

VAT update

Richard Loudon



Agenda

1. VAT for IFAs and Advisers – a common issue and practical steps
2. RDR – VAT and the commercial context
3. Case law update
4. Budget 2011

VAT for IFAs and Advisers

Current Issues for IFAs and advisers

Topical issues

Exempt vs. taxable services

An approach

VAT treatment driven by a combination of activities performed, product offered and how it is paid for

- **What product is being offered:**
 - is it a discretionary managed product?
 - is it a financial product?
 - is it something else e.g. equity release?
- **What are the payment arrangements?**
 - Single vs multiple fees?
 - Payment subject to investment?
- **What service is being provided:**
 - financial advice vs. arranging an investment;
 - what if both are being provided?

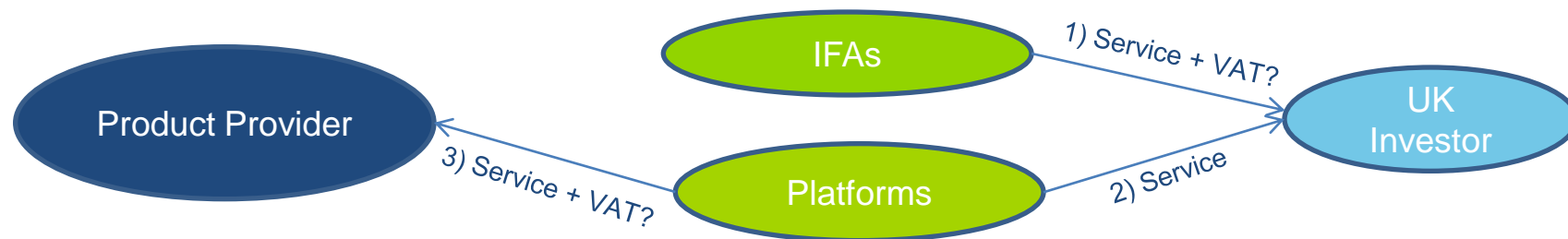
Single vs. multiple supplies

- Subjective and litigious area of VAT
- Covers all industry sectors not just financial services:
 - Sale of caravans;
 - Charges for TV guides by broadcasters;
 - Card protection cover
- **Key considerations:**
 - Overall circumstances
 - Artificial splitting
 - Aim in its own right?
 - Is one or more activities ancillary?
- Important case in the near future – affects wealth management!

RDR Recap

Retail Distribution Review - VAT implications

Some commercial points



- Fees charged by IFAs would be subject to VAT, unless the adviser's service is financial intermediation. Impact on overall investment cost? Are products competitively disadvantaged?
- Platforms, in general, do not charge investors and do not provide advice. Potentially, a cheaper alternative (in terms of VAT cost to IFA distribution). Does this affect distribution strategy?
- Ongoing charges made by distributors – do these qualify for VAT exemption?
- Nominee arrangements – where businesses have these arrangements it is imperative to understand the underlying business (e.g. New vs. Legacy / Advice vs. Execution Only).

Case Law Update

Case law update

Overview

- ✓ Deutsche Bank
- ✓ Pearl
- ✓ Nordea Pankki Suomi Oyj

Case law Update

Private wealth management - *Deutsche Bank*

Facts

- Deutsche Bank provides discretionary management to individual investors (which includes the buying and selling of securities)
- Deutsche Bank received a total fee of 1.8% of the value of funds under management. 1.2% in respect of portfolio management and 0.6% in respect of transacting investments

Issues for consideration

- Whether the service provided to the investor can qualify for VAT exemption in its entirety?
- If not, is the transacting activity separate and distinct from the portfolio management and exempt?
- Questions have been referred to the European Court of Justice.

Implications for the UK?

Case law Update

Life funds – *Pearl*

- Concerns the VAT treatment of management services provided in connection with one of Pearl's unit linked life funds
- The unit linked life fund invests in UK OEICS operated and managed by the fund manager.
- Discretionary management takes place at OEIC level but management fee is charged directly to the life fund (and not from the OEIC)
- Argument is that the management fees should be exempt as the management of OEIC

Case law Update

Financial intermediary exemption - *Nordea Pankki Suomi Oyj*

- Finnish case referred to the European Court of Justice
- Concerns the VAT treatment of services provided by SWIFT
- Are these taxable telecommunication services or exempt from VAT as services related to transactions in securities?
- Judgement expected in the next 12 – 18 months
- Opportunity?

Budget 2011

UK Budget 2011

VAT – what has changed?

Revalorisation of thresholds

- VAT registration threshold increases from £70,000 to £73,000 with effect from 1 April 2011
- VAT deregistration threshold increased from £68,000 to £71,000 with effect from 1 April 2011
- Revalorisation of fuel scale charges with effect from 1 May 2011

Low Value Consignment Relief (LVCR)

- reduction in the LVCR threshold from £18 to £15 from November 2011.
- UK to explore options with the European Commission to limit the scope of the relief going forward
- threshold of the LVCR will be revisited in Budget 2012 if discussions with the European Commission do not produce a workable solution.

UK Budget 2011

Other areas of interest

Corporation and personal taxes

- Main rate of corporation tax < to 26% from April this year
- Tax free allowance increased by £1,000 to £7,475
- 40% tax now payable on amounts earned over £35k
- Main rate of national insurance increased by 1% from April this year
- Pensions: yearly tax free allowance reduced to £50k and **next year** lifetime allowance will be reduced from £1.8 to £1.5 million

Investment management points (not VAT related)

- UCITS IV (management company passport) – legislation will be introduced to ensure that overseas funds are not resident by virtue of having a UK resident manager
- Finance Bill 2012 to include legislation relating to the introduction of a tax transparent fund vehicle. A consultation will be launched in June this year

Budget 2011

Future VAT developments

- Online registration and online filing (subject to consultation)
 - Government will mandate online VAT registration, de-registration and variations.
 - Removal of the UK VAT registration threshold for non-established businesses, with effect from 1 August 2012.
 - Require all remaining VAT customers to file their VAT returns online and pay electronically from 1 April 2012.

- Cost sharing
 - The Government will continue to consult on the implementation of a VAT exemption for services shared by VAT exempt bodies, including charities.



Open discussion and Q&A session

hosted by
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