

CHECK THE MEANING

I have worked in financial services all my life, however some things confuse me and I often struggle to grasp others. This particularly applies to tax calculations and trying to marry together various forms and documents to understand the correct taxation that should be applied.

I fear I am not alone following recent discussions with a number of financial advisers. Under the new FCA rules and particularly the tax structure set up by the Treasury some time ago, now commission has disappeared and adviser charging is with us some are still unsure of the application of VAT.

In respect of adviser charging the simple explanation is general financial advice is taxable and intermediation is VAT exempt. The critical factor in determining VAT exemption is that the adviser should 'act' between the product provider and the customer with a view to arranging the sale of the 'retail investment products' agreed with the customer, known as intermediation. Fees or commission for advice only services were always taxable and remuneration for an intermediary service may benefit from VAT exemption if the adviser acts as an intermediary by bringing together parties to an exempt financial service. In order to qualify for exempt intermediation, an adviser would need to clearly evidence to HMRC that there has been customer specific interaction between the adviser and the product provider in relation to the sale of exempt products. Providing a customer with product provider material or information on products is not sufficient to demonstrate intermediation has taken place.

Advisers can still successfully claim VAT exemption where a client decides not to purchase a product despite a recommendation from an adviser.

If the customer, subsequent to committing to effecting a policy, decides not to progress, the service would still qualify for VAT exemption as it would fall into the category of an aborted transaction. Some advisers are still struggling with the application of VAT on client services, and when to invoice correctly.

This situation can be exacerbated when the recommendation involves a SIPP. The application of VAT on SIPP charges does not have a level playing field between different SIPP provider firms, some of whom are currently directly regulated, others who operate through a third party and unregulated providers. The consumer often does not know that all SIPP providers are required to operate by the same standards, but the application of VAT on their charges differs.

There is one anomaly. This relates to the favourable VAT treatment on SIPP fees currently only afforded to those providers in the market who are insurance companies so that they have the benefit of a 20% tax advantage. SIPPs not issued under insurance contracts ARE subject to VAT on services charged. Therefore, not all personal pension scheme establishers and operators are treated in exactly the same way for VAT purposes. In brief, UK law currently exempts from VAT, insurance related services. The current favourable treatment of insurance company SIPP providers arises from a VAT Tribunal decision, Winterthur Life UK Limited and the Commissioners of Customs and Excise in 1997.

Advisers should therefore consider carefully when looking at the overall VAT declaration to customers.

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