

Finance and General Purposes Committee 25th January 2021



Report author: Janet Wheeler

Report on the ClearChannel barter issue

Introduction

Clear Channel (CCUK) has been trying to resolve this issue on behalf of HMRC for several years. Previous Didcot Clerks have not resolved this situation and may not have brought this to a Committee.

The current Town Clerk had a meeting with the Managing Director – Indirect Taxes of Clear Channel in order to resolve the barter issue.

Detailed consideration

- ClearChannel is NOT a bus shelter company – they are an outdoor advertising company who sell advertising space on street furniture in towns and shopping centres.
- Didcot Town Council in common with many local authorities entered into an arrangement where CCUK provides the bus shelter and maintenance in return for being allowed to advertise (subject to regulations)
- DTC pay for the new bus shelters but the maintenance agreement is free of charge in exchange for the right to advertise.
- HMRC require that both parties recognise these “free of charge” supplies for VAT purposes.

Proposed resolution from CCUK

- That CCUK issue VAT only self-billing invoices.
- There is no payment required from DTC and no financial liability.
- HMRC will consider that both parties are making VAT supplies to each other. DTC will be granting advertising rights; CCUK will be maintaining and cleaning the bus shelters.
- As the supplies are free – a value must be given. The value will be based on a formula of the cost of the bus shelter over their lifespan plus hours spent on cleaning and maintenance with a small mark-up. The VAT will be calculated @ 20% of this assumed sum.
- DTC is required to assume a self-billing arrangement where CCUK will undertake the billing for both parties. Both invoices will cancel the other out.
- The only requirement for DTC is to include the invoice as part of the VAT return.

Item 10 – Clear Channel barter proposal

- There would be the requirement to do one-off retrospective invoicing for the past four years – as required by HMRC. CCUK will provide this paperwork.

This arrangement has been put in place with approximately 150 local authorities at HMRC's instructions. I have been in touch with Parkinson Partnership and it is their opinion that we do need to agree to resolve this.

Recommendation

1. To agree to the self-billing proposal whilst pointing out that DTC has paid for their bus shelters so it would only be the maintenance and cleaning which is being carried out for "free".
2. To point out that DTC will only agree once the saga of the outstanding end panel on the bus shelter near the Orchard Centre is resolved – either by a new end panel as legally required on the contract or with a new or refurbished bus shelter.

Janet Wheeler
Town Clerk
January 2021

ITEM 10

Hi Janet

I hope you are well and had a good Christmas and New Year break. I appreciate currently lockdown and other pressing matters are most likely higher up the agenda for tomorrow's council meeting than VAT and barter. However, I thought it was still worth sending you the promised summary so that you could potentially raise the issue if there was time.

Summary of Clear Channel barter issue

- Clear Channel (CCUK) is an outdoor advertising company who sells advertising space on screens (digital and paper) on highways, gable ends, free standing units (usually town centres), stands in shopping centres and also on bus shelters.
- Local authorities and highway agencies usually have a requirement/desire to provide a certain number of bus shelters for use by bus users.
- Local authorities are not usually in a position to make financial outlays for bus shelters.
- Therefore Local Authorities and CCUK enter into mutually beneficial arrangements whereby CCUK provides bus shelters and maintenance services in exchange for being allowed to advertise on a proportion of bus shelters (subject to regulations).
- The bus shelters are provided by CCUK to the Local Authorities for the use of bus passengers. This service provision is free of charge.
- The Local authority allows CCUK to advertise (which is CCUK's main aim) on a number of bus shelters free of charge.
- HMRC require that both parties recognise these "free of charge" supplies for VAT purposes.
- The proposed resolution of issuing VAT only self-billing invoices (explained below) does not require any payment from the Local authority. There is no financial liability associated with this resolution.
- HMRC consider that both parties are making VATable supplies to each other. The Local authority supply is one of granting of advertising rights and the CCUK supply is one of bus shelters and cleaning and maintenance. HMRC do not consider that local authorities are making supplies of land in relation to these contracts.
- As the supplies are free, they must be given a value. The value attributed to the supplies (not payable) is based on a formula of the cost of the bus shelters over their lifespan plus hours spent on cleaning and maintenance with a small mark up. The VAT is calculated at 20% of this value.
- If Didcot signs a self-billing agreement, CCUK can undertake the paperwork for both parties. This means that once a year CCUK will issue a VAT only invoice to Didcot for bus shelter services and CCUK will also issue a VAT only self bill invoice from Didcot to CCUK for advertising rights. Neither of these invoices are payable by either party. Both are sent to Didcot and must be included in the Didcot VAT return.
- The invoice from CCUK will be included in Didcot's VAT on purchases and will be offset against Didcot's self bill invoice for advertising services which will go in the VAT on sales side of the VAT return.
- Both invoices will cancel each other out on the Didcot and CCUK VAT returns as both parties are entitled to VAT recovery in full on these supplies. So there is no payment of VAT to be made by either party.
- It is really just a book-keeping and paperwork exercise which is required by HMRC.
- It will be necessary to do one off retrospective invoicing for four years as this is the HMRC statute of limitations but it will follow the same principal as set out above.

- This arrangement has been put in place with approximately 150 local authorities at HMRC's instruction. We have a small number of local authorities who we have yet to close out on this process. We are obliged to report to HMRC on a reasonably regular basis and we have advised them that Covid restrictions have prohibited Didcot from being able to resolve this matter to date.

Please do let me know if you need me to add in any further information.

Thanks