

HMRC - "900 Traders will have their VAT refused"

CTM Limited is now concentrating its efforts to assist traders with appeals to the Tribunal and has received several requests for assistance in just the last few days.



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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:

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Tribunal Appeal – How Many Traders Can Afford It?

If you thought 2006 was a difficult year, think again; 2007 is shaping up to be even more challenging. Our sources have informed us that HM Revenue & Customs ("Customs") have warned the Tribunals that they will soon refuse VAT in respect of 900 traders.

We estimate, very approximately, that there are 1,200 traders awaiting repayment and it is likely, therefore, that 75%-80% of traders will have their VAT refused. We are trying to establish from our sources what the criteria is for repaying the VAT and we will notify you as soon as we hear.

Clearly, this is a significant percentage of traders and we advise companies to act quickly after receiving such a decision in writing. It has also been clear from companies who have contacted us, that many traders do not know what the appeal process involves, what their options are and what the costs will be. We hope this edition of our newsletter will provide companies with a broad understanding of the appeal process so that an informed decision can be made.

The knock-on affect of such widespread action will put:

- Additional traders out of business.
- Industry advisors and solicitors under significant pressure.
- Tribunals under extreme pressure and greatly increase the timescale for a hearing.

Those who submit their appeals first will be in Tribunal first, it's as simple as that. By delaying action by just a few days, may increase the waiting time by a few weeks.

If you receive a negative decision and do not currently have advisors experienced in this field, you should take the following action:

1. Consult more than one industry advisor and obtain an idea of timescale for lodging an appeal.
2. Find out the approximate costs.
3. Ensure that you lodge your appeal to the Tribunal as soon as is physically possible.
4. Meet the team and the Barrister that will represent you in Tribunal and ensure that they have the necessary skills.

If you have any further questions regarding the above, or topics overleaf, we will be happy to provide additional advice at any time.



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Next Edition:

Tribunal Developments

Other Relevant Industry News

Timescale For Tribunal

The current timescale for a hearing at Tribunal is approximately 5 months and this is set to increase markedly for two reasons. Firstly, the simple addition of 900 cases will have a natural knock-on affect and increase the waiting time. Secondly, the Tribunal hearings themselves will last much longer, due to the amount of additional evidence that will be heard.

We believe that those who appeal last may have over a year to wait, with the average waiting time being 9 months. This will have a serious impact on a traders' chance of survival.

The Tribunal Process

Not all advisors provide the same service, but see below for a rough idea of what to expect:

- An immediate appeal to the Tribunal will be lodged to ensure no time is wasted.
- A visit will be made to the traders' office and a full analysis of their trading and due diligence procedures conducted.
- A detailed report will be sent to the Barrister, highlighting the strengths in your case and other issues that need addressing.
- A meeting will be held with the Barrister who will explain the next stage, how he can assist and what the chances are of success.
- Your case is prepared and may include obtaining witness statements and other evidence from trading partners, freight forwarders or other parties who can add strength to your case.
- The Tribunal itself commences and witnesses, and other evidence, are heard. The Director(s) of the company may be required to give evidence.
- A few weeks later, a decision will be reached on whether Customs were right to refuse payment of all, or part of, the VAT.

The Cost Of Tribunal

Although advisors and their Barristers charge varying amounts, traders should expect the total cost to be between £15,000 and £25,000. The costs are greatly affected by how much evidence needs to be presented before the Tribunal and, therefore, how many days the Tribunal hearing will last.

A simple appeal to the Tribunal would normally cost approximately £10,000, so you can see that additional evidence, and extra days in Tribunal, significantly increases the costs.

Tribunal Success

In our previous newsletter, we touched on our attempts to force Customs into making a decision through non conventional appeals to Tribunal.

Two clients have now successfully fought against a Customs application to have their cases struck out. We argued that all the evidence and correspondence suggested that a decision had been made, and the Tribunal Chairman agreed to hear the evidence at a separate hearing in April. We are very confident that the Customs case will clearly demonstrate that no verification is ongoing and a decision will be forced.

The Customs Barrister stated that it was a bad decision for Customs and that "it will put the cat amongst the pigeons". This is also an important decision for companies wanting to trade in the future and we will keep you informed of developments. The other affect of keeping our clients in the Tribunal system is that, if a decision to refuse their VAT is made, the reasons for appeal will simply be amended and, according to a Tribunal Chairman, they will remain ahead of other companies in the queue.

Corporation/PAYE Tax Update

CTM continues to have success in suspending Corporation and PAYE taxes for its clients, pending a Customs decision on their VAT repayment. Our next challenge is to ensure that the taxes are suspended until after a Tribunal decision.