[2017] UKFTT 666 (TC)

TC06093

Appeal number: TC/2016/02469

VALUE ADDED TAX – Conveyancing - Appellant firm of solicitors obtaining online property searches from an external search agency - Agency invoiced appellant for the cost of obtaining access to documents without the addition of VAT - Appellant treated this as a disbursement and invoiced its clients for the same amount without VAT - Whether a disbursement? - No - Whether VAT should have been applied by the Appellant? - Yes - Appeal dismissed

FIRST-TIER TRIBUNAL
TAX CHAMBER

BRABNERS LLP **Appellant**

- and -

THE COMMISSIONERS FOR HER MAJESTY'S REVENUE & CUSTOMS **Respondents**

TRIBUNAL: JUDGE CHRISTOPHER MCNALL

Sitting in public at Liverpool Civil and Family Court on 27 and 28 April 2017

Mr Mark Whiteside, Solicitor, and a Partner of the Appellant LLP, for the Appellant

Ms Joanna Vicary, instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents

And considering submissions in writing from the Law Society of England and Wales

DECISION

Introduction

1. This Appeal was made by way of a Notice of Appeal dated 3 May 2016, against a decision made on 19 October 2015 (upheld by departmental review on 4 April 2016) to assess the Appellant as liable to pay VAT on the search fees charged to it by third party search agencies for the period 1 May 2012 to 31 July 2015.

2. The amount in dispute, set out in a Notice of Amended Assessment dated 13 July 2016, is £67,776 together with interest.

3. I dismiss the appeal, for the reasons which are set out more fully below.

4. Before I set out those reasons, it is important to make a number of general observations.

5. Firstly, this is not a case of dishonesty or misconduct. Nor is it a case of tax avoidance or evasion. It is simply a case as to whether the Appellant's VAT treatment of certain fees was, as a matter of law, correct or incorrect.

6. HMRC has not advanced any criticism as to the Appellant firm's probity or integrity, or the probity, integrity or professional conduct of any of its partners or employees, past or present and it is clear that the Appellant has acted throughout in good faith.

7. Secondly, HMRC argued that the appeal should be dismissed on the basis of evidential inadequacy, since the Appellant had not advanced much by way of contemporary documents that the results of the searches to which this appeal relates were in fact being provided to its clients (this being one of HMRC's stated conditions for treating an item of expenditure as a disbursement).

8. However, no application was made (whether formally and in advance, or informally and in the face of the Tribunal) that the appeal, as it stood, enjoyed no reasonable prospect of success so as to render it vulnerable to being struck-out under Rule 8(3)(c). No application was made by the Appellant for an adjournment to permit it to introduce further evidence.

9. I am not attracted by HMRC's argument in this regard and I decline to dismiss the appeal on that basis:

> (1) It seems to me that the argument is subsidiary to HMRC's main argument, which, in summary, is that the consumer of the search results is the appellant, as part of the conveyancing services which it is providing to its clients, and not the clients. As such (and despite my interlocutory views tentatively expressed during the hearing) it is not, on reflection, an anterior point potentially dispositive of the appeal;
>
> (2) The argument was raised at a relatively late stage, and seems to me to be somewhat inconsistent with the impression to be gained from the correspondence as to the degree of co-operation between the appellant and HMRC;

(3) Ultimately, had HMRC wished to pursue a challenge of that kind, then it was always open for it to have done so in cross-examination. However, at the outset of the hearing, the parties indicated that they had agreed that neither wished to cross-examine the other's witness.

10. That is not to say that the evidential position was wholly satisfactory. But, in my view, there is sufficient information and material before me to allow me to deal with this appeal substantively. There is the unchallenged evidence of Mr O'Brien. There are contemporary, unchallenged, documents. There is evidence as to the appellant's practice contained in the correspondence.

11. Thirdly, HMRC urged me to avoid producing a scenario in which the parties have to trawl back through (potentially) tens of thousands of transactions so as to establish the appropriate tax treatment for each of them. But the practicality or otherwise of implementing the terms of my decision - whether for this particular taxpayer, or for HMRC - is simply not a relevant consideration for me, and I am bound to disregard it.

12. Fourthly, I am also bound to disregard, as part of my process of reasoning and decision-making, any consideration of the impact of my decision more widely in the legal profession.

The background

13. The Appellant is a law firm with a real estate department. It offers conveyancing services, both to buyers and sellers, in relation to proposed property transactions, in relation both to commercial and residential property.

14. The Appellant often obtains local authority and local land charge 'searches': namely, information appertaining to the property held by the relevant local authority in its files and registers concerning matters including planning, environmental health, and building control.

15. When instructed by a prospective buyer, the appellant often (but not always) agrees to prepare a report to the client advising on the contents of the property searches. It performs a similar function (but, likewise, not always) when acting for prospective sellers, depending on how the overall transaction is being structured or managed.

16. Such property searches may be undertaken in one of three ways:

(1) A search can be made by the local authority, using its own employees. Such searches are often referred to as 'postal' searches (since the request was traditionally made by post). The local authority's response is made, through the post, using certain standard official forms;

(2) The same search can be personally undertaken, by attendance at the local authority's offices. When this approach is adopted, it is referred to as a 'Personal Search'.

17. Thirdly, it is also possible to conduct an electronic search. The Appellant states, and it is not challenged, that it does this for the majority of its searches. The search is not done by the Appellant, but is done by a specialist online search agency (in this

case, 'Searchflow') engaged by the Appellant. Searchflow obtains the required property searches from the local authority's digitised or dematerialised files and registers, and passes those results back to the Appellant.

18. This Appeal concerns the proper VAT treatment of the charges made for these electronic searches.

19. Searchflow invoices the Appellant for the cost of the search without the addition of VAT (since, until early 2017, local authorities did not routinely charge VAT for searches, on the basis that it was charging simply for access to the documents - whether real, or digital). The Appellant treats this fee as a disbursement and invoices its client, as a disbursement, and without the addition of VAT.

20. The Grounds of Appeal, in summary, say that HMRC *'has not applied the provisions of Articles 73 and 79 of the EU Directive 2006 correctly in relation to the specific facts of the disputed search fees, and that Brabners LLP was entitled to treat these charges as excluded from the taxable amount'.*

21. HMRC argues that the search fee can only be treated as a disbursement if it satisfies the 8 'disbursement conditions' in VAT Notice 700 Paragraph 25.1, which reads as follows:

- *You acted as the agent of your client when you paid the third party*
- *Your client actually received and used the goods or services provided by the third party (this condition usually prevents the agent's own travelling and subsistence expenses, phone bills, postage, and other costs being treated as disbursements for VAT purposes)*
- *Your client was responsible for paying the third party (examples include estate duty and stamp duty payable by your client on a contract to be made by the client)*
- *Your client authorised you to make the payment on their behalf*
- *Your client knew that the goods or services you paid for would be provided by a third party*
- *Your outlay will be separately itemised when you invoice your client*
- *You recover only the exact amount which you paid to the third party*
- *The goods or services, which you paid for, are clearly additional to the supplies which you make to your client on your own account.*

22. HMRC's view is that a trader must prove that it has met all the above conditions if it is to be entitled to exclude the payment from the value of its own supply.

23. HMRC contends that the search fees should not be treated as a disbursement since the fees are not simply repayment of expenditure incurred in the name and on behalf of the customer (Article 79) but rather constitute consideration obtained, in

return for the supply, from their client, and which forms part of the charges for their services (that is, the Appellant's services) (Article 73). HMRC contends that the information within the search results is used by the Appellant to give advice to their clients, and hence recovery of the outlay represents part of the overall value of the solicitor's supply to their client.

24. HMRC also refers to its internal VAT Taxable Person Manual ('VTAXPER') §47000 - *'Issues to consider: identifying disbursements in particular areas and trades: search fees'*. This reads as follows:

- *The recharge of a search fee to the customer for the provision of a fiche or document may be treated as a disbursement and outside the scope of VAT, provided the information is passed on by the agency* ***without analysis or comment,*** *and all the conditions outlined in section 25.1 of Notice 700 The VAT Guide are met*

- *Where a process has been carried out on the fiche or document itself, provided the agency has not used the data to inform an opinion or report, then it may treat the recharge of the search fee as a disbursement and also outside the scope of VAT. An example would be where the agency obtains a search but its customer does not have the facility to read a fiche, and the agency simply converts the fiche into readable hardcopy and passes it on to the consumer,* ***without comment or analysis****. The same would apply where the agency provides typewritten extracts of a fiche or document, again without analysis or comment.*

- *If the agency analyses, comments on, or produces a report on a fiche or document, or otherwise uses the information obtained on a search to produce a report, it may not treat the search fee as a disbursement and outside the scope of VAT when recharged to the customer. In this example, the agency could not provide the customer with the required information without utilising the content of the fiche or document. The search fee, therefore, is a component part of the agency's costs in providing its services to the customer, and is taxable at the standard rate.*

- *The same rules should apply to on-line searches carried out by a solicitor: whether or not it is to be treated as a disbursement will depend on how the information is used. If it is to be passed on to the client without comment or analysis (that is, it meets the terms of the first and second bullets) it may be treated as a disbursement. However, if the solicitor uses the information himself eg in providing advice, or a report (as in the third bullet), it will form part of the charges for his services and will be subject to VAT*

25. The gist of the Appellant's argument is that the Appellant's client has requested or expressly authorised the Appellant to obtain a search on the client's behalf, meaning that the Appellant is simply acting as the client's agent, and the report belongs to the client. The Appellant argues, the search fees qualify as disbursements for the purposes of VAT, and are not part of a taxable supply. It also argues that this separate treatment is intelligible and sensible.

26. Pursuant to Rule 5(3)(d) of the Tribunal's Rules, and with both parties having indicated their consent, I ordered that the Law Society be permitted to make written submissions. I have considered those submissions, which are dated 11 April 2017.

27. I am grateful to the parties, and their representatives, and to the Law Society, for their respective oral and written submissions.

The 2006 Directive

28. Article 73 of Council Directive 2006/112/EC provides:

> *"In respect of the supply of goods or services, other than as referred to in Articles 74 to 77, the taxable amount shall include everything which constitutes consideration obtained or to be obtained by the supplier, in return for the supply, from the customer or a third party, including subsidies directly linked to the price of the supply"*

29. Article 79(c) provides:

> *The taxable amount shall not include the following factors:*
>
> *[...]*
>
> *[c] amounts received by a taxable person from the customer, as repayment of expenditure incurred in the name and on behalf of the customer, and entered in the books in a suspense account.*
>
> *The taxable person must furnish proof of the actual amount of the expenditure referred to in point (c) of the first paragraph and may not deduct any VAT which may have been charged"*

The facts

30. The evidence was contained a bundle of documents, and two witness statements. The Appellant's witness was Mr Matthew O'Brien, a partner in the Appellant's real estate department. HMRC's witness was Mr Philip Maclean, a Higher Officer.

31. Both statements stand as the evidence-in-chief of their makers. In the absence of cross-examination, I have treated the evidence in those statements as unchallenged. Absent such challenge or exploration, I do not consider it permissible to seek to gloss that evidence, save where it happens to throw light on, or be inconsistent with, the documents. Nor do I consider it permissible, despite some invitations to the contrary, to subject the statements to over-forensic linguistic or semantic analysis.

32. Whilst a significant volume of skirmishing correspondence was put before me, the fullest evidentially admissible description of what actually occurred is given by Mr O'Brien, who says:

> "Where we are require to obtain property searches on behalf of our client we typically [...] in the majority of cases [...] request searches via an electronic search agency which obtains a search on behalf of our client without producing a report on the contents of the search. The search is requested electronically using an online form and is provided back to us electronically (usually by email attachment). When

> requesting the search we include a unique client and matter reference number (or occasionally just refer to the name of the client).
>
> Depending on the agreed scope of work we will either forward the results of the search (or searches) directly on to our client for their information, or, more frequently, we will carry out our own review of the contents of the search (or searches) and will provide our client with a separate report setting out our legal advice on the content of those search results. Typically, our report will also provide legal advice on other aspects of the transaction (such as the terms of the sale agreement).
>
> Where we provide our client with legal advice on the content of the searches, by way of a report, standard practice varies across the firm as to whether the underlying search results are also sent to the client for their records/information. Some Partners and solicitors in the firm simply retain the search results on the file, while others forward these on to the client in addition to the report'.

33. No such requests were put before me, nor searches, nor reports.

34. However, the witness statement (which properly draws attention to matters potentially adverse to the Appellant, as well as matters in its favour) describes what seems, unsurprisingly, to be a conventional conveyancing practice.

35. The treatment of one search for one client can be seen in the Invoices at pages 189 and 190 of the bundle. Both are from Searchflow to Brabners on account 'Brabners01'. One relates (inter alia) to a LR Form SIM Search of Index Map with a 'Data Provider Fee' of £4.00, upon which no VAT has been charged. The other (inter alia) relates to 'LR Form 001 Official Copy Request' with a 'Data Provider Fee' of £6.00, upon which no VAT has been charged. The sums were to be taken by direct debit from Brabners. Both invoices give a Brabners file number, and relate to certain identified land in Manchester. Brabners' invoice to its client records 'Disbursements Paid'. Brabners did not charge VAT on the two search fees (coming to £10.00).

36. The retainer letter to this client in relation to this matter has not been put before me.

37. But I have been provided with a template retainer letter, which has an Appendix which sets out space for the work which Brabners, having received instructions, anticipates or assumes that its work will comprise. There is white space for its estimated disbursements in relation to 'search fees'.

38. Its retainer is made subject to its 'General Terms of Business' which include the following (at §3.5):

> "Payments on your behalf.
>
> We may make specific payments on your behalf. These will be charged separately and may be payable in advance. Unless you instruct us to the contrary, you authorise us to incur as your agent such expenses and disbursements. These might include items such as:-
>
> Search fees and Land Registry fees
>
> Investigation fees

Barristers' fees

Court fees

Fees of other professional consultants

Travel and accommodation while working away from the office

Stamp Duty Land Tax

Stamp Duty - please note that we are not allowed to incur stamp duty on your behalf and recover it from you at a later date and therefore we will always ask for stamp duty in advance of it being due

Fax charges, photocopying charges and courier fees where appropriate

Electronic identification, CHAPS or other electronic bank transfer fees

We will not instruct other professionals or experts on your behalf without informing you first and wherever possible we will attempt to agree their fees on your behalf in advance, these charges within 14 days of them being invoiced"

Discussion

39. In general terms, VAT law draws a clear distinction in principle between the following two scenarios:

(1) when the relevant expenses paid to a third party C have been incurred by A in the course of making its own supply of services to B and as part of the whole of the services rendered by it to B; and

(2) where specific services have been supplied by C to B (and not to A) and A has merely acted as B's known and authorised representative in paying C.

40. It is only in the second case that the amount of the payments to C can qualify for treatment as disbursements for VAT purposes: see *Nell Gwynn House Maintenance Fund Trustees v Customs and Excise Commissioners [1999] STC 79 at 90a* (House of Lords) *per* Lord Slynn of Hadley (with whom Lords Browne-Wilkinson, Nolan, Clyde and Hutton agreed) approving dicta of Sir Christopher Slade ([1996] STC 310 at 326).

41. In *Rowe & Maw (a firm) v Customs and Excise Commissioners* [1975] 1 WLR 1291 the Divisional Court considered expenditure incurred by a solicitor in travelling to Rotterdam in connection with the sale of shares by a client. The Court held that the expenditure did *not* constitute a disbursement made on behalf of the clients.

42. Bridge J (as he then was) identified a class of cases *'where the goods or services purchased are supplied to the solicitor, as here in the form of travel tickets, to enable him effectively to perform the service supplied to his client, in this case to travel to the place where the solicitor's service is required to be performed. In such case, in whatever form the solicitor recovers such expenditure from his client, whether as a separately itemised expense, or as part of an inclusive overall fee, VAT is payable because the payment is part of the overall consideration which the client pays for the service supplied by the solicitor*': *ibid.* at 1296-7. My emphasis.

43. In my view, this test - succinctly articulated - is a good one to apply in ascertaining whether a particular payment is a disbursement, or is not.

44. In *De Danske Bilimportører v Skatteministeriet* [2006] ECR I-4945 Case C-98/05 Advocate-General Kokott considered whether vehicle registration duty paid by a dealer formed part of the price of the vehicle for VAT purposes. She set out "*the matter which is decisive for categorising the operation, that is, whether the vendor has paid the registration duty in his own name or in the name and for the account of the customer*" (at [39]).

45. She continued:

> "[40] In law, that question must be answered by reference to Article 11(A)(3)(c) of the Sixth Directive, that is to say, the Community law notion of acting in the name and for the account of another and not by reference to civil law provisions concerning agency and mandate which vary from one legal system to another.
>
> [41] Moreover, the operation must be categorised by reference to objective criteria and not solely to contractual provisions agreed between the dealer and the purchaser. Otherwise the parties could determine which elements are included in the taxable amount."

46. Hence, the Appellant's characterisation of whether something is a disbursement is not determinative of its true juridical status.

47. In my view, the relevant expenses paid to Searchflow have been incurred by the Appellant "*in the course of making its own supply of services to*" (its client) "*and as part of the whole of the services rendered by it to* (its client)" - the first category identified in *Nell Gwynn House Maintenance Fund Trustees.*

48. The Appellant is supplying conveyancing services. As part of this, it owes its clients a duty to take reasonable care and skill. It routinely makes property searches. This is because the client is asking the Appellants, as solicitors, to ensure that the transaction can safely go ahead; and is expecting the Appellants, as solicitors, to identify any risks or other factors adversely affecting the subject property.

49. The client expects the Appellant to do all that is necessary for the transaction - unless the Appellant is told expressly otherwise - which includes making all relevant searches and inquiries, and to draw anything relevant in them to the client's attention. As the Tribunal (Judge Theodore Wallace) remarked, pithily, in *Shuttleworth & Co v Commissioners of Customs and Excise [1994] VATTR 335 'much of the expertise of a solicitor lies in identifying any problem'*. I agree. I did not apprehend Mr Whiteside - an experienced legal professional specialising in property matters - to disagree.

50. The Appellants are not simply a conduit or post-box for search results. Simple common sense dictates that clients engage the Appellant in transactional work since the Appellant knows what it is doing, knows what a search is, knows what searches to obtain, knows how to get them quickly and conveniently, and knows what to do with them when it gets them.

51. In my view, this reasoning can be extended so that silence from the Appellant as to the searches which it had done and their results would be taken by most clients as an 'all-clear'.

52. I am fortified in my conclusion on this since the general form of retainer, to which I have already referred, does not say (words to the effect of) 'We will get the searches, but then what you do with them is down to you - you are on your own'. If that were to be the case, then it would need carefully spelling out in the terms and conditions.

53. When the Appellant obtains search results, and prepares a separate report, the Appellant is using that information as part and parcel of its overall service. When that has happened, then the search fees should not have been treated as disbursements, and VAT should have been charged. The payment is part of the overall consideration which the client pays for the service supplied by the solicitor.

54. I arrive at the same conclusion when the Appellant does *not* prepare a separate report on the searches. Otherwise, the VAT treatment is in danger of simply becoming 'the law of the paperclip' - that is, the VAT treatment comes to depend on whether the solicitors happen to send the original searches or a copy to the client or not. That is arbitrary and it cannot be determinative.

55. I do not consider that the appellant's use of a unique client and reference number confers any particular tax status on the charges made for the search results. Whilst Article 79(c) of the Directive excludes from treatment as a taxable supply '*amounts received by a taxable person from the customer, as repayment of expenditure incurred in the name and on behalf of the customer, and entered in the books in a suspense account'*, it seems to me, in the circumstances of this appeal, that the use of a unique client and reference number is more readily explicable in terms of ensuring that the Appellant's own administrative, clerical, and accounting procedures are complied with.

56. I consider this consistent with the reasoning of Advocate General Kokott in *De Danske*. She recognises 'the broad wording' of Article 79(c), but articulates the underlying rationale for the Article in these terms (at Paragraph 19):

> "If the person liable to VAT pays a duty in the name and for the account of his customer and if the corresponding amount is entered in the books of a taxable person in a suspense account, the duty does not in fact constitute an element of the services supplied by that person. On repaying the duty paid out in advance, the customer is not, therefore, rewarding the taxable person for a service provided. In those circumstances it is instead the customer himself who actually pays the duty; the taxable person is merely an intermediary used to facilitate payment'.

57. In short, I simply do not regard the Appellant as '*merely an intermediary used to facilitate payment'*. Looked at in the round, this is not its role in obtaining the search results. It is not just a 'middle man'.

58. Firstly, HMRC is right to point to the Appellant's own case that the search results, in some instances, were not even sent to the client. That is indicative of the identity of the true consumer of the search results - it is the Appellant.

59. Secondly, there was no evidence from any client. As such, there was no evidence from any client as to its own use or consumption of search results.

60. I reject the Law Society's argument that the act of obtaining the search results and the use of those search results by the solicitor to prepare a report 'are conceptually different'. I cannot readily identify the 'concept' which is said to be 'different'.

61. I also reject the Appellant's argument that the act of obtaining the search results is separate from the provision of the advice. In my view, both the Law Society's submission and the Appellant's are both species of artificial disaggregation, which disregard the overall nature of the supply. They fall foul of the comments made by Bridge J in *Rowe & Maw*. In my view, wherever searches are obtained, the payment is part of the overall consideration which the client pays for the service supplied by the solicitor.

62. My conclusion chimes with that reached by the Tribunal (Judge Michael Tildesley OBE) in *David John Curtis* [2007], which concerned the VAT treatment of the costs of telegraphic transfers, Land Registry copy documents, and land searches. The appellant, a solicitor, was treating these as disbursements and did not charge VAT on them when invoicing his clients. He charged his clients a fixed amount for the costs of land searches, including a profit element, and HMRC argued that this took the costs outside the definition of disbursement.

63. The Tribunal dismissed the appeal on the basis that it was satisfied that the appellant '*purchased the telegraphic services and the copies of the Land Registry documents to enable him to provide a conveyancing service to his clients*': see Para [12]. Whilst that decision does not bind me, it seems to me that the same reasoning applies, with no lesser force, here. The searches were being done to enable the Appellant to provide a conveyancing service to its clients.

64. I must add that it is not in dispute that historically (since 1 October 1991), and by way of agreement with the Law Society, HMRC has been prepared to allow solicitors to treat postal search fees as disbursements on the basis that 'the fee is charged for the supply of access to the official record and it is the solicitor rather than the client who receives that service'.

65. The Law Society has argued that the concessionary treatment of postal searches is correct, and that there is no apparent difference between postal searches and electronic searches. Hence, it is argued that it would be inconsistent or anomalous for electronic search fees to be treated differently from postal search fees.

66. I understand the argument, but I consider that I am bound to reject it for two reasons. Firstly, this appeal does not concern whether the concession in relation to postal search fees is right or wrong. Secondly, and in any event, it seems to me that any argument as to consistency would be one as to rationality, or legitimate expectation, and, as such, would be of a character outside my jurisdiction.

67. I arrive at my conclusions notwithstanding the Tribunal's decision in *Barratt, Goff and Tomlinson (A firm) v HMRC (Law Society Intervening)* [2011] UKFTT 71 (TC). In that appeal the Tribunal (Judge Demack) came to a different conclusion when considering the treatment of fees paid by the appellant firm of solicitors for medical records and reports obtained in connection with personal injury claims being brought by its clients, which, on the solicitors' bill to the client, were itemised separately from the cost of the services supplied by the solicitor.

68. HMRC argued - as here - that the appellant firm perused those records as an integral part of the legal services that it provided, then the conditions in Notice 700 Para 25.1.1 were not satisfied, and the costs incurred by the taxpayer could not be treated as disbursements, but were liable to VAT.

69. Judge Demack allowed the appeal. But, and having given careful attention to *Barratt,* I do not find the discussion in that appeal helpful in the context of this one. Whilst I acknowledge the careful review of the domestic and European authorities undertaken by Judge Demack, I part company with him on his ultimate analysis.

70. In *Barratt*, the Tribunal was dealing with a materially different scenario, namely the obtaining of medical records and the reporting on them in the context of personal injury litigation. The scenario in *Barratt* lends itself more readily to the analysis that the solicitor was, for those purposes (and in the words of Advocate General Kokott in *De Danske)* 'merely an intermediary to used to facilitate payment'. The context supports such an analysis. The solicitor could only obtain access to patient records with the client's consent. The records were otherwise confidential. They were not matters of public record, available to all and sundry. The client (him- or herself) was the subject matter of the records, and (at least for certain purposes) could be regarded as the 'owner' of the records and reports.

71. There are no such restrictive features in this case. Anyone can commission a search, over any property. One does not have to own the property to commission the search. The records are public records.

Conclusion

72. Accordingly, and for the above reasons, I dismiss the appeal.

73. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

DR CHRISTOPHER McNALL
TRIBUNAL JUDGE

RELEASE DATE: 5 SEPTEMBER 2017