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The Editorial

EDITORIAL

This is the final Issue of 2001 and it has turned out to be a Christmas cracker!

VAT issues of e-commerce and telecoms are now firmly back in the tax consciousness so the first article by Nicola Purcell of McDermott Will and Emery, London, which gives a UK perspective on VAT and the telecoms industry, will, I am sure, prove to be an extremely useful point of reference as well as containing an insight into the industry-specific problem areas.

Nicola's article is followed by two articles from members of Baker & McKenzie's Amsterdam office. Lex de Kok's article on the property nature of telecom networks and Redmar Wolf's on lease funding and VAT are also of interest to those in the telecoms industry and their advisors.

Lex has alerted us to the impending judgment of the Dutch Supreme Court on whether a cable network constitutes movable or immovable property and the Dutch tax implications of the distinction. Redmar suggests that practitioners in other Member States may be able to use the Dutch approach to structuring finance leases to obtain VAT savings for lessees – we would be interested to hear from readers with views on whether the suggested structure would achieve the same result in other jurisdictions.

Philip Bentley QC in his article on 'Banking Secrecy, Tax Investigations and the European Convention on Mutual Assistance in Criminal Matters' takes stock of the rules adopted at EC or EU level with the objective of achieving the right balance between the protection of banking secrecy and the prevention of tax fraud and serious crime – a topical subject in view of the events of 11th September.

In his article 'An Internal Market without Tax Obstacles – Snapshot or Blueprint' Gary Richards of Weil Gotshal & Manges, London gives his first impressions of the Commission's Communication of 23rd October.

Peter Harris' article on the notion of *abus de droit* takes up some of the points made by Jonathan Peacock QC and Robert Venables QC in their discussions of the *Halifax* case in the first Issue of this calendar year¹. Peter considers in some detail the place

¹ See ECTJ 4/3 [2000] at pages 141 and 153.

that the *abus de droit* concept has in the EU legal order and in the UK.

The final article of this issue by Christian Amand reviews the jurisprudence on the vexed question of deductibility of VAT incurred on the costs of raising capital by a share issue and puts forward some thought-provoking ideas and analysis. We hope to follow this with an article on VAT and holding companies in the first Issue of 2002.

With best wishes for the New Year,

Ann Humphrey

Joint Managing Editor

London
December 2001

Apology

Key Haven Publications would like to apologise to Rhodri Thompson for including incorrect contact details in our last Issue, Volume 5 Issue 2 at page 65. The correct details are as follows.

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