

**Multi-purpose vouchers distributed free by the taxpayer****Associated Newspapers Ltd**

ANL buys multi-purpose vouchers (MPVs) both from retailers direct and from intermediaries and gives them away to customers as part of various promotions designed to increase its newspaper sales. An earlier decision found that no output tax was due on the vouchers given away as the gift (of services) is made for the purposes of ANL's business so there is no deemed supply by ANL under the Supply of Services Order. That decision (ANL 1) is under appeal to the Upper Tier Tribunal (currently listed for October 2015).

This case, therefore, considered ANL's input tax position when it buys the vouchers. Does it incur VAT on the purchases and is that VAT deductible by it?

The decision was a taxpayer win on all points.

This case highlights some of the inherent difficulties in the UK voucher rules.

When a retailer issues a MPV, the law says that a supply of services takes place, but the consideration is ignored as long as it is not more than the face value. The retailer has no liability (under UK law) to account for any VAT unless and until the voucher is redeemed.

When the next person in the supply chain sells the retailer voucher, though, the law says that VAT is due on the sale. To deny that intermediary any VAT recovery while still wanting output tax on the sale would give rise to double taxation. The solution to this issue under HMRC's guidance is to allow the intermediary a 'notional' VAT credit on the purchase from the retailer, even though the retailer has not accounted for any VAT at that stage, and the supply of the redeemed goods is made to the person at the end of the chain, not the intermediary. That credit is based on the retailer's blended VAT rate which will have been agreed with HMRC based on what sort of goods and services it sells. The onward supply by the intermediary can also be at the blended rate (even though the intermediary is actually making a supply of services that should probably be standard rated).

In ANL's case, though, the Tribunal in ANL 1 has already found no output tax is due. Therefore, should ANL still get an input tax credit, or since that credit is, as HMRC say, discretionary and is not in the UK law on vouchers, can HMRC refuse to allow it in cases where output tax is not charged on the disposal of the voucher?

VAT is more clearly incurred by ANL when it buys vouchers from an intermediary who has declared VAT on the sale, but is that VAT deductible by ANL where it has given the vouchers

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away for free and no VAT is due on the gift? HMRC said no as the input tax had no link to taxable supplies. HMRC's argument, if successful, would negate its loss of the output tax point.

The two issues that the FTT considered were therefore:

- (1) Whether VAT is incurred by ANL on MPVs purchased direct from a retailer; and
- (2) Whether any VAT so incurred (either on purchases from the retailer or from an intermediary) is deductible.

An alternative approach suggested by the Tribunal pre hearing to tax vouchers under a margin scheme was not attractive to either side.

The FTT considered the input tax recovery point first, concluding that ANL was clearly entitled to claim the VAT charged by the intermediaries under normal rules as a normal cost of attempting to increase its taxable supplies. There was no support in EU law to deny recovery on items just because they were given away. HMRC's approach would also deny VAT recovery on low value business gifts.

The FTT went on to consider what VAT arose on the purchase of vouchers from retailers. The law says the issue of a voucher is a taxable supply but the retailer cannot be liable to account for VAT on both the issue and redemption. The UK has decided to tax the retailer on redemption and to resolve the double taxation problem for intermediaries (who are taxed on their onward sale) by allowing them a notional input credit, except where HMRC does not consider that appropriate, as is the case with ANL.

The FTT decided that HMRC's analysis could not be right. The supply of the voucher by the retailer is subsumed within the supply at redemption, hence the blended rate. ANL did incur input tax (at the blended rate) on the purchase from the retailer and on the basis of the above analysis, that VAT was recoverable. Although this allows ANL VAT recovery on what may ultimately be private consumption of the redemption goods/services, which is the output tax issue that was considered in ANL 1, this is an output tax issue, not an input tax one. [Click here to read the decision.](#)

### **Comment**

The FTT judge looks to have been right when he said this is an output tax issue. This FTT highlights the shortcomings of the current UK voucher rules. The comments about subsuming the voucher supply into the redemption supply are interesting since the voucher is clearly supplied to ANL (otherwise it has no right to the input tax), while the redemption goods are

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presumably supplied by the retailer direct to the end customer, who is unlikely to use them for a business purpose. Yet there can be no doubt that the reason ANL gives these vouchers away is for the purposes of its business (to increase taxable sales) which on the face of it means no deemed supply of the free services by ANL under UK law. Perhaps there is no 'right' answer in this type of situation, which could be why multi-purpose vouchers cause the Member States such problems.

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