

FROM: Head of Taxation
LOCATION: TAX/G4/441
EXTENSION: 5228
DATE: 22 July 2002
REFERENCE: TAX/HS/ln/Y2837
SUBJECT: **VAT ON MEMBERS' AGENTS SERVICES:
TRIBUNAL DECISION**
ATTACHMENTS: None
ACTION POINTS: **To note**

1. Introduction

- 1.1 In 2000 Customs and Excise issued a ruling that members' agents services were standard rated for VAT, with effect from 1 January 2001. SOC Private Capital Limited agreed to appeal as a test case against the ruling, and the appeal was heard in May this year. The VAT & Duties Tribunal has now decided that the services are exempt from VAT. This is a favourable decision for Lloyd's members, and applies to VAT already paid as well as to the future.
- 1.2 Customs and Excise have until September to appeal against the decision. We will issue a further bulletin when we know whether they have done so.

2. Detail

- 2.1. Market bulletin Y2166 of 11 November 1999 set out the background to the ruling and appeal. In short, Customs' view was that members' agents do not supply insurance or reinsurance transactions, or related services performed by insurance brokers or insurance agents. Lloyd's, and members' agents, contested this view.
- 2.2. SOC Private Capital Limited appealed as a test case on behalf of members' agents, and its appeal was heard by the VAT & Duties Tribunal on 13-15 May this year. Roderick Cordara QC represented them before the tribunal.

- 2.3. The tribunal has allowed the appeal. The main finding in its decision is that Lloyd's members' agents are insurance agents within the meaning of Article 13B(a) the EC Sixth VAT Directive (77/388/EEC) and that they supply services related to insurance transactions within the meaning of that Article. Accordingly, the services are exempt from VAT.
- 2.4. As a further matter, the tribunal also found that members' agents supply insurance and reinsurance transactions within the meaning of the VAT legislation and that the services are therefore also exempt on that basis. This finding was, however, not necessary in order to allow the appeal, as the primary finding that they are insurance agents supplying services related to insurance transactions was sufficient.
- 2.5. Customs and Excise may appeal to the High Court. They have 56 days from the date of the decision in which to do so, that is until 5 September 2002. We will issue a further bulletin around that time, which will also deal with the position for any VAT that has been paid under Customs' ruling and may be reclaimable.
- 2.6. The text of the decision will shortly become publicly available. If you would like to see the full text but have difficulty in otherwise getting it, please contact Harinder Sandhu in Taxation Department.

3. Readership and contact details

- 3.1 This bulletin is being sent to members' agents, managing agents, recognised auditors, and members' personal accountants.
- 3.2 If you have any questions on the contents of this bulletin, please contact Harinder Sandhu on 020 7327 5396 or email harinder.sandhu@lloyds.com.

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