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Welcome to the latest edition of Deloitte's Financial Services and Insurance (FSI) Global Indirect Tax Newsletter.

We hope that you find the publication useful and we welcome your feedback. Should you have any comments or questions arising from the newsletter, please speak to your usual Deloitte contact or one of the regional FSI leaders listed below.

Kind regards

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Area in focus – Practice around tax authority rulings and individual guidance

From time to time, taxpayers require certainty on VAT matters that are open to interpretation. This is particularly prevalent in the financial services industry with regards to the VAT exemption and its ambiguity. Tax authorities may provide individual guidance that give certainty for taxpayers to rely on, commonly referred to as rulings. The time and cost it takes to secure a ruling can differ between countries. It may also be dependent on the level of complexity involved.

The process of obtaining a ruling

Typically, a ruling request is made via a formal letter to the relevant tax authorities. The request should set out the specific facts of the VAT matter in question. Generally, a ruling request is only allowed if it is related to future transactions, and normally the tax authorities will not evaluate activities in preceding reporting periods.

These types of formal rulings tend to be binding. Some countries may specify the format of the ruling request. For example, the Danish Tax Authorities request that the

question(s) must be written so they can be answered 'yes' or 'no'. In Portugal, a specific formal request must be submitted electronically.

In Finland, it is also possible to get a non-binding ruling from the Finnish Tax Authority. This is a more informal information request based on general matters which do not concern the application of VAT law. Slovenia and Sweden also offer a non-binding option, and these may relate to a general or specific tax issue. Non-binding information from the Slovenian and Swedish Tax Authority may be obtained via telephone, email or a formal letter.

In some countries, rulings issued to specific taxpayers may also be made available to the public, such as in Denmark, Portugal and Sweden.

Some countries, such as Luxembourg and Malta, do not have formal ruling procedures. In Luxembourg for example a taxpayer could request a meeting with the relevant VAT office to discuss an issue. There is, however, no written response/guidance from the VAT authorities.

Prospects of obtaining a ruling

If the facts of the VAT matter are set out in sufficient detail and all the technical conditions are met, it can be relatively straightforward to obtain a ruling. The responsiveness of the tax authorities depends upon the complexity of the question(s) being asked and the resources available.

There is a perception that certain tax authorities have become more reluctant to issue rulings (e.g. Denmark and the Netherlands). The Dutch Tax Authorities are seeking more information on the facts and circumstances of the specific case upfront before granting a ruling. This seems to be caused by a number of factors, such as the political debate on tax structuring and the lack of clear guidance from the Ministry of Finance following significant decisions by the CJEU (e.g. *Skandia*, *Le Credit Lyonnais*, *ATP*).

Costs of obtaining a ruling

Certain tax authorities impose a fee for requesting a formal ruling, some examples include:

- Denmark – DKK 400 (approximately EUR 50)
- Portugal – EUR 2,550 – EUR 25,500 depending on complexity (only if submitting an urgent request)
- Singapore – SGD 562 application fee (approximately EUR 370) and further time-based fee of SGD 140.50 (approximately EUR 92) per hour over the first four hours
- Slovenia – EUR 50 per hour, but not less than EUR 500 (if expected to exceed EUR 2,000 advance payment may be requested)

- South Africa – ZAR 14,000 (approximately EUR 910) for an Advance Tax Ruling.

The popularity of rulings regarding the VAT exemption

Due to the ambiguous nature of the VAT exemption and the increasing number of cases addressing this, rulings in this area are common. Rulings tend to address matters that are easier to assess, such as, the cost sharing exemption and interpretation of CJEU judgments (e.g. *Deutsche Bank*). There has not been as much activity in the more complex areas, such as the insurance and insurance-related services VAT exemption.

The countries where rulings are used less are those where the process can be very time-consuming (see below).

Typical timeframe to obtain a binding ruling from the tax authorities

An official binding ruling from the tax authorities can take anything from a few weeks to a year to obtain. Below we have set out a few examples of timeframes to give an idea of the variances between different jurisdictions:

COUNTRY	MINIMUM	MAXIMUM	COMMENTS
Denmark	3 months	2 years	Official period is 3 months
Finland	3 weeks	4 – 6 weeks	Advance ruling from the Finnish Central board of Taxes will take 4 – 6 weeks
France	2 – 4 months	-	No official period
Germany	4 weeks	8 weeks	No official period
Italy	120 days	-	When no response is provided within 120 days from the day when the request has been received by the VAT officer, it is assumed the Italian Tax Authorities agree with the interpretation proposed by the taxpayer. The period can only be extended to 240 days if supplementary information is requested.
Netherlands	8 weeks	10 weeks	No official period
Portugal	150 days (90 days for an urgent request)	9 – 12 months	If the ruling is not issued within 150 days the taxpayer's responsibility in case of dispute with the Portuguese Tax Authority will be limited to the tax due (avoiding the payment of interest and penalties) until the communication of the final decision of the binding ruling to the taxpayer. If the ruling in relation to an urgent request is not issued within 90 days the taxpayer's proposed treatment in the ruling request is implicitly accepted.
Singapore	1 month	-	Official period is 1 month
Slovenia	-	6 months	For non-binding rulings there is no official period.
South Africa	1 – 2 months	1 year	No official period – depends on the complexity of the case
Sweden	6 months (approx.)	-	If referred to Supreme Administrative Court the final decision is extended to approximately 1 year
UK	1 month	3-4 months	No official period. In case of discussions following an initial answer a final ruling can be delayed by several months.

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Asia Pacific

Malaysia – Time frame for issuance of tax invoices

The Malaysia GST law does not specify any particular time limit for the issuance of tax invoices.

However, the Malaysian Tax Authority has issued a directive which states that a tax invoice must be issued within 30 days [Director General's Decision 3/2015 dated 14 April 2015 and amended 7July 2015] from the date of payment made by the buyer (in full or in part).

This requirement has posed a practical challenge for the insurance industry as it is not normal practice to issue tax invoices for premiums periodically. In Malaysia, non-life policies including non-life riders sold with life policies are subject to GST.

The Malaysian Tax Authority has indicated that insurers are able to comply with this requirement by issuing invoices electronically to customers or making the invoices available on a customer portal. Many insurers are taking steps to do this by upgrading their IT systems.

Malaysia – Issuance of tax invoice for 'disregarded supplies'

A concept of 'disregarded supplies' exists in Malaysian GST Law, where a taxable supply is made, but the supplier is relieved from collecting and accounting for GST. One example is for services made within or between certain 'Designated Areas', which include the offshore financial services hub of Labuan.

Further to a directive issued by the Malaysian Tax Authority, GST registered businesses are now required to issue tax invoices for disregarded supplies [Director General's Decision 6/2015 dated 7 July 2015]. This means Labuan-based banks and insurers (including reinsurers) are now required to issue tax invoices for supplies made within Labuan and other designated areas. Failing to issue a tax invoice for a taxable supply in Malaysia is an offence and can attract penalties.

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Belgium – Cost sharing exemption regime to be adapted

In line with recent developments on a European level, it is likely that Belgium will adapt its cost-sharing exemption regime through an amendment of the Belgian VAT legislation and administrative guidelines. If so, the regime will be aligned with the viewpoints of the European Commission as laid out before the VAT Committee in Working Paper No. 856.

A key change compared to the existing regime is that the VAT exemption for internal services will apply notwithstanding the fact that the independent group of persons provides the same services to third parties (i.e. non-members). Furthermore, the new regime will not include a specific threshold in relation to the group member's taxable activities (currently a maximum of 10% taxable activities is allowed). Under the new regime a person will instead be eligible to be a group member if the exempt or non-taxable activities account for the predominant part of the business. If the cost sharing group supplies services to members that partly perform taxable activities, those services will only be exempt if related to the exempt or non-business activity.

Finally, cost sharing groups will be required to notify the Belgian Tax Authority of their status and ongoing operations, which will allow the Belgian Tax Authority to improve its supervision of the regime.

These changes are expected to enter into force sometime during 2016, after further consultation with the financial services industry.

Denmark – Updated guidance on ATP Pension Services (C-464/12)

On 25 November the Danish Tax Authority released two of the expected three sets of guidelines in relation to the *ATP Pension Services* case (C-464/12).

In *ATP Pension Services* the CJEU found that a pension fund which pooled investments from a number of defined contribution occupational pension schemes qualified as a Special Investment Fund (SIF) for the purposes of the VAT exemption for fund management. From a Danish perspective four main questions arise from the CJEU's decision:

1. Do all Danish pension funds qualify as SIFs?

2. Which party is entitled to reclaim previously charged VAT if the exemption should have been applied, i.e. the supplier or the recipient?

3. Has the definition of management services broadened so that other types of vehicles,

traditionally seen as SIFs, can reclaim VAT?

4. What is the definition of ‘management services’?

From the guidelines it is clear that most Danish life insurance and pension institutions will qualify as SIFs. However, the third set of guidelines which has not yet been published, is expected to provide further information on the broader Danish definition of SIFs, which will impact all types of special purpose vehicles that make collective investments, e.g. venture funds, real estate funds, alternative investment funds etc.

The new guidelines give guidance in relation to the first question. However, in relation to the last three questions, the guidelines are relatively vague.

The scope of management services is not commented on, except in reference to Appendix II of the UCITS directive and to the specific package of services supplied by *ATP Pension Service*. Further discussions with the Danish Tax Authorities around the definition of management services, especially in the area of IT services, are therefore expected. Moreover, discussions around whether management services consist of several individual supplies or a single supply is also expected going forward. Most likely further case law and potentially further referrals to the CJEU will follow.

The main concern for the industry is, however, which party can reclaim the VAT charged on management services that should have been exempted. According to the guidelines this will be determined on a case by case basis, based on which party bears the final burden of the VAT.

Finland – Rulings related to the purchase of receivables

The Finnish Central Board of Taxes (CBT) has delivered two judgments on services related to purchases of receivables, i.e. factoring.

The first case concerned a company (X Oy) which in some cases granted credit to its customers and accepted customer’s undue receivables as collateral (Transaction A) and in some cases purchased its customer’s receivables (Transaction B).

Under Transaction A, the customer carried the risk for credit loss and X Oy did not participate in the debt collection. The CBT ruled that the service was an exempt financial service, i.e. granting of credit.

Under Transaction B, the risk of credit loss was assumed by X Oy and X Oy managed the debt collection. The price paid for the receivables was marginally lower than their nominal value. With reference to the CJEU’s decision in *MKG-Kraftfahrzeuge-Factoring* (C-305/01) the CBT stated that X Oy supplied a taxable service when purchasing the receivables. As a result, the processing fee charged by X Oy was subject to VAT. The interest charged by X Oy was, however, considered to be related to the exempt granting of credit and, therefore, not subject to VAT.

The second case concerned another company (Y Oy) which purchased its customer's receivables relating to building contracts. Y Oy assumed the risk for credit loss throughout the contract period and charged the seller interest on the daily value of the purchased receivables. Y Oy also charged a commission relating to the grant of credit and a handling fee relating to the debt collection. The CBT considered Y Oy's service to be the exempt granting of credit and, therefore, Y Oy was not liable to account for the VAT on the fees it collected.

Based on the rulings it appears that whether factoring services are taxable or exempt will depend upon whether the fee relates to collection services (or similar) or the granting of credit.

Finland – Ruling on services in relation to card payments

The CBT has delivered a judgment on services related to credit card payments. The case concerned a company that provided payment transfer services, which enabled the transfer of funds from a customer's credit card to a merchant.

The company provided additional services to the merchants, which it bought-in from third parties, including lease of card payment equipment, internet-based payment systems and an administrative program that were required to accept card payments. The company's customers were able to purchase the payment service on its own or with the additional services.

The CBT deemed that the payment transfer service and the bought-in services constituted two separate supplies from a VAT perspective. The payment transfer service was deemed to be exempt financial services whilst the bought-in services were deemed to be subject to VAT.

Finland – Ruling on supply of services within a VAT group

The CBT has delivered a judgment on services supplied within a VAT group. In this case a group of banks were removed from their current VAT group (VAT group X) and added to another VAT group (VAT group Y).

A question arose regarding the point in time when VAT group X should start charging VAT on services supplied to the banks that used to be part of the group. The CBT ruled that VAT group X was not obliged to account for VAT on the services as long as the banks still belonged to VAT group X. The VAT Group X was, however, obliged to account for VAT on the services supplied to the banks after they had left the VAT Group X and joined VAT group Y.

Finland – Ruling on inducements in relation to discretionary asset management

The Finnish Supreme Administrative Court (SAC) has delivered a judgment on the VAT

treatment of inducements granted in connection with discretionary asset management services.

A Finnish company (X Oy) provided asset management services. The brokerage and subscription services were outsourced to an external broker and an external fund company. The external parties collected their fees directly from X Oy's customer's funds, either prior to purchasing the requested assets or prior to accounting for the funds to X Oy after certain assets had been sold. The SAC considered that, as the fees were paid directly to the external party from the customer's assets, X Oy was not liable to account for VAT on the fees, i.e. such fees were not considered a part of the fee for the taxable discretionary asset management services.

X Oy also received, as inducements, a part of the fees which the external party collected from the customer's assets. The SAC considered that the inducement was remuneration for services that X Oy provided to the external parties. The services were however deemed to be exempt financial services (dealing in securities) and, thus, the inducements were not subject to VAT.

France – Increased IPT rate for legal protection services

With effect from 1 January 2016, the rate for French Insurance Premium Tax (IPT) on legal protection services will increase from 11.6% to 12.5%. The following year, with effect from 1 January 2017, the rate will be increased again from 12.5% to 13.4%.

Germany – Administrative Regulation on purchase of capital goods via a leasing arrangement

When capital goods are procured there is often a triangular relationship between a supplier, a buyer and a leasing company. Typically, the buyer concludes a purchase contract with the supplier prior to entering into a corresponding leasing contract with the leasing company. Under such circumstances the leasing company will enter into the purchase contract during the course of the transaction, assume the obligation to pay the supplier and obtain the legal ownership of the good.

On 31 August 2015, the German Ministry of Finance published an Administrative Regulation addressing the VAT consequences of the above situation. According to the regulation a different VAT treatment applies depending on the point in time that the leasing company enters into the purchase contract.

If the leasing company enters into the purchase contract prior to delivery to the buyer/lessee, there is a supply of goods between the supplier and the leasing company. Dependent on whether German income tax principles attribute the capital good to the lessor or to the lessee, the subsequent leasing transaction is either to be treated as a regular VAT taxable leasing service or as a further supply of the capital goods from the lessor to the lessee.

In this situation, the supplier's invoice should be issued to the lessor, because if the purchase invoice is issued to the lessee, there would be no entitlement to input VAT

recovery.

If the leasing company enters into the purchase contract after delivery to the buyer/lessee, there will be, on the other hand, a supply of goods between the supplier and the buyer/lessee. Consequently, the subsequent leasing transaction would be regarded as an exempt supply of credit.

In this situation the supplier's invoice should be issued to the buyer/lessee, because if the purchase invoice is issued to the lessor, there would be no entitlement to input VAT recovery. As regards the subsequent loan transaction, the lessor can elect to waive the exemption. If so, the lessor will be entitled to recover the input VAT related to the loan transaction and the pro-rata would be enhanced.

Malta – Subscription-based road assistance services are VAT exempt

The Maltese government has recently enacted amendments to the Malta VAT Act providing that road assistance services are exempt from VAT as insurance services if provided for a fixed subscription. This follows the CJEU *Mapfre Warranty* (C-584/13) case in which the CJEU stated that a warranty covering mechanical breakdowns, provided by an economic operator which is independent from the seller of the vehicle, can constitute an exempt insurance transaction.

Portugal – Online banking platforms may qualify as electronically supplied services

In the context of a binding ruling issued to a taxpayer on 21 August 2015, the Portuguese Tax Authority has concluded that operations performed by financial institutions through online banking platforms may qualify as electronically supplied services. Under the new place of supply rules implemented across the EU in January 2015, the place of supply for services supplied to consumers via such platforms could therefore be dependent on the location of the online banking customer.

This conclusion is in line with the definitions of electronically supplied services included in the applicable VAT rules/guidelines. Considering this decision, it might be possible that other services, such as the access to online trading platforms, could also qualify as electronically supplied services.

This could impact financial institutions established in Portugal or in other EU member states which supply taxable services to consumers via their online platforms.

Sweden – CJEU rules that exchange of Bitcoin is exempt from VAT

The CJEU has delivered its decision in the Swedish case of *David Hedqvist* (C-264/14) regarding trading in the virtual cryptocurrency 'Bitcoin'. The court decided

that the exchange of a pure form of payment such as Bitcoin for a currency which is a legal tender, or vice versa, is a supply of services for a consideration (the consideration being the difference between the buying rates and the selling rates). Furthermore, the CJEU decided that the service provided is exempt from VAT in the same way as other currency exchanges.

The factors that led to the CJEU's conclusion were that the exemption for financial services is not to be limited to activities carried out by traditional financial institutions, and that the purpose of the exemption for transactions in currency (i.e. to avoid difficulties connected with determining the taxable amount and the amount of recoverable VAT) should apply for non-traditional as well as for traditional currencies.

The CJEU's decision means Bitcoin is treated as a 'currency' from a VAT perspective. This implies fiscal neutrality between traditional and non-traditional currencies, which might lead to a wider adoption of the latter. The fact that the CJEU pointed out that the financial services exemption is not limited to activities carried out by banks and other financial institutions is interesting in terms of the growing financial technology sector, where technology companies supply a wide range of services conventionally supplied by banks and similar financial institutions.

Sweden – Guidance on the implementation of Skandia

The Swedish Tax Authority has published formal guidance on 23 November 2015 on its interpretation of the CJEU's decision in *Skandia* (C-7/13). In summary, the guidance sets out that:

- Only Swedish establishments can be part of a Swedish VAT group;

- If a Swedish establishment (headquarters or branch) is included in a Swedish VAT group, it will be treated as a separate taxable person from all overseas establishments from a VAT perspective, regardless of whether the overseas establishments are located in another EU Member State or in a non-EU country;

- Transactions between a Swedish establishment included in a Swedish VAT group and overseas establishments (EU and non-EU) will therefore be treated as supplies for VAT purposes;

- This analysis will apply to recharges of both bought-in services and internally-generated services;

- A transaction will, however, only be taxable if a "genuine" service is supplied and if there is a direct link between the service and the consideration received;

- Cost allocation and transfer pricing adjustments can be deemed as consideration for these supplies; and

- Cost allocation and transfer pricing adjustments, where treated as consideration for VAT

purposes, can be subject to revaluation if not at an arm's length valuation.

Importantly – and in distinction to HMRC's approach in the UK – the guidance does not refer to circumstances involving VAT groups in other EU Member States. One interpretation is therefore that the Swedish Tax Authority will disregard the existence of overseas VAT groups and only apply *Skandia* if there is a Swedish establishment included in a Swedish VAT group. However, without explicit guidance to this effect, care should be taken in taking such an approach and it is possible that further guidance or case law may be issued to provide greater clarity on this point.

It should also be noted that the guidance leaves certain questions unanswered, particularly in relation to what constitutes a "genuine" supply of services and whether or not there is a direct link between cost allocation / transfer pricing adjustments and a genuine supply. It is likely therefore that further consultation will be required in respect of these aspects.

The Netherlands – Ruling on IT services provided to the Dutch exchange

In a recent case the Dutch Court of Appeal has ruled that the VAT exemption does not apply to services provided by an international exchange company to the Dutch exchange.

The Dutch exchange acquired (i) hardware and software licenses and (ii) the actual operation of the exchange from an international exchange company. The Dutch Court of Appeal ruled that these outsourcing activities should be regarded as a single supply which is limited to the technical and administrative aspects of the transactions on the exchange.

The Dutch Court of Appeal further ruled that if the actual operation of the facility was to be regarded as a separate supply, the VAT exemption for trading or intermediation in securities did not apply. The services provided by the international exchange cannot be regarded as essential and characteristic of the transactions carried out on the Dutch exchange as they do not change the financial and legal relationship of the trading parties, and because the international exchange does not take legal responsibility for the transactions. In addition, the service does not qualify as VAT exempt intermediary services as the international exchange does not have direct contact with any trading parties.

This case indicates that these type of services are regarded merely as IT services form a Dutch perspective, without consideration for their overall function for the exchange system itself. The case will be appealed to the Dutch Supreme Court.

The Netherlands – Ruling on exchange services purchased by a 'market maker'

A market maker, i.e. a company that stands ready to buy and sell securities on a regular and continuous basis, thus providing market liquidity, incurred VAT on

services purchased from various exchanges. The costs were primarily related to the market maker's securities transactions, but there was also an element related to data charges, information services, licenses and co-location services (i.e. storage, management and surveillance of servers and applications).

The market maker argued that all services, except the co-location service, should be considered as one single supply and that the supply should be exempt from VAT. In addition, the market maker argued that the co-location services should be considered as services related to real estate, taxable in the country where the real estate is located (rather than being subject to Dutch reverse charge).

The Dutch Court of Appeal ruled, on the contrary, that every service element constituted an individual supply for VAT purposes. Other than the contractual arrangement, the court underlined the fact that the exchanges supplied these type of services to a wide group of customers, and that the different service elements would each have their own economic objective for the typical customer.

According to the court, all supplies other than the actual brokerage supply were subject to VAT as they, by their own merits, were not characteristic and essential for exempt financial transactions. Regarding the co-location services, the court ruled that the services could not be deemed as related to real estate as the market maker had no exclusive right of use of the property. Therefore the reverse charge mechanism should be applied.

The ruling will most likely be appealed to the Dutch Supreme Court.

UK – New draft regulations to implement *Le Credit Lyonnais*

In March 2015 the UK Tax Authority consulted on draft regulations to ensure that UK law is aligned with the CJEU judgment in *Le Credit Lyonnais* (C-388/11). The Tax Authority has now revised the proposed changes in the light of the responses to that consultation and are currently undertaking a new consultation of a new draft.

In the UK a partly exempt business can determine the recoverable portion of residual input VAT via a standard method, based on the business' overall turnover, or via a special method, under which the business can be divided into sectors and where different recovery rates can be applied in each sector.

For *standard methods* the draft regulations state that the value of supplies made by overseas establishments must be excluded from the calculation. If there is a material difference between the result of the standard method and a method which reflects the extent that input VAT is used in support of overseas supplies, that business is however expected to apply a special method, as outlined below. If enacted, the proposed changes will come into force for all standard methods from 1 January 2016.

For *special methods* the draft regulations state that all sectors must be aligned with the business. In practice, this implies that an overseas establishment cannot be a

sector purely based on its geographic location and as a result UK VAT, as a starting point, cannot be recovered based on the value of overseas supplies alone. The value of overseas supplies can however be accounted for if included in a sector that reflects the structure of the business, e.g. in an insurance sector or in a credit sector. Also, sectors that reflect the structure and activities of the business, and coincide with a geographic location, will still be allowed. If enacted, the proposed changes will come into force for all special methods approved or directed after 1 January 2016.

UK – Further guidance on the implementation of Skandia

On 30 October the UK Tax Authority released further guidance on its position following the CJEU's decision in *Skandia* (C-7/13) late last year.

The Tax Authority initially released guidance on its interpretation of this decision earlier this year. In the first guidance a difference was outlined between 'Swedish-style' VAT groups and 'UK-style' VAT groups, the difference between the two types being that UK-style VAT groups include the entire legal entity (i.e. the local and the overseas establishments), whereas Swedish-style VAT groups only include the local establishment. The Tax Authority's interpretation was that *Skandia* would only change the UK VAT treatment involving situations where the non-UK establishments were in a Swedish-style VAT group.

In the new guidance the Tax Authority has published their interpretation of the VAT grouping rules in every member state. Importantly, the guidance includes a list of the member states where Swedish-style VAT grouping is deemed to apply, i.e. Belgium, the Czech Republic, Denmark, Estonia, Hungary, Latvia, Slovakia, Spain (advanced method) and Sweden.

Due to the inability to obtain clear guidance from several member states, the list is however not definitive and the guidance therefore recommends that taxpayers liaise with the relevant overseas tax authority prior to treating an overseas VAT group as UK-style. Furthermore, the guidance also states that taxation in accordance with *Skandia* should only apply if the member state concerned applies Swedish-style VAT grouping *and* the member state has implemented the *Skandia* decision. How to interpret the latter requirement is currently subject to discussion in the UK. The date of implementation is 1 January 2016.

UK – Further guidance on pension fund management costs

The UK pension system contains occupational pension schemes where the employer contributes capital to pension funds controlled by appointed trustees. Typically a third party is contracted to manage the fund and in practical terms it can be difficult to determine if the management costs incurred are related to the business of the employer or the trustees.

In *PPG Holdings BV* (C-26/12) the CJEU stated that all VAT incurred on pension fund

management costs is recoverable by the employer provided that there is a direct and immediate link between the services from the third party and the employer's taxable supplies. This was contrary to the former UK position were the employer was only granted recovery on costs related to management of the scheme and not to costs related to the management of the funds. Following *PPG Holdings BV,* there has been an on-going process to determine the implications for the UK position.

Recently the UK Tax Authority issued its fifth guidance on the subject. The UK Tax Authority has identified a corporation tax issue arising in connection with the use of 'tripartite contracts' (i.e. a joint contract between the employer, the trustees and the third party), which was introduced in former guidance as a measure to secure input VAT recovery in accordance with *PPG.*

As this may discourage the use of tripartite contracts, the UK Tax Authority has also considered alternative options for full VAT recovery. These are to include the trustees in a VAT group together with the employer, and what is referred to as an 'onward supply' arrangement which involves the pension scheme trustees contracting with the third party in order to recharge the services to the employer. However, whilst the UK Tax Authority has considered alternative options and is generally receptive to them, the current guidance appears carefully worded so as not to give a straightforward 'sign-off' to such arrangements. Because of this, it is clear that care must be taken when implementing these arrangements and even further guidance is expected during this year.

Due to the recent update, the transitional period for the 'old rules' has been extended to 31 December 2016. Business can thus continue to apply a standard recovery of 30% of all input VAT charged by third party services providers, which was the UK position prior to *PPG.*

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