

# Would you like to ride in my beautiful balloon?

15 JANUARY 2014

Graham Elliott

CONSULTANT | UK

**CATEGORY:**

[BLOG](#)

It is a truth universally acknowledged that the passenger of a hot air balloon which is rapidly losing altitude is best advised to throw out as much luggage as possible if only to soften his crash landing. This appears to have been the thought of HMRC in the litigation against *Skyview Ballooning Limited (PC03173)*, though it would have been more dignified for them to have stopped after the first piece of luggage and endure the crash landing with dignified fortitude. The Skyview Ballooning case is about 'face value vouchers'. We are all familiar with these vouchers, cards, or other forms of token which can be purchased, by us or for us, and which entitles us to a particular value of some kind of product. The sale of such vouchers is not subject to VAT, but the redemption of the value on the voucher for a product is subject to VAT to the extent of that redemption at the time it is redeemed. Advantages of this are both that the VAT liability is delayed, and that in many cases the full value of the voucher is not redeemed, which means VAT is not paid on the full value of the cash received. This rule is overridden when the voucher is a 'single purpose voucher' which gives access only to one product. The law says that this is taxed at the time that the voucher is sold, because it is no more than a down payment against the future supply. If the supply does not take place, then the law deems VAT to remain applicable, because the opportunity to take the supply had been sold instead of the supply itself. This is obviously disadvantageous both as regards cash flow and the ultimate burden of VAT (because not all vouchers are fully redeemed). It is obvious therefore that face value vouchers are good and single purpose vouchers are bad. The problem with the concept of the single purpose voucher is that there will always be an argument as to whether the products that can be purchased using the voucher fall into such a narrow category that it is a single purpose voucher, and it is always possible for the issuer of the voucher to add an extra product simply in order to disable the single purpose voucher criteria. Without any obvious premeditation on these points Skyview Ballooning issued a face value voucher that can be used to obtain a balloon flight (taxable) or other merchandise (also taxable, although they did sell children's clothing which is zero rated). It followed that there was more than one purpose to the voucher, although nobody denied that by far the majority of the value of the vouchers would be redeemed for balloon rides. This was because many of the vouchers were bought as birthday presents and the nature of the intended present would almost be bound to be the balloon ride itself, rather than ancillary merchandise that happened to be sold on site. Nonetheless, the voucher gave access equally to both types of supply. HMRC's argument was that this was artificial, and that it was in reality a single purpose voucher which was no more than a pre-payment for a balloon flight. At this point one might have sympathised with HMRC. It is frustrating that a secondary potential purpose of the voucher should change its character so entirely. Nonetheless, the law has to be interpreted in black/white terms, and there is no serious doubt that the voucher gave access to more than one product. Furthermore, the voucher explicitly gave access to a zero rated product, so HMRC could not even argue that the only potential liability for VAT was standard rated. Once they had been defeated on this point, HMRC should have landed their deflating balloon as best they could and taken the consequences. But they had another piece of dubious luggage which they then proceeded to throw out of the basket. This was that a face value voucher must either show a printed sterling value, or must have embedded within it an electronic value. It was not printed in this case, and HMRC argued that the voucher itself did not contain the value. That was right because each voucher had a code number, and it was the till at the balloon shop which held the data which determined the value of the voucher or the remaining balance on it. HMRC tried to argue that, since the voucher itself did not hold the value, that made all the difference. It is hard to believe that on any policy level HMRC will have sanctioned such an argument. It looks like a desperate attempt by HMRC's advocate to rescue his own particular balloon ride. The Tribunal Chair was particularly withering about this argument. The tax payer's appeal was resoundingly allowed. HMRC's balloon basket hit the ground and no one aboard survived.

# Authors

Graham Elliott

CONSULTANT | LONDON

International corporate tax

 +44 20 7597 6112

 [graham.elliott@withersworldwide.com](mailto:graham.elliott@withersworldwide.com)