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UK Indirect Tax Conference 2014

Compliance in Perspective

Consumer Business – Case Law

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Place of supply

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Place of supply and establishments

Welmory

- When is a connected company a fixed establishment?
- Sufficient human and technical resources – AG's opinion in *RAL*?

Fonderie 2A

- What is your buyer buying?
- When and where are the goods first in that form?

Dresser Rand

- Work on own goods in other member state.

Finance exemption

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Finance exemption

Payment Processing

- *Bookit* – to be referred to the CJEU
- *NEC* – Upper Tribunal hearing on 7 November. CJEU reference contemplated.
- *Virgin Media, Way Ahead Group* – other cases

Vouchers, money and exemption

- *Granton Advertising* – not exempt, but where does the line lie?
- *Hedqvist* – CJEU reference – are virtual currencies exempt?

Adjustments

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Legislation: Regulation 38 and section 80 (UK), article 90 (EU)

Domestic cases:

- *Iveco*
- *Barlin Associates*

EU cases:

- *Almos*
- *BCR Leasing*

Barter, “free stuff” and no supply

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Barter, “free stuff” and no supply

- What is free and what isn't?
- Where do supplies arise? *Tolsma*.

Barter

- *ING* – decision of the FTT re banking, but relevant across consumer business.
- *AV Concepts*

No supply?

- *Esporta* – Supreme Court?
- *Air France* and *Brit Air* – new CJEU references re unused tickets.

Claims

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Claims

- *Vodafone* and *Bratt* – both on appeal to the Upper Tribunal.
- If you add together the principles from FTT decisions, you get the following:
 - (a) You do need to specify the reason/rationale for your claim (*Bratt* and *Vodafone*).
 - (b) Claim does not need to be 100% accurate numerically, as it is merely the start of a discussion with HMRC (*Bratt*). So numbers can move.
 - (c) You don't need to specify periods as long as you have talked about the type of supplies etc on which you are reclaiming VAT (*Bratt*)
 - (d) You can change your reasons/basis for your claim (*Vodafone*).
- So periods, numbers and basis can all move.

Realistic?!

Input tax recovery

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Input tax recovery

- *Sveda* – CJEU reference. Lithuanian version of *Imperial War Museum*.
- *Airtours* and *BAA*.
- *LMUK* – ongoing lack of clarity re impact and meaning.
- Partial exemption and where you make your profit – *Lok'n'Store*.

Questions



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