

# Case Alert

## *Heating & Plumbing Supplies Ltd*

### *Summary*

The First-tier Tax Tribunal (FTT) has released an important decision in relation to the recovery of input VAT incurred in relation to management buyout costs.

The taxpayer in this case incurred professional fees in relation to its proposed management buyout. It formed a VAT group and incurred the professional costs.

HMRC disallowed the input VAT claim on the basis that the buyout company made no taxable supplies.

Advised by Grant Thornton, the taxpayer appealed arguing that HMRC was wrong to look at the activities of the company in isolation. As a VAT group, it was a single taxable person which only made taxable supplies. The FTT allowed the appeal.

### First-tier Tax Tribunal

This is an important decision of the Tribunal for businesses that incur professional fees in relation to management buyouts. In this case, the buyout company and the target company were VAT grouped with effect from 1 April 2011. The professional fees relating to the buyout were invoiced after that date. HMRC took the view that the buyout company had no economic activity and that, as such, it should not be entitled to reclaim the VAT charged on the professional fees. However, the taxpayer argued that it was a VAT group and that, as a 'single taxable person', it was entitled to reclaim the VAT in full.

The Tribunal agreed with the appellant. Following earlier case-law of the Court of Justice (in particular the case of Skandia America), it confirmed the principle that when a VAT group is formed the identities of the individual members of the group disappear. A VAT group of two or more companies becomes a single taxable person for VAT purposes. In essence, it becomes a single entity. All supplies of goods and services between members of a VAT group are, thus, ignored. Supplies of goods or services by or to a member of a VAT group must, therefore, be treated as supplies of goods by or to the VAT group.

In this case, HMRC sought to isolate the activities of the buyout company as if it were a single stand-alone entity. It argued that the existence of a VAT group could not (or should not) make input VAT reclaimable where it would not otherwise have been claimable. It pointed to the fact that in its own right, the buyout company had no economic activity and that, if it were not a member of the VAT group input VAT recovery would be denied.

The Tribunal dismissed HMRC's arguments. It was clear that Skandia and other Court of Justice cases mean that a VAT group is a single taxable person. The VAT group only made taxable supplies and, as a result the input VAT on the fees was recoverable in full.

***Comment - this decision is only an FTT decision (which is only binding on the parties). However the Tribunal has made it clear that HMRC's policy of looking at the activities of a group member in isolation is incorrect. It is necessary to examine the activities of the VAT group as if it were a single entity (the single taxable person concept).***

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