

Partial exemption challenge*Camden Motors*

HMRC, using a provision in the VAT law known as the standard method override, had assessed Camden Motors on the basis that its overheads were used to a greater extent to make exempt supplies than provided for by the standard partial exemption method. HMRC therefore contended that the standard method did not provide a fair and reasonable attribution of input tax to taxable supplies i.e. that the car dealer had over recovered VAT incurred on its overhead costs.

In reaching its decision, the VAT tribunal has specifically rejected HMRC's attempts to use their calculations of the profitability of the taxable and exempt parts of the business as an indication of consumption of inputs rather than turnover. The Tribunal also refused to accept that the capital value of the vehicles should be excluded from the partial exemption calculation, and upheld the important distinction between acting as a principal in transactions, as opposed to an agent. These findings will be helpful to other businesses which are facing a challenge from HMRC on partial exemption.

There was also a specific finding which means that the standard method override (and so HMRC's challenge) does not apply where a business is "de minimis" for partial exemption purposes. Other businesses who meet these conditions may therefore fall outside of the retrospective action that HMRC took in this case.

The issues involved are complex and, despite the findings in the VAT tribunal, it is likely that HMRC will not be deterred from taking similar challenges. For advice on your position and how this decision may apply to you, please contact info@4eyesltd.co.uk.