VAT Technical Update – Library Services

The TCoE has recently received a written update from HMRC in relation to VAT reclaims on the provision of “library services” when contracted out of the public sector. This provides further information about when reclaims may be possible and expands on the previous guidance provided by HMRC.

Background

Heading 33 of the Treasury Direction allows for VAT reclaim on the provision of contracted out “Library services”. In their supporting guidance HMRC state:

“This covers the use of external libraries including University Libraries, independent academic libraries and electronic / online library services.

Includes:

- Internet hosted library services which provide access to backdated journals, periodicals, medical books etc

Excludes:

- Subscriptions to publications, electronic journals, single online journals, magazines etc.

Clearly (and as admitted by HMRC) this does not provide a huge amount of detail for those Government Departments (GD) who have library services contracts. There has also been a lengthy debate as to exactly what qualifies as an “internet hosted library service”. Recent correspondence between the TCoE and HMRC has clarified this issue although it should be noted that individual contracts will need to be reviewed to determine the correct VAT treatment.

What is and is not VAT reclaimable under this heading?

HMRC is very keen to maintain a distinction between companies providing a “subscription or licence to access data” (not reclaimable) and an “internet hosted library service” (reclaimable).

Examples of VAT reclaimable contracts:

1. Contracts where the supplier (in their own right) contracted out and stocked their own pool of resources which was then passed on to the end customer (and users) under 1 inclusive price
2. Contracts where the 3rd party supplier entirely maintains the onus of collecting, updating and providing an all-encompassing library service e.g. prison libraries where the operation of these (and the stocking of books etc.) is normally contracted out to the local county council.

Examples of Non VAT reclaimable contracts:

Typically, where HMRC does not accept a fully managed library service is being provided is where the bulk of the service, and the bulk of the cost is for the provision of information via an annual fee –
for example where services provided by a 3rd party are used by the GD to feed in to an online location (within the GD) and the physical action of providing a library service is in fact provided in house by the GD. As such, the supplies received therefore only amounted to the provision of a means to stock an internal library.

Analysis

While the above provides further clarity on this topic, it seems HMRC have set a very high bar when passing library service contracts for VAT reclaim. There would also appear to be a very fine line between a contract for the provision of information and a contract for the provision of an “internet hosted library service”.

Contracts reviewed by the TCoE from some of the main providers in this market did not fit the HMRC library service criteria. These were large contracts with very significant values of VAT attached to them which were clearly for more than a “subscription service” but HMRC deemed the supplies being received as being the “means to stock a library and not inherently a library service themselves”. Given this, and the further clarifications provided by HMRC, these contracts did not fall as being VAT reclaimable*

The way forward

All GD’s should review their library services contracts in light of this new guidance from HMRC. Where there is any element of doubt advice should be sought as to the VAT treatment which should be applied. Please get in touch with your usual TCoE contact who will be happy to assist.

* Please note these rulings were for specific contracts – this is not to say that other contracts from these suppliers would not be VAT reclaimable.