

VAT treatment of postal services

TNT Post UK Ltd

EU law provides a mandatory exemption from VAT for supplies of postal services made 'by the public postal services'. In the UK, the application of this provision is limited to Royal Mail and covers all of Royal Mail's postal services. All other postal operators - both before and after full deregulation of the postal sector in the UK on 1 January 2006 - are required to charge VAT at the standard rate on their services.

Following a legal challenge to the scope of the exemption as applied in the UK, the European Court of Justice in the case of TNT Post UK Ltd has confirmed that Royal Mail, as the operator providing the public postal service, is the only postal body in the UK eligible to exempt postal services from VAT. However, it has also ruled that exemption applies to the public postal services (that is, Royal Mail) acting as such and does not apply to supplies made by Royal Mail for which the terms have been individually negotiated.

As a result, some postal services as supplied by Royal Mail - those which are individually negotiated or not subject to any price and regulatory control - which have been treated as exempt will become liable to VAT.

HM Revenue & Customs are currently in discussions with Royal Mail to establish precisely which of their services will be affected and further guidance will be issued once these discussions are complete. Any changes will be implemented from a future date and, in the meantime, all postal services provided by Royal Mail remain exempt from VAT.

Comment

This development will affect many businesses going forward and for any partially exempt business, is likely to result in increased irrecoverable VAT costs. It is likely to be of benefit to alternative postal providers such as TNT as they have previously been disadvantaged by having to charge VAT when the Royal Mail benefited from exemption.

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