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## HMRC take a Blissful bite

When is a biscuit a bakery product and when is it confection? This is a question that comes up quite often with HMRC and how it classes different products. This month saw the result of a First Tier Tribunal case in which United Biscuits (UK) Ltd appealed against the decision by HMRC to treat the “McVitie’s Blissfuls” as liable to standard rate VAT. This product is essentially a biscuit cup filled with a chocolate filling and then has a biscuit top in the shape of the McVitie’s logo that doesn’t fully cover the filling, meaning that there is some of the chocolate filling showing through.

United Biscuits were arguing that the chocolate was a filling rather than a covering, and that someone could not taste this without biting into it. In the view of the FTT, while a layer can be contained within the biscuit cup base (as it is in this case), this does not prevent it being part of the covering. All should depend on the facts of the particular case.

In the end when they made the decision they considered applying a practical answer to a practical question - namely is the biscuit partly covered by chocolate?

They considered that the area that is not covered by the biscuit logo must have a layer of chocolate on its surface. They were happy to accept that the biscuit logo covers most of the biscuit, but the requirements of the legislation are satisfied even if the covering is only “to some extent”.

With this in mind they asked themselves, if the biscuit logo does not cover the whole, what covers the remaining area? This proved to be crucial in their decision as they concluded that the biscuit is partly covered by a layer of chocolate and therefore liable to standard rate VAT.

## Death & Taxes

Another interesting First Tier Tribunal case recently saw HMRC challenging the VAT liability of the services provided by UK-Funerals On-line Ltd, which entails repatriation services. The majority of which would see them moving the deceased from the UK to other countries - however they would also repatriate bodies back to the UK from other countries (albeit this is a much smaller part of their business).

They believed their services should be zero-rated and considered a transportation of cross-border goods, whereas HMRC believed that the services should be exempt and considered as “the making of arrangements for or in connection with the disposal of the remains of the dead” - i.e. funeral services.

This was a very interesting read and indeed HMRC made a number of solid arguments, citing VAT Notice 701/32 which details repatriation packages supplied by Undertakers as being exempt, and indeed many of the services provided by UK-Funerals On-line Ltd could fall under this classification.

However the FTT made the decision that the services should be classed as cross-border transportation of goods as in their view the typical consumer of the business was someone looking for a business that could arrange the transport of their recently deceased relative, and one that service was complete, it would typically be a funeral director in another country that would be providing the more traditional funeral services.



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Mobile - 07387 564 090  
Email - greg@vita-uk.com

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