

# Moulsdale t/a Moulsdale Properties (Appellant) v Commissioners for His Majesty's Revenue and Customs (Respondent) (Scotland)

Case ID: 2021/0216

## Case summary

### Issue

Whether the taxpayer's sale of certain property to an unconnected purchaser was a supply exempt from value added tax ("VAT") under Schedule 10 to the VAT Act 1994.

### Facts

Sales of land and buildings are generally exempt from VAT. However, an owner of land and buildings can opt to tax their property so that it then includes VAT. Schedule 10 to the VAT Act 1994 provides for compulsory disapplication of an option to tax in certain circumstances. If the relevant provisions apply, a sale of property where an option to tax has been exercised goes back to being a sale that is VAT exempt.

In 2001, David Moulsdale, trading as Moulsdale Properties ("Moulsdale") purchased office property. Moulsdale exercised an option to tax over the property. In 2014, Moulsdale sold the property. When Moulsdale sold the property, VAT was not charged. Moulsdale argues he did not charge VAT because Schedule 10 to the VAT Act 1994 meant his option to tax was disapplied and so the sale of the building was VAT exempt. His Majesty's Revenue and Customs ("HMRC") disagreed. HMRC's position was that the option to tax was not disapplied under Schedule 10 to the VAT Act 1994. Accordingly, the sale was not tax exempt and Moulsdale should have accounted for VAT on the sale of the property which HMRC assessed to be £191,562 (plus interest of £11,491).

### Judgment appealed

[\[2021\] CSIH 29](#)

## Parties

### Appellant(s)

David Moulsdale, trading as Moulsdale Properties

### Respondent(s)

Commissioners for His Majesty's Revenue and Customs

## Appeal

### Justices

Lord Reed, Lord Briggs, Lord Sales, Lord Hamblen, Lady Rose

**Hearing start date**

17 January 2023

**Hearing finish date**

17 January 2023

**Watch hearing**

17 January 2023 [Morning session](#) [Afternoon session](#)

**Judgment details****Judgment date**

22 March 2023

**Neutral citation**

[2023] UKSC 12

Please note this judgment was reuploaded shortly after hand down on 22/03/23, to correct the omission of the word 'not' from a sentence in paragraph 35.