# TC04789

**Appeal number: TC/2014/01110**

***TYPE OF TAX – VAT – input tax – legal fees – prosecution of a director – disallowed – taxable person – property consultancy - allowed***

**FIRST-TIER TRIBUNAL**
**TAX CHAMBER**

**SUBSTANTIA INVEST LIMITED** **Appellant**

**- and -**

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

**TRIBUNAL: JUDGE IAN HYDE**
**GAY WEBB**

**Sitting in public in Manchester on 18 September 2015**

**Charlotte Brown, counsel, for the Appellant**

**Bernard Haley, Officer of HMRC, for the Respondents**

DECISION

## Introduction

1. The appellant is a property development business and is appealing against HMRC's decisions to refuse input tax claims amounting to £23,366.81 incurred in the period 4 January 2013 to 30 November 2013.

2. The principal input tax claim relates to VAT on legal services relating to the defence of the appellant's owner and sole director against criminal charges of false accounting.

3. HMRC reject the appellant's entitlement to input tax recovery on the grounds that the appellant was not carrying on a taxable business and that there was no direct and immediate link between the reclaimed input tax and supplies made by the appellant. HMRC did not argue that the supplies were not made to the appellant but relied entirely on the direct and immediate link argument to challenge input tax recovery.

4. The appellant is a property development company owned by Mr Dean Hewart. The appellant was incorporated on 4 January 2013. On 15 July 2013 the appellant successfully applied for VAT registration, effective from the date of registration on the basis that it was expecting to generate turnover in excess of the registration threshold.

5. Following a visit to the company by HMRC, the appellant's claim for £14,607.21 of input tax for its first VAT return for the period 4 January to 31 August 2013 ("the 8/13 period") was rejected by a decision letter dated 16 January 2014 ("the 8/13 Decision"). The Appellant's claim for £8,759.60 of input tax for the period 1 September 2013 to 30 November 2013 ("the 11/13 period") was rejected by a decision letter dated 19 February 2014 which again confirmed the rejection of the 08/13 claim ("the 11/13 Decision").

6. £10,000 of the £14,607.21 of input tax claimed in the 8/13 period and £8,000 of the £8,759.60 of input tax claimed in the 11/13 period related to part of the legal fees for Mr Hewart, for his defence in the criminal prosecution as described below ("the Legal Fees Claim"). The balance of the input tax claim in both periods - £4,607.21 for the 8/13 period and £759.60 for the 11/13 period - related to miscellaneous expenditure such as fuel costs, business entertainment, hotels and subsistence and items not subject to VAT ("the Miscellaneous Expenditure Claim").

7. On 21 February 2014 the appellant appealed the 8/13 and the 11/13 Decisions.

8. In July 2014 HMRC deregistered the appellant for VAT ("the Deregistration Decision"). The Deregistration Decision was made after the date of the notice of appeal and has not in itself been appealed but HMRC have made no objection to the appellant's challenge to the decision being treated as being within the scope of this appeal. Applying the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules

2009 ("the Tribunal Rules") and in particular Rule 5 allowing the Tribunal to regulate its own procedure but bearing in mind the overriding objective in Rule 2(1) to deal with cases fairly and justly and the requirement under Rule 2(2)(b) to avoid unnecessary formality and to seek flexibility, we have treated the Appellant's appeal as including an appeal against the Deregistration Decision.

9. In summary therefore at the commencement of the hearing HMRC disputed the appellant's input tax claims on several grounds;

Argument One: The appellant is not a taxable person and so is not entitled to be registered for VAT, this argument being the Deregistration Decision;

Argument Two: The legal fees do not have a direct and immediate link to the appellant's business, as they relate to an event, namely the fraud, that allegedly took place in 2007 prior to the incorporation of the appellant;

Argument Three: The legal fees do not have a direct and immediate link to the appellant's business having been incurred by Mr Hewart to defend himself in a criminal prosecution; and

Argument Four: The miscellaneous expenditure did not have a direct and immediate link to the appellant's business and/or was not subject to VAT.

10. In the course of the hearing HMRC dropped Argument Two as being untenable as the services were clearly supplied at the time of the trial not at the time of the alleged offence.

11. During an adjournment in the course of the hearing, agreement on Argument Four was reached by the parties, reducing the allowable input tax in respect of the Miscellaneous Expenditure Claim to £2,072.42 for the 08/13 period and £368.64 for the 11/13 period. However, these claims remain subject to the Argument One and the Deregistration Decision, which if upheld would still deny the appellant recovery of the input tax.

12. We have therefore for the purposes of this decision treated the open issues in this appeal as being Argument One and Three. Argument One applies to both the Legal Fees Claim and the Miscellaneous Expenditure Claim and Argument Three applying solely to the Legal Fees Claim.

**Facts**

13. Evidence was given by Dean Hewart both by way of a witness statement and in person. There was also produced to the Tribunal a witness statement from Kellie-Jane Murphy the assurance officer from HMRC who made the relevant visit to the appellants, conducted the enquiry and issued the decision letters.

14. Dean Hewart has been in the property industry for over 32 years, starting when he was 17. Mr Hewart worked for the first 10 years of his career at a number of builder's merchants and then worked for a contractor but then, in or about 1998, started selling buy to let properties on his own account.

15. This led to Mr Hewart establishing a property investment company – Maxaugusta Property Investments Limited, later renamed Boom Property Group Limited ("Boom") - which grew to the point where is employed 26 staff, with two other directors a Paul Cummings and a Catherine Mercer joining, with Paul Cummings acquiring 49% of Boom. The business – described as a "property club" - involved matching developers and housing companies with investors. Usually Boom would look to sell flats off plan to investors and receive a commission from the developer and a fee from the investor. Whilst the property market was buoyant the company was very successful. When the property market crashed in 2007 the business encountered difficulties and in 2008 Boom went into voluntary liquidation.

16. In the period 2008 to 2010 following the voluntary liquidation of Boom Mr Hewart struggled to secure any business.

17. In 2010 Mr Hewart set up Fund Investment Group Limited ("Fund") which sought to acquire at discounted values partly completed developments that had been repossessed by banks, complete the development in a joint venture with a developer and sell the units off plan to investors. In the period 2010 to 2013 Fund became involved in two such projects but neither produced decent returns and Fund ceased trading, although Mr Hewart is still pursuing the developers for payment.

18. In September 2009 Mr Hewart was arrested on suspicion of money laundering following an investigation into individuals unconnected to and unknown by Mr Hewart. On investigation it was discovered that in 2007 325,000 euros had been paid into Catherine Mercer's account by a Mr Cummins (no relation of Mr Cummings the co-owner of Boom) as part of an attempt to evade tax. Mr Hewart's involvement was being in receipt of an e mail. Mr Hewart was eventually charged with false accounting and the matter, together with charges against a number of other individuals, went to trail at the Crown Court from 29 July 2013 to 9 September 2013. On 9 September 2013 Mr Hewart was acquitted.

19. Mr Hewart engaged True Matrix Limited ("True Matrix"), a legal consultancy firm to manage his case. True Matrix's fees amounted to £311,000 including VAT of £51,833.33. He also instructed solicitors whose fees were £4,000 plus VAT. Mr Hewart's barrister was paid through legal aid. The Legal Fees Claim for input tax of £18,000 represents part of the True Matrix fees invoiced during the 8/13 and 11/13 periods. We assume that similar input tax reclaims will be made for the VAT on the balance of the True Matrix fees and those for the instructed solicitors. All True Matrix VAT invoices were addressed to the appellant.

20. In January 2013 Mr Hewart set up the appellant, again a property club, sourcing investment for developments and providing input throughout the planning and development process. The business plan was to buy distressed or badly performing hotels, refurbish and rebrand them as Ibis Budget hotels. At the time of incorporation the appellant had two projects, being two Travelodge hotels in Knutsford and Lymm. Both were acquired in October 2013 following six months of preparation. The appellant's VAT registration was based on the expected income of some £500,000 from these projects. Although there were delays both projects have now completed.

Mr Hewart's role was to source and package the hotels and then secure sales. The latter role involved travelling to Singapore to attend investment trade shows. To date some £550,000 has been paid to the appellant in several stages from June 2014 to November 2014 and there is ongoing litigation in which some £200,000 is claimed. Mr Hewart also gave evidence as to other ongoing developments being pursued by the appellants in Manchester and Llundudno which started in 2013 but have yet to conclude and therefore have not resulted in fees being paid to the appellant.

21. Mr Hewart described the property business as risky and dependent on personal contacts and reputation. As shown by the projects he described, if the transactions were not successful he would not be paid. Even then, there were often delays which meant that payments would not be made as originally expected. Further, securing deals relied on personal contacts and reputation. Mr Hewart dealt with financial institutions and investors and, had he been convicted, he believed he would never have worked again.

22. Mr Hewart in evidence confirmed that when he instructed True Matrix he believed it was on behalf of the appellant and not in a personal capacity although no evidence was produced to that effect except the VAT invoices. In cross examination Mr Hewart could not explain why the legal expenses were not shown as expenditure in the appellant's accounts.

23. Ms Murphy's witness statement described her investigation into the VAT records of the appellant. Ms Murphy first visited the appellant on 24 September 2013 to verify the first VAT return of the business being the 8/13 return. Ms Murphy notes that on the visit there appeared to be no sign of a business being carried on. The receptionist had not heard of the appellant, and she was given a car park pass for a Polar Security Limited. When Mr Hewart showed Ms Murphy into an office there was nothing work related on the desks or the walls. There then followed a sequence of correspondence in which Ms Murphy asked for information about the business, requesting business plans, copies of contracts for Lymm, Knutsford and other projects, evidence of advertising and other evidence of a business. Decision letters were issued on 16 January and 19 February 2014 rejecting the appellant's claim for £14,607.21 of input tax for its first VAT return for the 8/13 period and for £8,759.60 of input tax for the 11/13 period. Finally, having received no evidence of intention to make taxable supplies Ms Murphy initiated a deregistration of the appellant, backdated to the date of registration. The deregistration decision was dated 17 July 2014.

24. In response to Ms Murphy's evidence Mr Hewart explained that the appellant has a virtual office with Mr Hewart working from home but hiring rooms from a Regus serviced office building for meetings if required. Further, at the time of HMRC's enquiries Mr Hewart was considering changing the appellant's name to Hewart Consulting so that all post was sent care of Hewart Consulting. In the end Mr Hewart did not carry through the name change. Mr Hewart explained that Polar Security Limited was a different business that shared the same office premises. As described above, due to the nature of the property business – which relied on connections and reputation – there was no point having a website or advertising.

25. It is understood that the appellant has subsequently successfully reapplied to register for VAT.

**Legislation**

26. The deductibility of VAT is governed by the Principal VAT Directive ("PVD") Article 168 PVD provides;

> "In so far as the goods and services are used for the purposes of the taxed transactions of the taxable person, the taxable person shall be entitled…to deduct….
>
> (a) the VAT paid…in respect of supplies to him"

27. Article 168 is incorporated in UK legislation in section 24(1) Value Added Tax Act 2004 which provides in so far as relevant;

> "…"input tax", in relation to a taxable person, means the following tax, that is to say –
>
> (a) VAT on the supply to him of any goods or services;
>
> ….being (in each case) goods or services used or to be used for the purpose of any business carried on or to be carried on by him"

28. Section 26 provides;

> " (1) the amount of input tax which a taxable person is entitled to credit at the end of any period shall be so much of the input tax for that period …..as is allowable by or under regulations as being attributable to suppliers within subsection (2) below;
>
> (2) the supplies within this subsection are the following supplies made or to be made by the taxable person in the course or furtherance of his business-
>
> (a) taxable supplies…."

**Case law**

29. We were taken to a number of cases in the course of argument.

30. *Ian Flockton Developments Ltd v Commissioners of Customs and Excise* ([1987]STC 394) concerned input tax on the purchase and upkeep costs of a racehorse incurred by a manufacturing company apparently for the purposes of advertising. Justice Stuart-Smith applied a subjective test as to whether goods or services were used or to be used for the purpose of any business;

> "The test is a subjective one: that is to say, the fact-finding tribunal must look into the taxpayer's mind as it was at the relevant time to discover his object. Where the taxpayer is a company, the relevant mind or minds are those of the

person or persons who control the company or are entitled to and act for the company.

In a case such as this, where there was no obvious and clear association between the taxpayer's business and the expenditure concerned, the tribunal should approach the taxpayer's claims with circumspection and care and must bear in mind that it was for the taxpayer business to establish its case…."

31. In *P&O Ferries (Dover) Ltd v Commissioners of Customs and Excise* ([1992] VATTR 221 (VTD 7846)), in the VAT and Duties Tribunal before Stephen Oliver, P&O sought to recover input tax on legal fees incurred in seven employees on charges of manslaughter resulting from the "Herald of Free Enterprise" ferry disaster at Zebrugge. The employees had separate representation from the company (which was also charged) but solicitors were vetted and separately instructed by P&O and required to cooperate with P&O in the defence. P&O argued that the defence of the individuals was necessary for a number of reasons including the need to protect the P&O group's good name, risks to the group's share price, staff issues and potential insurance consequences.

32. The Tribunal held that both the individual and P&O were clients of the solicitors with the company "as principal". On the question as to whether the input tax could be recovered as being incurred for the purposes of the business within the predecessor of section 24(1), the Tribunal allowed the recovery;

"P&O had a large international business to protect. It was a business whose interests were distinct from those of the seven accused individuals who played parts in it. However, the extent of the business and the serious consequences of conviction to that business were so great that the financing of the costs of the defence of the seven individuals can be seen as serving the purposes of the business, quite irrespective of the fact that a substantial benefit was conferred on each of those seven men"

33. In *Customs and Excise v Rosner* ([1994] STC 228), the taxpayer owned and managed a private educational business offering training to foreign students. He was charged under the Immigration Act 1971 with conspiracy to defraud by providing false information as to whether individuals were genuine students or not. Mr Rosner paid for legal advice defending himself in the ensuing proceedings but the business sought to recover the input tax. Justice Latham, in dismissing the claim for recovery of input tax distinguished between the business benefitting from expenditure and the purpose of the expenditure. In text quoted by both parties in the current appeal Justice Latham commented;

"…there must be a clear nexus between the matter in relation to which the expenditure has been incurred and the business itself. That nexus cannot merely be the fact that the business will benefit from the expenditure. That seems to me to be abundantly clear.

….any one-man business depends on the presence of that man in order to run it. If that man is subject to criminal proceedings which may result in his being sent to prison and therefore no longer able to run the business, it could mean that the business will collapse if he is in fact sent to prison. It follows that expenditure made for the purposes of defending him in order to avoid that happening could be said to be for the benefit of the business.

One only has to state that proposition to appreciate that there can be no question of describing sensibly the legal expenses of a person who has been charged with an offence wholly unrelated to his business as being expenses incurred for the purposes of the business. Benefit, therefore, cannot be the test. There must be a real connection, a nexus, between the expenditure and the business. It seems to me that the nexus, if it is not to be benefit, must be directly referable to the purpose of the business. By the purpose of the business in this context I mean by reference to an analysis of what the business is in fact doing. It is only by identifying what the nature of the business is in that way can one determine the extent to which any given expenditure can be said to be for the purpose of that business

….I suppose it could be argued that where the offence with which any company is charged is an offence which relates directly to its own trading activities, then the legal costs incurred in defending that company would be so and sufficiently connected as to mean the legal expenditure would for the purposes of the company. However, as one moves away from the concept of the offence being an offence committed in relation to the activities of the company, it becomes more and more difficult to argue that the expenditure is being incurred for the purposes of the company."

34. Applying this test to the facts of *Rosner*, Justice Latham allowed HMRC's appeal on the grounds that, whilst a criminal prosecution relating to immigration of individuals who might become students of the business had a connection with the business, the offences did not relate to the carrying on of the business.

35. In *Dureau v Commissioners of Customs and Excise* (LON/96/987), a self employed builder sought to recover as input tax VAT on legal fees incurred in bringing a civil claim for loss of profit resulting from a car accident. The taxpayer sponsored two snooker teams and the incident occurred when the taxpayer was driving the teams to where they were competing. HMRC resisted recovery on the grounds of the lack of nexus for the purposes of section 24(5) between driving the teams to the event and the taxpayer's business as a builder. Applying *Rosner,* the VAT and Duties Tribunal dismissed the taxpayer's appeal.

36. In *Finanzamt Koln-Nord v Becker* ([2013] EUECJ C-104/12) the application of the predecessor to Article 168 PVD to legal fees incurred in connection with defencing Mr Becker, a director and sole shareholder, and his construction company against criminal proceedings was considered by the Court of Justice of the European Union ("CJEU"). Mr Becker and his company were alleged to have benefitted from confidential information in a tender process which had been obtained by bribery. The

lawyers acted for both Mr Becker and the company but addressed their invoices to the company. The Court, beyond restating the requirement for a "direct and immediate link" between the goods and services acquired and taxable supplies made by the relevant business, did not think it possible to be more specific as to the nature of the direct and immediate link in view of the diversity of commercial and professional transactions. A court must consider all the circumstances but a link must be established by the objective content of the transaction in issue. The Court held that on the facts of the case the costs were incurred to protect the director's private interests and the criminal proceedings were brought solely against Mr Becker in his personal capacity. The costs must therefore be considered to have been performed outside of the company's taxable activities. Accordingly;

> "In this case, the supplies of lawyers' services whose purpose is to avoid criminal penalties against natural persons, managing directors of a taxable undertaking, do not give that undertaking the right to deduct as input tax the VAT due on the services supplied"

37. In *Folkstone Harbour (GP) Ltd v The Commissioners for Her Majesty's Revenue and Customs* ([2015] UKFTT 101 (TC)), the issue was whether the appellant could recover input tax on the cost of constructing a fountain. The appellant's main business consisted of redeveloping the harbour at Folkstone with a view to taxable sales of freehold properties. Early on in the phased redevelopment it constructed a fountain at the entrance to the development as a "place-marker" and as a "stepping-stone" between the town and the redevelopment. HMRC accepted that the fountain was part of the overall plan but disputed that there was any connection or nexus to the redevelopment and intention to make taxable supplies. The Tribunal applied the test as set out by Justice Stuart-Smith in *Flockton* as set out above and Justice Latham's requirement in *Rosner*. Accordingly the Tribunal accepted that the fountain was part of the marketing of the redevelopment and an "obvious and clear association" between the taxpayer's business and the cost of the fountain and allowed input tax recovery.

**Submissions on Argument One and the Deregistration Decision**

38. On the question of registration, Ms Brown for the appellant pointed out that taxpayers are entitled to registration and recovery of input tax if they are making supplies or intend to make supplies. There were sufficient examples of development projects being undertaken by the appellant to justify being registrable. The Knutsford and Limm developments were expected to bring in £500,000 in the summer of 2014 and that was the reason for registration. The fact that unfortunately it took until between June and November 2014 to realise the income did not affect the appellant's entitlement to register. Throughout the period the appellant, through Mr Hewart, was actively marketing the business and so intending to make taxable supplies. Further, the fact that the appellant operated from Mr Hewart's home and through serviced offices does not affect the position. Mr Hewart had given evidence that for the type of transactions he was involved in there often was no formal contract.

39. Mr Haley for HMRC argued that there was simply no evidence of a trade being carried on. At the time of the Deregistration Decision there had been no sales, there was no evidence of any contracts with customers and there was no business plan. HMRC were therefore right to deregister the appellant.

40. Mr Haley accepted that the fact the appellant sought registration by completing the compulsory registration box and not the intending trader box on the VAT 1 did not affect HMRC's position. In other words, HMRC would have taken the same approach had the appellant registered as an intending trader.

**Submissions on Argument Three and the Legal Fees Claim**

41. As described above, the issue is whether the legal costs have a direct and immediate link to the appellant's business but with HMRC no longer taking the point that the alleged offence took place prior to the appellant's registration. HMRC did not argue that there was no direct and immediate link for the Miscellaneous Expenses Claim.

42. Ms Brown for the appellant accepted that in order for VAT to be recoverable there must be a clear link between the expenditure and the business. Ms Brown accepted that the relevant test was as set out by Justice Latham in *Rosner* quoted above: the goods or services must not simply benefit the business but must be used for the purpose of the business. Further, the purpose test was a subjective one (*Flockton* as applied in *Folkestone*). However, *P&O* demonstrated that the protecting of a business' reputation and trading prospects can be a relevant business purpose.

43. Ms Brown pointed out that the appellant has no resources other than Mr Hewart. If Mr Hewart had been convicted for an offence involving fraud and dishonesty this would have had a severely detrimental impact on the appellant's business which was built on trust and involved dealing with financial institutions and investors. If there had been a custodial sentence for Mr Hewart it would have been fatal to the appellant's business. Whilst Mr Hewart obtained some personal benefit, the overriding reason for engaging True Matrix was to protect the appellant and to allow it to trade and grow. In accordance with the test in *Flockton* the subjective intention of the company as evidenced by the intentions of its director Mr Hewart, was to protect the reputation and trading prospects of the appellant.

44. Here, the appellant argued, unlike the facts *Rosner* but as with *P&O*, there was not just a benefit to the appellant but a genuine purpose of the business to protect the business' reputation and so that is a sufficient link to justify input tax recovery. Ms Brown quoted Justice Latham in *Rosner* in support

> "….I suppose it could be argued that where the offence with which any company is charged is an offence which relates directly to its own trading activities, then the legal costs incurred in defending that company would be so and sufficiently connected as to mean the legal expenditure would for the purposes of the company".

45. Ms Brown argued that the appellant fell within that category of case.

46. Mr Haley for HMRC argued that there was no direct and immediate link to the taxed transactions of the appellant's business. He relied on the general principle in *Rosner* and noted that as had been accepted in *Dureau,* this Tribunal was bound by that High Court decision. There was clearly a benefit to the appellant but that was not a sufficient nexus. *P&O*, which concerned employees accused of a criminal offence which derived from activities carried on as part of the business of the company, was an exception to the rule. Indeed in *P&O* the Tribunal contrasted P&O as "a large international business" from two earlier Tribunal decisions which were about "one-man" companies. That was the distinction that should be applied here.

## Decision

47. On Argument One and the Deregistration Decision, we find that the appellant was engaged in taxable activities. Whilst there was a significant delay in securing income, nevertheless the activities were being diligently pursued. Had the anticipated £500,000 of income materialised from the Knutsford and Limm developments as expected in the summer of 2014 there would have been no dispute. Accordingly, we agree with the appellant on this point.

48. As to Argument Three and the Legal Fees Issue, we agree with the parties that the relevant test is as set out by Justice Stuart-Smith in *Flockton* and Justice Latham in *Rosner*. In order for input tax to be recoverable, the goods or services must not simply benefit the business but must be used for the purpose of the business. For input tax to be recoverable on legal fees incurred by a business defending an individual the offence must be directly referable to the purpose of the business, there must be a "clear nexus". Further, in applying the test a Tribunal must exercise caution.

49. The parties did not address *Becker* to any extent in their arguments but in our view the decision of the European Court endorses the domestic case law test in *Rosner*. The court must look at all the circumstances including the objective nature of the goods or services supplied and the purpose for which they are incurred. Legal services supplied to defend a managing director were for his private benefit.

50. Applying these tests, we are not persuaded that the appellant is entitled to input tax recovery. The appellant is a "one man business". The services provided were, objectively, legal services defending Mr Hewart against criminal charges. Primarily this served by Hewart's personal interests although preserving Mr Hewart's reputation and his liberty were undoubtedly of benefit to the appellant. However, as with *Rosner* and *Becker*, such a benefit is not sufficient and we are bound by the very clear decision in *Rosner* to find a clear connection to the purpose of the business before allowing input tax reclaim for such legal expenses. We do not agree that this case is analogous to *P&O*. In that case the employees were charged because of what they did in the course of their employment which is entirely different. The appellant's reliance on the comments of Justice Latham in *Rosner* also does not help. Justice Latham was referring in that passage to an offence which "relates directly to its own trading activities". Here the connection of reputation, whilst undoubtedly significant, is indirect and not sufficiently close. Input tax claims were allowed in *Folkstone Harbour* and *Dureau* but the comparison is not particularly helpful as the

circumstances were very different. We cannot therefore find a direct connection to the appellant's business and so find in favour of HMRC in respect of Argument Three.

51. Having accepted the appellant's Argument One as to deregistration but found in favour of HMRC in respect of Argument Three, the appellant's appeal is allowed in part. We allow the appellant's appeal against the Deregistration Decision and input tax recovery in respect of the Miscellaneous Expenditure Claim (as adjusted by agreement between the parties) but dismiss the appeal in respect of the Legal Fees Claim.

52. 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.

**IAN HYDE**

**TRIBUNAL JUDGE**
**RELEASE DATE: 14 DECEMBER 2015**