

### **VAT recovery for a not-for-profit theatre**

Mayflower Theatre operates the cultural exemption as a not-for-profit body. It claimed that some of the input tax on its general production costs should be recovered under the partial exemption regulations. Customs objected to any VAT recovery. The VAT Tribunal held that the whole of the services supplied to the Mayflower by theatre production companies was used by it exclusively in making exempt supplies (ticket sales), the end result being that none of the input tax was deductible under the partial exemption regulations. The crux of the Tribunal decision was that it did not believe there was any relationship between the consideration paid by Mayflower to the production companies and its non ticket sales i.e. zero rated sales of programmes and standard rated sales of drinks etc.

Mayflower appealed to the High Court and argued that expenditure was incurred to generate income from admissions as well as sales of programmes, drinks, refreshments, sponsorship and corporate entertainment. The Judge concluded that in his opinion the input tax was not used exclusively for either taxable or exempt supplies and should be regarded as residual VAT and therefore partially recoverable. He did not find it appropriate to split overhead costs at source between exempt and taxable supplies particularly when the cost was integral to both elements of the consideration paid for it. This resulted in a successful appeal for the Theatre which is now able to recover previously irrecoverable VAT.

*Any Theatres with exempt income should consider whether they are recovering VAT on input tax on this favourable basis. 4 Eyes Ltd can assist with the formulation of VAT reclaims.*