

Use of a subsidiary company to obtain a VAT advantage – Robert Gordon University

The Tribunal stated that the use of a subsidiary company (which is not an eligible body) to provide taxable nurse training to the Scottish Executive under a contract novated by the University was not artificial and found that the University was not itself supplying education to the subsidiary company but was supplying it with taxable supplies of staff and administrative support which then enabled the subsidiary to meet its contractual obligations and make taxable supplies to the Scottish Executive.

In a robust decision the Chairman Mr Coutts stated ***“The concept that if by organizing transactions in a particular way an overall benefit in relation to taxation can be achieved does not make these transactions unreal. It might well be argued that commercial reality demands that the most tax efficient method of operation should be adopted”***

Analysis

Where the services are treated as taxable rather than exempt, contracted out services rules make provision for the VAT to be refunded. The ability to make taxable supplies reduces VAT costs to the business by allowing associated input VAT recovery.