



# **VAT on PCPs: Understanding the Changes**

BVRLA Webinar 26 September 2019

# Welcome and Agenda



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# Our Speaker



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# VAT on PCPs: Understanding the Changes

**Summary of recent case and HMRC guidance**

26 September 2019



# MBFS (C-162/16)

# MBFS (C-164/16) – Summary of Judgment

- The MBFS case concerned the VAT treatment of supplies made under the taxpayer's 'Agility' finance product
- The Agility product was designed for customers who were undecided as to whether they wished to own the car at the end of the contract or not and therefore provided an 'option' to purchase the car in the final month of the contract
- The taxpayer considered this was a rental agreement (a supply of services for VAT purposes) with an option to purchase
- The taxpayer also contended that the finance element of the supply remained VAT exempt

The CJEU ultimately agreed with the taxpayer on the major point and set out a two stage test for determining whether a supply falls to be treated as goods under Article 14(2)(b):

1. the contract must include a clause expressly relating to the transfer of ownership of the goods; and
2. objectively assessed, ownership of the goods will pass automatically through the normal performance, over the full term, of the contract.

# MBFS (C-164/16) – Summary of Judgment cont.

In a contract where the first of the above tests is met but where the transfer of ownership of the goods is not automatic and is one of a number of options available to the customer (other options being for example to return the goods or extend the hire period), the second test above will not be met. Thus the contract will not fall within Article 14(2)(b).

However, as an exception to this in regard to the second test, the contract will fall within Article 14(2)(b), where:

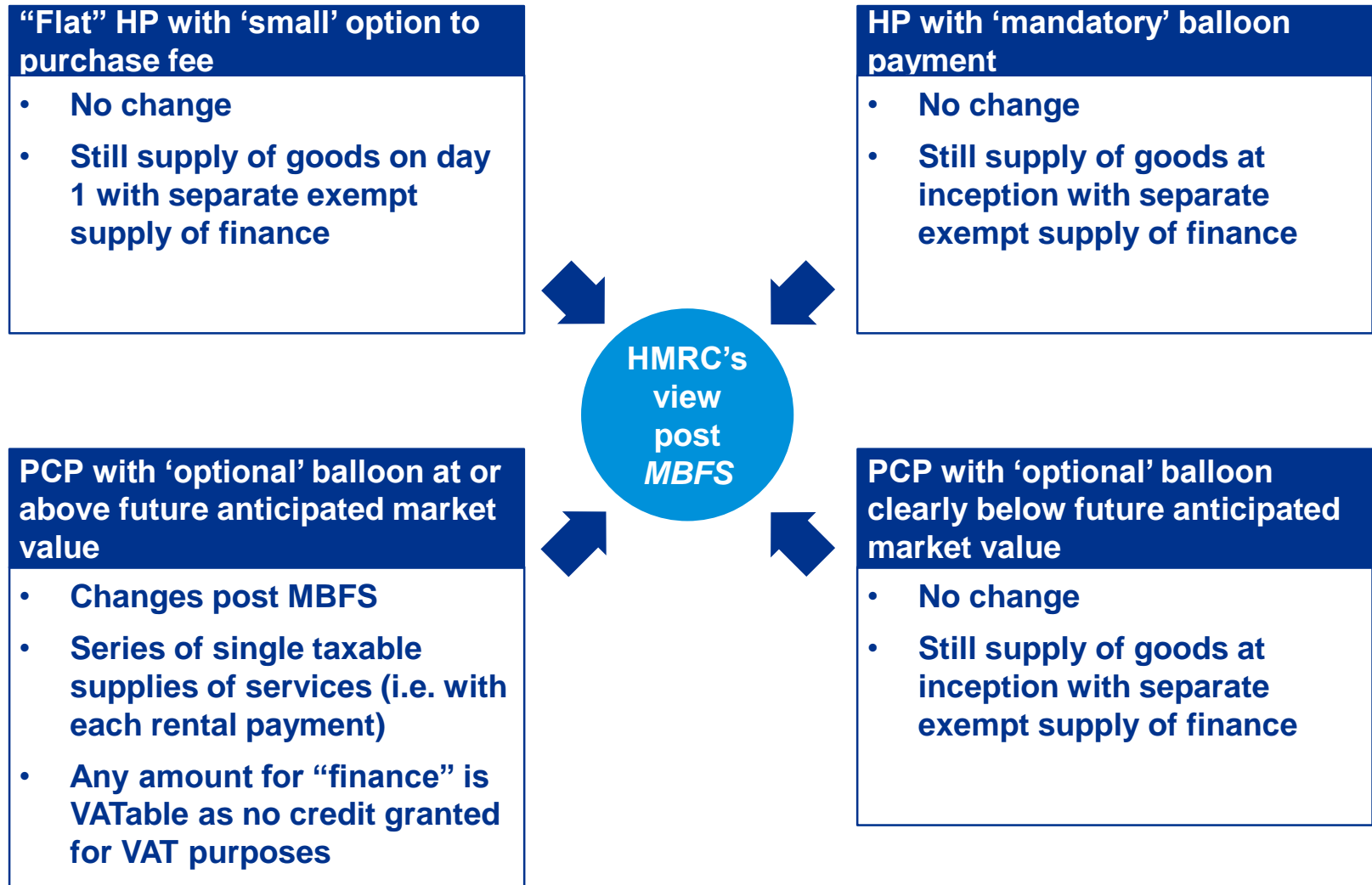
- the contractual instalments correspond to the market value of the goods including financing; and
- the customer will not be required to pay a substantial additional fee in order to exercise the option to purchase.



# HMRC's updated guidance



# Summary of HMRC Brief 01/19



# Summary of HMRC Brief 01/19 cont.

- In terms of correct treatment the Brief states that businesses must adopt the correct treatment for all new contracts no later than 1 June 2019
- As expected HMRC are of the view that where the supply is series of single taxable supplies of services (i.e. with each rental payment) there can be no granting of VAT exempt credit
- Therefore, similar contracts to “Agility” will create a cash flow advantage (as output VAT will be payable over the life of the contract rather than at inception) but will also result in more VAT being charged over time which is detrimental in all B2C agreements and most B2B (due to the 50% input tax restriction)
- The language of the Brief is a little loose and as such some terms such as “anticipated market value” and “clearly below” are not precisely defined. However, we understand HMRC are not looking to be too challenging of taxpayers wishing to treat PCP as a supply of goods and VAT exempt credit
- Brief only refers to PCP and similar contracts and has no direct guidance on leases with options



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# Q&A Session

## Facilitated by Jay Parmar– BVRLA

Please use the Q&A on your screen to ask any questions regarding the information in today's webinar, the BVRLA or other queries.



# Final Thoughts

Thank you to our speaker and you for participating in today's webinar.

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