

## **Cultural services VAT exemption**

### **Summary**

In dismissing the taxpayer's appeal in *Bournemouth Symphony Orchestra v. HMRC*, the Court of Appeal has confirmed that a charity cannot have a paid employee as a member of the governing board and retain the cultural services VAT exemption. In the same proceedings, the Court of Appeal refused leave for HMRC to appeal against the judgment of the High Court in the Longborough Festival Opera case, confirming that where a trustee underwrites the activities of the charity this, of itself, will not disbar the charity from the cultural services VAT exemption.

### **Background**

The case concerned the effect that a paid managing director, who was a member of the managing board of the charity, had on eligible body status. The Court of Appeal considered that, by having a paid managing director on the managing board, the charity was not managed and administered on a 'voluntary basis' and dismissed the taxpayer's appeal. In the same proceedings, the Court of Appeal refused leave for HMRC to appeal against the judgment of the High Court in *Longborough Festival Opera*. On the facts in that case, the Court of Appeal considered there to be no important point of principle or practice or any other compelling reason why a second appeal should be entertained.

### **Implications**

All non-profit making cultural services providers will need to consider the impact of the decision on their own eligibility for exemption. The decision may also have implications for the education, sporting and spiritual welfare VAT exemptions.

## **Reduced Value Rule for Long Stay Hotel Guests**

As a result of a recent Tribunal case Customs have made changes to the treatment of supplies of overnight accommodation made by hotels where the accommodation is provided to individuals for a period exceeding 28 days. Customs now accept that the reduced value rule is not limited to situations where the VAT supply is made to the individuals occupying the accommodation. The result of this means that when hotels have contracts with local authorities or other organisations for the provision of accommodation e.g. to homeless people or asylum seekers, such contractual arrangements will qualify for treatment under the reduced value rule.