

### **RBS - Cross Border Car Leasing**

This is an interesting Tribunal case. It involved a RBS, a household name UK bank. Cars were acquired in the UK by a German subsidiary of the bank which leased them on in the UK. The lease rental income was agreed by both parties to be a supply in Germany and under UK law not subject to UK VAT as the leasing was in Germany. The German law dictated that there was a supply of goods in the UK. Consequently there was no output VAT chargeable in either member state: the UK or Germany. HMRC fought the case on the basis that either the VAT law did not allow the analysis of the bank to prevail i.e. Customs said that input VAT on buying the vehicles was not recoverable as the rental income was not subject to VAT, but if that failed they said that the anti avoidance provisions laid down in Halifax (VAT recent) and in Ramsay and Furniss v Dawson (direct tax and in the 1980's) prevented the recovery of input tax on the purchase of the vehicles by the German subsidiary.

HMRC lost on both counts and VAT was recoverable on the purchase of the vehicles but not on the lease rentals, but would be due on any consideration on the vehicle sale at the end of the lease. A little surprising but watch this space.