CTM
LITIGATION & TAX SERVICES

August 2011 Newsletter

NOT ENOUGH KNOWN ABOUT HUNGARIAN REFERENCE TO THE ECJ TO ASSIST TRADERS YET, BUT SUCCESS IN TRIBUNAL GIVES RENEWED HOPE

CTM - ASSISTING TRADERS IN CRIMINAL AND CIVIL CASES

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Liban worked for HM Revenue & Customs for 20 years, predominately in MTIC investigations, before being recruited by **KPMG** as an MTIC specialist. He formed CTM in 2005 and now manages all First Tier Tribunal and Upper Tribunal appeals.

Next Edition:

More Tribunal decisions

Other news

Attempts now being made to contact Hungarian legal team

In our last edition, we explored the possibility of appeals in MTIC cases being stood over pending the outcome of a Hungarian reference to the ECJ. We have now received advice on this subject.

Firstly, and most importantly, the arguments go to the heart of the scope of Kittel and whether a trader can be held liable for the fraud of a company further down the supply chain. This is very good news.

The problem is, so little is known about the case that it would be extremely unlikely that any UK court would stand over an appeal pending its outcome. Further steps are being taken to identify and speak to the legal team(s) in relation to two separate referrals to the ECJ. Once this is achieved, then it may very well be possible to stand over appeals.

Traders wishing to take advantage of any success in the ECJ, will need to continue with their appeals. Any company that simply drops out is unlikely to be able to have its appeal re-instated, save those traders that appealed their decisions as far through the court system as they could.

Trader wins in First Tier Tribunal appeal

A mobile phone trader has very recently won its appeal to the Tribunal in relation to several transactions in 2006 that HMRC alleged were connected to fraud. This very typical case involved fraud within the traders own supply chains and FCIB circularly of funds. However, while the Judge agreed that it appeared contrived, he stated that there was no direct evidence that the trader knew of the fraudulent scheme, or could have known. It was a common sense approach that we would all like to see more of, although we must add that this does not signal a complete change in the Tribunal's approach.

We will keep you posted regarding any other decisions that have particular importance. In the meantime, if you have any questions regarding this Newsletter please contact Liban Ahmed and also please see our website for other services we offer.