

Attribution of costs to taxable and/or exempt supplies: The Mayflower Theatre Trust Ltd [2006] EWHC 706 (Ch)

In a significant decision for partly exempt businesses, the High Court has overturned the Tribunal's decision in relation to the allocation of input tax, and found that there was sufficient nexus between production costs incurred by the theatre and its taxable supplies, to enable the VAT on those costs to be treated as residual.

Partial exemption special method refused and effect of special method override: St Helen's School Northwood (19449)

The taxpayer, a school, entered into arrangements to exploit a sports complex outside school hours. It sought to recover a substantial amount of the input tax on the complex as being referable to the letting of the complex to the subsidiary responsible for its exploitation. HMRC refused to allow a special method based on number of hours used and also to allow an application for a refund of tax using the special method override applying the same method. The appeal was dismissed but the Tribunal's comments as to possible further avenues to improve input tax recovery should be noted.

Input tax on company car able to be recovered: Peter Jackson (Jewellers) Ltd (19474)

The tide of court decisions seems to be turning in favour of the taxpayer, at last. This and more recent cases, such as the Court of Appeal decision in the Elm Milk case, show that VAT deduction can be obtained where a car is not required by an employee for private use (including home to work use) and the relevant conditions aimed at preventing private use can be included in any employee contracts.

Donations paid on admission to rugby matches not consideration for a supply: Rumney Rugby Football Club (19480)

This case concerns certain sponsorship and donation arrangements entered into by a sports club. It shows that businesses wishing to support such community ventures may need to assist the recipient of funding in dealing with the intricacies of VAT. This assistance may include proper drafting of sponsorship or funding agreements so that it can be clearly demonstrated whether or not there is a nexus with any particular benefit.

A "contribution school" is not a business: The Shelling Trust (Ringwood Waldorf School) (19472)

The Tribunal has found that the 'intrinsic nature' of the activity of a Steiner school is not 'economic', so that the charging of fees according to ability to pay did not create a business activity. The school was therefore entitled to repayment of VAT incurred on the construction of its building.

VAT on long stay hostel accommodation: The Afro Caribbean Housing Association Ltd (19450)

The VAT Tribunal has held that the reduced taxable amount for VAT purposes for hotel accommodation occupied for more than 4 weeks is available in tripartite arrangements where one party pays for, and another benefits from, the accommodation. There is no requirement in the legislation that the person who receives the supply of accommodation and the person physically occupying the room must be the same person.

Newnham College Wins with Library Scheme Appeal

Newnham College was victorious on appeal to the High Court against a Tribunal decision which had ruled in Customs favour. The College wanted to rebuild part of its library and, due to its exempt educational activities, would not have been unable to recover input tax relating to the construction of the library. It therefore incorporated a wholly owned subsidiary to which it leased the library after it had elected to waive exemption in respect of the College buildings, including the library. The Tribunal held that the election

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should be disapplied because it was its belief that it was Newnham College which was in occupation of the library and also had control over the subsidiary.

The High Court opined that the use of the library by students and fellows of the College did not amount to occupation because they had no control over access to and use of the library by others. The appeal was therefore allowed with the result that input tax in constructing the library was recoverable by the College.