



Myerson Dispute Resolution

Commercial Agents:
VAT treatment of compensation
payments

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Welcome

We understand the complexities of modern life and the importance of taking care of your business interests. So it's a deep source of satisfaction that so many Commercial Agents choose Myerson as their trusted adviser.

Why Myerson?

At Myerson, we are the leading legal Commercial Agency firm outside of London, and we have years of experience in advising agents and principals.

The firm are proud to be ranked as 'Top Tier' in the prestigious international directory [The Legal 500](#), and commended by The Times 'Best Law Firms 2019'. This means you can be certain that you will be receiving the highest quality legal advice and that we can advise you on complex disputes.

Myerson is retained as an expert adviser to the members of [Agentbase](#) and the Association of Professional Sales Agents. Our litigation team has acted in agency disputes against companies based in Ireland, Germany, the Netherlands, Spain, France, Belgium, Italy and the USA, and are experienced in complex disputes.



How We Work.

Every client and every case is different, and we are here to support you every step of the way.

Personal, Partner-led Service. Our experienced solicitors get to know you and your business inside out, so we can best advise you. We know that dealing with litigation can be stressful and we aim to take that stress away from you. We strive to become your trusted advisers, providing value and most of all, a genuine, personal service.

The Highest Level of Expertise. Combining commerciality and practicality, our team's breadth of experience means Myerson can provide expert legal advice and assistance on all agency matters. We also have developed excellent links with specialist barristers and forensic accountants so that you are provided with a complete team of experts for your case.

A Team You Can Trust. We help clients nationwide and internationally, with complex agency matters. You can therefore rest assured that our expert team knows its stuff!



Your Solicitors



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The solicitors that will be working with you are specialists.

The Legal 500 highlight the department for its work in commercial agent disputes. The litigation team contains 15 solicitors and is headed by Adam Maher whom the Legal 500 rate as a “Leading individual” and ‘first-class litigator’ with ‘razor-sharp commercial judgement, tenacity and excellent communication skills’; who ‘quickly identifies the core issues’ and is ‘extremely robust under pressure. Suzanne Carr, a commercial agency specialist is also recommended by the Legal 500.

We are happy to discuss your situation in a no-obligation telephone call to assess your claim, give a preliminary advice and suggest a way forward. We can also suggest innovative funding solutions where available to assist with the costs of the litigation, such as “no win, no fee” funding.

You can find out more about our Commercial Litigation Team by clicking [here](#).

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Commercial Agents VAT treatment of compensation payments

This guide briefly comments on HMRC's updated policy in relation to the VAT treatment of damages payments and how this might impact on compensation payments under the Commercial Agents Regulations following the termination of a commercial agency.

For more information on the updated policy see Revenue & Customs Brief 12/2020.

Introduction

Prior to the updated policy, most damages payments including compensation and indemnity under the Regulations were generally treated as being outside of the scope of VAT.

For agency contracts that meant that compensation payments were generally not treated as payments for the supply of services subject to VAT. That approach seemed to align with the methodology used for calculating compensation payments (under *Londsdale v Howard & Hallam Ltd*) namely, a payment based on the sale of the agency business to a hypothetical purchaser which would not normally attract VAT.

What has changed?

The new guidance from HMRC states that where there is a direct link between the damage's payment and an underlying supply of goods or services to which the contract relates, such payment is within the scope of VAT.

How does the new guidance apply to commercial agency contracts?

A commercial agency contract is a contract for the supply of services by an agent to its principal. In most circumstances, this involves a taxable supply, subject to VAT.

Therefore, if an agent receives a payment for compensation or indemnity under the Regulations by a principal then that agent may well have to account for VAT on that payment, since it relates to an underlying taxable supply of services.

Potential effect on commercial agency claims going forward.

The updated guidance demands a greater awareness by agents, principals, and litigators of the possible tax treatment of termination payments under the Regulations. It is possible that we may see agents starting to claim an additional 20% on damages to account for any shortfall after accounting to the HMRC for VAT.

As specialists in commercial agency law, we have seen an increase in attention to VAT issues including whether or not the agent is VAT registered, and whether a VAT invoice should be raised upon settlement where that involves a termination payment under Regulation 17.

It is now more important than ever that agents and principals seek advice from an accountant and/or a tax specialist regarding the likely tax treatment of any damages payments prior to agreeing terms of settlement.

You're in safe hands!

If you would like further information about how we can help you, or if you have any questions, please don't hesitate to contact a member of our Dispute Resolution Team today.

Call: 0161 941 4000

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 SCAN ME

Because
life is rarely
black and
white.



myerson



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