



2 March 2009

## VAT Refunds – An Opportunity Not to be Missed

Was your business registered for VAT before 1 May 1997?

Is there a possibility that your business has overpaid VAT on sales or underclaimed VAT on purchases?

If you answered yes to the above questions the following information could provide significant financial reward for your business.

### Overview

Following two recent VAT cases, Fleming and Conde Nast, it was established that there was no transitional period in place when the 'three-year cap' was introduced in relation to the reclaim of overpaid output tax or under-recovered input tax.

Consequently the UK tax authorities incorrectly restricted the time period for which refunds could be claimed to three years.

These recent rulings introduce a transitional period and as such create an opportunity for businesses to submit claims for overpaid output tax or under-recovered input tax potentially going back to 1973.

In these difficult economic times the opportunity that may exist to obtain a refund of VAT from HM Revenue & Customs is worth considering.

### Periods on which claims can be made

Claims for overpaid output VAT can be made in all accounting periods ending before 4 December 1996.

Claims for under-recovered input VAT can be made in all accounting periods ending before 1 May 1997.

Claims can relate back to when the business was first registered for VAT.

### What if your business does not have records for these years?

VAT records need only be kept for 6 years. Consequently, many businesses may not have historical records going back to the period in question.

HM Revenue & Customs have acknowledged that it will be virtually impossible to quantify exact figures for claims for early periods and they have accepted that best judgement can be used when compiling a claim.

For example, a recent period can be sampled and then a fair and reasonable extrapolation exercise carried out for earlier periods.

It is likely that businesses will have copies of historic annual accounts and these can form a useful basis in compiling the claim.

### Interest will be added to the claim

It is important for businesses to be aware that statutory interest will be added to any claim. Indeed, depending on the period of the claim, the interest payment could exceed the actual claim itself.

Therefore, even if the claim may at first appear relatively small, it may still be worth pursuing it on the basis that interest will increase the overall refund. As a result, a number of small claims over a number of years can add up to a significant refund.

### The deadline

This opportunity is only available for a limited time and HM Revenue & Customs have stated that all claims must be submitted by **31 March 2009**.

This is a one-off opportunity for some businesses to claim large amounts of VAT.



2 March 2009

## VAT Refunds – An Opportunity Not to be Missed

### Types of claim

The introduction of a transition period superseding the three-year cap will allow the taxpayer to recover VAT overpaid arising as a result of innocent mistakes and where the legislation has changed to correct the UK tax treatment of VAT in favour of the taxpayer.

The following are examples of areas and businesses where claims are likely to arise. These lists are not exhaustive:

### Underclaimed input tax

- Staff entertaining
- Staff mileage expenses
- Mergers and acquisitions
- Theatres (not for profit)
- Car dealers
- Bookmakers
- Charities
- Colleges (not for profit)

### Overpaid output tax

- Bad debts
- Catering services
- Private members golf clubs
- Charities
- Hotels
- Retailers
- Education/Colleges
- Stabling and Livery services
- Amusement Arcades
- Garages
- Temporary/Agency staff
- Money-off coupons and cash back payments
- Construction industry

### Examples of how this may apply to you

Prior to 1997 there were areas of expenditure such as staff entertainment where the rules at the time did not allow input VAT to be recovered.

In subsequent years, there have been cases which have led to a change in VAT treatment and as a result VAT is recoverable.

If a business had staff entertaining costs of £10,000 a year for 10 years during the 1980s and early 1990s the VAT refund could be £1,500 per year so a claim over ten years could amount to over £30,000 once interest is added to the claim (this is for illustration only).

There are also a number of areas where VAT could have been claimed but for one reason or another it was not. One example of normal business expenditure that may not have been claimed is mileage payments.

If a business had 10 employees travelling 15,000 business miles per year there is a potential claim of approximately £500 per year. This amount can build up over a number of years, again with the additional advantage of interest.

Another example is car dealers who may be eligible for reclaims in respect of demonstrator cars.

### What to do next

At ASM Horwath we are offering a **free initial consultation** to establish if a claim is applicable. If appropriate, we will assist you in submitting your claim on a contingency fee basis.

If you wish to discuss this opportunity please contact either Alan Curry or Greig Jardine at:

[alan.curry@asmhorwath.com](mailto:alan.curry@asmhorwath.com)

[greig.jardine@asmhorwath.com](mailto:greig.jardine@asmhorwath.com)

ASM Horwath  
Horwath House  
20 Rosemary Street  
Belfast  
BT1 1QD

Tel: 028 9024 9222

Fax: 028 9024 9333