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The quirks and foibles of VAT



Then, in addition, handling VAT bureaucracy takes up a huge amount of time that might otherwise be spent on something more productive.

In 2017, British businesses spent 25 hours managing VAT on average – several full working days.

Simplification not imminent

Critics of VAT have called it regressive and excessively complicated – why should businesses have to spend so much time on this? Why should we have tribunals simulating cricket teas?

The official guidance is incredibly long and detailed, covering thousands of pages, and yet still leaves many manufacturers, retailers and consumers confused.

For all the criticism it receives, however, VAT is also relatively efficient to administer from the Government's point of view and generates some 21% of the UK's total annual tax revenue.

At the hearing, Donald Potter QC, adjudicating, approached the issue carefully. As well as the size and appearance of Jaffa Cakes, he also pointed out that they are usually found in the supermarket biscuit aisle. They're also normally eaten with the fingers, not with a cake fork.

On the other hand, they are boldly described as cakes on the packaging. They're also cooked only once, whereas biscuits get their name from the Latin *bis coctus*, meaning twice-cooked.

Potter sided with McVitie's and ever since, Jaffa Cakes have been treated as cakes for VAT purposes – that is, zero-rated.

A similar conversation broke out earlier this year when Judge Amanda Brown was asked to hear the case of Pulsin Raw Choc Brownies, a vegan-friendly, dairy-free health snack.

Pulsin wanted them classified as cakes but HMRC considered them to be confectionery and thus subject to standard-rate VAT.

To make a decision, Judge Brown had a selection of similar brownies and cakes brought to the hearing where they were 'closely examined'.

She concluded that "put alongside a plate of brownies, or, for instance, at a cricket or sporting tea where it is more likely that bought and individually wrapped cakes will be served on a plate, the products would absolutely not stand out as unusual".

The Pulsin brownie is a cake, and thus zero-rated.

The pasty tax

Another notable VAT dispute was over the status of pasties – are they a luxury product when they're sold warm? This was triggered when then-Chancellor George Osborne introduced the so-called 'pasty tax' in 2012, closing a loophole which had allowed bakeries to treat pasties as zero-rated as they were only incidentally warm rather than being sold as hot food.

Faced with the prospect of charging customers 20% more for the same product, some bakers switched off their warming cabinets and switched to cooking smaller batches of pasties throughout the day.

Others simply absorbed the price rise as best they could to avoid driving away customers.

An endless list

Other products that have been the subjects of specific VAT tribunals and debates include 'slankets', eBooks, digital newspapers, Bombay mix, breakfast muffins delivered to eat at home, and ambulance rides.

Some of the distinctions are subtle – fruit pulp is zero-rated, for example, while fruit juice is standard-rated. Which categories do smoothies come under? At a tribunal in 2010, it was decided they were beverages rather than "liquefied fruit salad", as Coca-Cola subsidiary Innocent had argued.

Although simplification of the system has long been called for, it doesn't seem as if it's likely to happen anytime soon.

Talk to us about any aspect of VAT.

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