

VAT – RETAILERS AND THIRD-PARTY CONTRACTORS

We are aware that HMRC is challenging retailers that supply flooring, kitchens, and bathrooms where the retailer refers the customer to third party contractors for fitting services. Typically, HMRC will argue that a single supply of goods and fitting services is being made by the retailer. In many cases, the third-party fitters are not registered for VAT, meaning HMRC can increase the VAT due if the fitting were deemed to be a supply made by the VAT-registered retailer.

In a recent First Tier Tribunal case, *United Carpets (Franchisor) Limited v HMRC*, the Tribunal found that the retailer concerned did not supply fitting services. This was because in-store signage explicitly stated that the store did not provide fitting services. The retailer's only role in the fitting of the flooring was 'introductory' in that it merely put a customer in contact with a fitter. The contracts to fit the flooring were between the customer and the fitter, and the obligation to pay the fitter was with the customer.

To minimise the risk of a challenge from HMRC, both the contractual position as well as the commercial and economic reality of the arrangements need to demonstrate that the supply of goods, and the fitting services, are two distinct and separate supplies made by two different suppliers.