

## MOBILX AND BEYOND - WHERE NOW FOR THE CAROUSEL?



You are invited to a seminar on Thursday 27th May 2010 at BPP Law School, St James Building, Oxford St, Manchester, commencing at 5.30pm, to be presented by James Pickup QC

For many years now HMRC have been fighting to recover the substantial losses to the revenue caused by MTIC fraud. Initially they pursued those participating in the fraud through the criminal courts but with little success. More recently they have chosen to seize amounts of VAT, equivalent to the fraudulent losses, from exporters, by denying them their right to deduct input tax, on the grounds that fraudulent tax losses could be identified in their transaction chains, and the exporters "knew or should have known" that their transactions were connected with the fraudulent evasion of VAT (the so-called Kittel test). The Commissioners' arguments have invariably found favour with VAT tribunals, and appeals to the High Court have had little success.

The Court of Appeal is shortly to give judgment in the conjoined appeals of **Mobilx**, **Calltel Opto** and **Blue Sphere Global**, the first cases to go beyond the High Court, and challenge the legal basis for the application by domestic courts of the Kittel test. The appeals are a fundamental challenge to the legal foundation of the Commissioners' strategy for the civil recovery of the proceeds of tax fraud, and the judgment will have wide ramifications for the trade and also for the professionals who seek to advise and defend those participating in the trade.

