

Customs – “The Policy Team is sitting on hundreds of Reports”

It is becoming apparent that even Customs do not know when they will clear the backlog of reports.



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Liban worked for HM Revenue & Customs for 20 years, predominately in VAT investigations, before being recruited as an indirect tax advisor at KPMG. He formed CTM in 2005 and now manages all Tribunal appeals.

Overleaf:

Are Decisions really Coming Out?

Will There Be Any Positive Decisions?

Appeals Before Formal Decision Update.

Corporation/PAYE Tax Update.

Customs admit more delays due to errors in verification

Officers have recently admitted to CTM that additional and unacceptable delays are being caused because some Officers are not completing the verification process thoroughly. This will be difficult to stomach for some traders who have seen the verification process already last over a year.

It has been explained to CTM that the verification process is completed and a report sent, through management channels, to the Policy Team. Often the Policy Team review the report and send it back, through the same time consuming chain, back to the Officer who conducted the verification. This is invariably due to the fact that the Officer has not asked the right questions or has not completed the verification adequately. Officers have added that they will then complete the required work and send the results back through the management chain again. Adding; “we can’t guarantee that the updated report goes back to the top of the pile”. Customs have admitted that the simple need to ask one additional question could add 6 weeks or more to the timescale, “as the Policy Team is sitting on hundreds of reports”.

However, negative decisions continue to be made and more companies have approached CTM for assistance in appealing to Tribunal. Additional reasons include the following, some of which you may find hard to believe.

1. “It was found that you had an account with the FCIB, known to be commonly used by MTIC traders. Your suppliers recommended this bank as it provided a quick payment facility, serving to emphasise knowledge of the MTIC trading link”.
2. Suppliers VAT numbers not verified through Redhill, even after being told to do so.
3. Being notified of fraud in a supply chain and continuing to trade with that supplier, albeit the supplier became a customer.
4. Continuing to trade in an industry “despite previous warnings about the risk to the revenue”.
5. “There was also indicative evidence of a degree of planning, when you changed the trade class of your business to *Wholesaling a variety of goods*”.
6. During a VAT visit, the trader denied that they had knowledge of fraud in the industry, yet there is evidence to prove they were aware.
7. Failure to provide all due diligence documentation on request.
8. Failure to provide evidence of where funding came from.
9. No insurance.
10. The trader stated that they would cease trading in a particular product, due to high levels of fraud, but later continued to trade in that product.
11. “All suppliers and customers are wholesalers, which begs the question why a customer does not buy direct from a retailer or single wholesaler”.
12. You have previously had VAT disallowed.



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Next Edition:

Further Decisions

Tribunal Developments

Other Relevant Industry News

Are Decisions Really Coming Out

From our own experience and our regular contact with other advisors, it is clear that there is now a steady, but slow, flow of decisions coming out. Contrary to rumour, it is our belief that no positive decisions have been made, although we would like to be contacted if you have received such a decision.

Will There Be Any Positive Decisions

We have always been optimistic that a small number of claims will be paid in full. However, an Officer has informed a trader that a decision has been reached and a letter will be sent to them in the next few days. We have visited this trader and found their procedures to be first class. It is likely that, if this company receives a negative decision, nearly every company will receive the same fate. We will issue an updated newsletter as soon as we have the result and let you know what procedures this company had in place, so that you can compare.

We visited a further trader this week that had excellent procedures, yet received a negative decision. However, nearly all the reasons for denying their VAT were simply wrong. We do not know if this was just a misunderstanding of the facts, or whether Customs will make incorrect statements simply to refuse all claims. The company will press ahead with the appeal, but will ask Customs to reconsider their decision in light of the completely incorrect accusations made by the Officer. Again we will keep you updated.

Appeals Before Formal Decision

Customs have asked for all traders who have appealed to the Tribunal ahead of a formal decision to be heard in back-to-back hearings in the next few weeks. Although one or two individual hearings would have been heard earlier, all will now be heard in the same week.

Customs had initially asked for all to be joined as a group action, but CTM successfully objected to this. We believe that all companies are individual and have very different stories to tell.

Corporation Tax Update

One HMRC Officer has insisted that a client of CTM's pays their Corporation Tax immediately despite other companies having theirs suspended.

CTM has responded aggressively and the matter is with the Revue complaints department. Whatever the outcome, it has served to delay proceedings long enough to allow a decision on their VAT to be made. As we mentioned in our last Newsletter, we do not know if HMRC will suspend Corporation Tax payments after a negative decision, but we will do our best to ensure this happens.

We will keep you updated with any further developments.