

VAT ON ENFORCEMENT FEES HAS CHANGED



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Just welcomes that from yesterday the 2 August 2021 new guidance came from the High Court Enforcement Officers Association (HCEOA), meaning that customers (those in debt) where the Creditor is VAT registered will no longer pay VAT on High Court Enforcement fees.

At Just, we identified during the business planning stages that the application of VAT to enforcement fees was being treated differently between the High Court and Civil Enforcement industry yet the Regulations that approved charging were the same.

Not understanding how, or why the Regulations would be translated differently across the two debt types, Just sought advice from the HCEOA who explained that the confusion had existed for some time. This lead Just to seek advice from specialist Tax QC, Melanie Hall to establish which approach was correct, the Civil or High Court enforcement approach.

Melanie Hall provided her opinion that confirmed that VAT Law, nor the Regulations provided for VAT to be applied to the customer for either. VAT should be charged to the person benefiting from the service and where

they are registered for VAT, they can reclaim this from HMRC.

Just notified the Ministry of Justice (MoJ) and HCEOA and asked them to issue guidance to protect customers from being incorrectly charged. The MoJ wrote and published draft guidance to a select group of stakeholders of which Just was included. This would end VAT charging to customers where the creditor was registered for VAT and was issued in March 2020 but was never formalised and publicly issued due to the Covid-19 pandemic. As a consequence, Just continued to request that its network of suppliers charged VAT in line with the Regulations and not charge customers the additional 20%.

In February 2020 Just made an application to the High Court requesting clarity on who should pay the VAT. Following a case management conference in May, the HCEOA released new guidelines changing their policy on VAT charging for the first time since 2014. Their advice was that these changes should take effect from the 1st of August 2021.

Regrettably, the position where the Creditor is not registered for VAT remains unresolved.

Whilst a large portion of Creditors are VAT registered, there is a proportion that are not. As a result of this, and as part of our application, the High Court has widened the scope of the case to enable clarity concerning the position facing those Creditors who are not VAT registered to be clarified at the next hearing in October 2021. These proceedings we hope will deliver a full resolution to an issue that has been left unanswered since 2014.

In the meantime, however, we celebrate that today, thousands of customers who owe money will be charged 20% less and those that are owed money the creditors, will receive more of each penny collected to pay towards the principal amount.

Jonathan Branchett is Head of Enforcement Partnerships and Performance at Just.

Just is a majority owned subsidiary of The Arum Group which has been providing debt and credit advisory services internationally for over twenty years.

Our executive team consists of some of the most experienced people in supply chain management, technology, debt resolution and compliance. Many of them were part of the UK's first debt market integration project that was formed in 2015 as a joint venture between the private sector and UK Government.

Our network of debt recovery, litigation and enforcement suppliers cover every square inch of the country. We use data, analytics, and insights to enhance our understanding of the customers who owe money and then implement fair and effective treatment strategies based on their individual circumstances before placing debt.