

# Revenue & Customs Brief 63/08

## **VAT: The decisions of the VAT Tribunal in the cases of the Rank Group plc, in respect of the supply of Mechanised Cash Bingo (MCB) and gaming machine takings**

### **Bingo Duty: Implications of the decision for bingo duty.**

#### **Background**

This Brief concerns the VAT liability of MCB and gaming machine takings, following the VAT Tribunal decisions in the cases involving the Rank Group.

In a decision dated 27 May 2008 the Tribunal decided that the VAT treatment of MCB provided by Rank was in breach of fiscal neutrality and consequently these supplies should be exempt from VAT.

In a further interim decision dated 19 August 2008, the Tribunal found that there had been a prima facie breach of fiscal neutrality in the VAT treatment of Rank's gaming machine takings and that these should have been treated as being exempt from VAT before 6 December 2005, when UK law was changed to make all gaming machine takings taxable. A second Tribunal hearing to hear further aspects of this issue is to be held in October 2009.

HM Revenue & Customs (HMRC) has appealed against both decisions and the High Court hearings are expected to be held in March or April 2009.

#### **Implications**

**VAT:** Our view of the law remains unchanged in that VAT is and always has been properly due on supplies of MCB and on the takings of gaming machines. Therefore, businesses should continue to account for VAT on such supplies.

VAT Tribunal decisions are only binding on the specific case heard, as it is only the facts of that specific case that are considered in full. In line with HMRC's normal policy, as we continue to maintain that our view of the law is correct, no other businesses are affected by the decisions and therefore no claims for alleged overpayments of VAT by other operators can be considered until the conclusion of this litigation.

**Bingo Duty:** In order to protect our position in law, 'protective assessments' of bingo duty will be raised to safeguard revenue. These assessments will be issued to reflect the fact that if there is no VAT to deduct from bingo receipts, then additional bingo duty is due. These assessments will not be enforced unless HMRC loses on the substantive VAT liability issue.

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