



VAT refunds - time to entertain a claim?

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An announcement from the European courts may create an opportunity for businesses to recover VAT paid on client entertaining. Act now to maximise your potential refund from HM Revenue & Customs.

For many years, HM Revenue & Customs (HMRC) has blocked VAT recovery on the costs of entertaining clients and other non-employees. However, in a case currently proceeding through the European Court of Justice (ECJ), the Advocate General has made comments that may open up an opportunity to reclaim VAT previously refused by HMRC on business entertainment expenses.

The X Holdings & Oracle Netherlands case
An appeal brought by two Dutch businesses has challenged the validity of the Netherlands law denying input VAT recovery on various staff and client related expenditure.

In his written opinion, the Advocate General has indicated that VAT legislation in the Netherlands may be incompatible with EU Law because it does not

adequately define the nature of the specific goods and services to which the block applies.

In the UK, the law blocking the recovery of input VAT in respect of business entertainment is drafted in very similar terms to the Dutch legislation currently under challenge. As a result, if the final judgement in the ECJ follows the Advocate General's opinion, UK businesses may be able to recover VAT that has previously been denied on this type of expense.

Do I have a claim?

If the final ECJ judgement (expected in spring 2010), confirms the comments made on this issue by the Advocate General, it may be possible to recover VAT incurred on business entertainment since 1 April 2006. Businesses that have incurred significant costs in this area should consider making protective claims now to avoid falling foul of the relevant time limits.

If you would like to discuss this opportunity, or would like assistance to prepare and submit a claim, please contact your usual PKF VAT advisor.

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