

## **Charity win boosts cashflow opportunities for refurbishments**

The Whitechapel Arts Gallery has been successful with an appeal at the VAT and Duties Tribunal against a HMRC decision to deny 'Lennartz' accounting to the refurbishment of an existing building.

HMRC had argued that the Lennartz mechanism could only be applied in circumstances where a new asset was created. Whitechapel argued that it could be applied to expenditure on an asset that produced 'enduring value' and distinguished such work from expenditure on consumables.

The Tribunal agreed with Whitechapel commenting that there was no support in the case law of the Court of Justice to support the proposition that the principal in Lennartz is confined to new buildings. The exclusion of construction work from Lennartz in the present case would 'conflict with the principal of fiscal neutrality'.

This is the first case to be heard in relation to applying the Lennartz principal to refurbishments and is welcomed news in that it provides the option of cashflow benefits to those that apply it. HMRC policy in the past had been to restrict Lennartz to the acquisition or construction of new buildings.

Broadly, the mechanism allows a charity incurring VAT on an asset which is used for both business and non business purposes to recover all of the VAT up front and to make payments back to HMRC over a ten year period based on the element of non business use. Clearly when large sums of expenditure are incurred, the cash flow savings can be significant and indeed may help to determine the viability of a project.

Whitechapel were represented by Socrates Socratous, Director of SOC VAT Consultants who instructed Tax Counsel. A copy of the full transcript can be accessed at:  
<http://www.bailii.org/uk/cases/UKVAT/2008/V20720.html>