries and resolve any problems as soon as we can.

We began to ask for help and clarification from you in June 2012. We wanted assistance with the issue on a matter that has polarised our industry since most postal services became standard rated. This was in order that our members could get things right.

It is axiomatic that when help and support was sought to begin with in June 2012 but has not been provided, without adequate clarification, until July 2014 you have failed in your commitment to your customers.

I do hope that HMRC can respond to this letter in a reasonable timescale. We are happy to meet with you and your team if that would help to expedite the current situation.

Yours sincerely



Mike Lordan
Director of External Affairs

Enc