

A new opportunity to reclaim input VAT, but you need to be quick

Two recent European Court of Justice (ECJ) decisions have provided businesses with an opportunity to recover previously unclaimed VAT input tax. Claims could involve significant sums of money, including the cost of food at business meetings since 1973.

To obtain the full benefit of this opportunity claims need to be made by 31 March 2009.

The following questions and answers provide a basic guide to the topic. However if you would like more detailed information or help to make a claim please speak to Julian Millinchamp on 01242 237661 or e-mail him at julian.millinchamp@hazlewoods.co.uk.

Q: What items can repayment claims be submitted for?

A: Protective VAT claims can be submitted for:

- The cost of refreshments provided to directors, staff, clients and contacts for meetings held on the business's premises where there is a business purpose and the refreshments are provided to improve efficiency of the meetings;
- The cost of providing entertainment to overseas contacts; and
- The costs associated with the provision of accommodation to company directors.

Q: For what periods can claims be made?

A: Claims can be made for the period from 1 April 1973 to 30 April 1997, and the last three years, if the business has **never** previously reclaimed VAT on the above items.

Note: If businesses previously reclaimed VAT in accordance with the rules as they were, the claim periods will be restricted. The periods will begin on 1 August 1988 for the provision of entertainment to overseas contacts and 25 July 1990 for the provision of accommodation to company directors.

Q: What information will I need to make a claim?

A: You will not be expected to have all the historic information to support your claim, but based on information available for recent accounting periods we will be able to help you put a claim together.

Q: What is the deadline for making a claim?

A: Claims for VAT incurred prior to 1 May 1997 will have to be submitted by 31 March 2009.

March 2009**Q: How has this new opportunity arisen?**

A: The opportunity has arisen following two recent ECJ decisions.

Magoora C-414/07

In this case the court found the member state (Poland) did not have the right to extend input tax blocking provisions after 1 January 1978 because it was contrary to the EC 6th Directive.

In the UK there have been two blocks on the recovery of input tax since 1 January 1978, which are

- 1 August 1988 the UK extended the input tax blocking order to include overseas business entertainment; and
- 25 July 1990 the UK again extended the input tax blocking order, this time to include the provision of accommodation for directors

It therefore appears that neither of these extensions is valid under EC law.

Danfoss/Astra Zeneca C-371/07

In this case the provision of in-house catering for business meetings was considered **not** to be a free supply of services for non-business purposes (which would require output tax to be accounted for). The court's ruling also casts doubt on whether such provision could be classed as "business entertainment".

Q: What should I do next?

A: If you have significant unclaimed input VAT in respect of any of the above areas you should consider making a protective claim. For further information or help making a claim please speak to Julian Millinchamp on 01242 237661 or e-mail him at julian.millinchamp@hazlewoods.co.uk.

Take action before 31 March 2009 to benefit

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