

## **Recovery of input tax on a company Car**

### **Elm Milk Ltd**

This case was an appeal by Customs against tribunal decision 18592 in an attempt to disallow Elm Milk recovering input tax in the sum of £5,790 incurred in the purchase of a motor car, which Elm Milk said was used solely in the course of Elm Milk's business. The Tribunal had allowed Elm Milk's appeal, despite the fact that there were no physical restraints preventing private use of the car, (which was used by a Mr Phillips, the director and sole employee of the company). **VAT recovery on the purchase of cars is permitted only where there is 100 percent business use.**

Customs cited *Customs vs Upton {2002} STC 640* where a person carrying on a business on his own account bought a Lamborghini for use in his business and used it for no other purpose. The Court of Appeal found that nothing had been done to prevent private use by the person and so ruled in favour of Customs, despite concluding that the taxpayer had no intention of actually using the motor car otherwise than for business.

The key factor in Elm Milk's success was a Board minute noting the company's intention to limit the use of the vehicle to business. If the car had been used for private use, then it would have been a breach of the employee's terms of employment, and hence 'unlawful' and the judge was satisfied this would not occur.

*If you are from a small company and are considering purchasing a new company car then it would be worthwhile contacting 4 Eyes Ltd to see if a similar arrangement could be put in place.*