

# VAT alert

## VAT & Pension schemes – again !

November 2017

### Summary

It is almost four and a half years since the Court of Justice issued its judgment in the Dutch pensions scheme case - PPG Holdings.

Since then, HMRC has issued a number of Revenue & Customs Briefs outlining how the UK was to interpret that judgment and providing guidance on how UK businesses that operate a pension scheme could reclaim the input VAT incurred on pension scheme costs.

HMRC has now published its new internal guidance which confirms that the so called 70/30 split concession is to remain (though the guidance does not say for how long).

HMRC has also indicated that, as a separate option, pension schemes may wish to recharge costs incurred on investment management services received to the employer company.

### HMRC Guidance – Key points

HMRC has extended the transitional period in which employers may rely on the existing rules (known as the "70/30 split") beyond 31 December 2017. There is no specific timeframe given as to when the transitional period may expire.

HMRC has also suggested some different options following PPG but advise that the option to be applied will depend on whether the employer directly contracts with and pays for the services used to run the pensions scheme. According to HMRC, VAT on investment costs can only be deducted by the employer if it contracts directly with the supplier for the services and pays for them. In practice, however, the contracts are generally between a supplier (eg a fund manager) and the trustees of the scheme. There are potential solutions available in this scenario which pensions schemes should explore.

Where an employer incurs costs of the pension scheme, it may recharge these onto the trustees. If the costs charged on are for administration services, the employer does not have to charge VAT on these costs, but where similar arrangements are adopted for investment services or other services connected with the pension fund's activities, VAT must be charged.

When the supplier issues a single tax invoice for a single supply comprising both administration and investment services, an apportionment between these services is necessary. HMRC currently accepts, by way of a simplification, that 30% of the costs relate to the administration services when the third party provides both the pension fund's administration and investment services and issues one VAT invoice covering both services.

A tripartite contract between a supplier, pension scheme trustee and employer may be used to meet the requirement that an employer contracts for investment services. This only applies in the context of DB pension schemes. For the employer to be able to deduct any VAT, it will be necessary for them to be issued with a valid VAT invoice for the full cost of the supply and to pay the service provider directly. HMRC do not accept that an equivalent increase in contributions to the fund or any payment that is made by, or through, the fund constitutes payment by the employer. Changes in the recipient of an investment manager's services may also have regulatory implications. This arrangement may also have implications for an employer's Corporation Tax deduction. HMRC's view is that, under existing accounting standards, in the majority of cases the employer is not entitled to a Corporation Tax Deduction.

***Comment – despite HMRC's new guidance, the recovery of VAT by pension schemes / employers is still complex and whilst this complexity presents some challenges there are also some positive opportunities. For further discussion, please contact your usual Grant Thornton Partner or one of the VAT Partners listed below.***

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