



# VAT UPDATE

**January 2008**

## **Three Year Cap – VAT Case Win Allows Further VAT Recovery**

The House of Lords has found in favour of two appellants, Conde Nast and Fleming, who appealed against the refusal of HM Revenue & Customs to allow them to reclaim VAT incurred in previous years. In Conde Nast's case the VAT claimed went back to the introduction of VAT in 1973.

These cases stem from the introduction of the three year cap in 1996, under which HM Customs & Excise (as they then were) restricted the recovery of VAT to the three years prior to the date of a claim. Since then there have been numerous cases in the courts appealing against this decision. Following a submission to the European Court of Justice it was ruled that the cap was allowable in principle, but that HMRC should have allowed a transitional period during which businesses could have reviewed their VAT affairs and made claims if appropriate. HMRC did introduce a limited transitional period in 2003, but as it did not cover the claims made by the two appellants in this case, they decided to take their cases further.

### **Claims to be made**

The implications of this decision appears to allow organisations that incurred eligible business input tax prior to 1 May 1997 which they did not previously claim, to now claim this from HMRC. It also offers the potential to review any overpayments of output tax prior to 1997. Any claims will be subject to the production of the appropriate evidence.

As this decision has only just been released, HMRC have not yet made any comment.

If you feel that you may be eligible to make a claim as a result of this ruling, or you wish to resubmit a claim that HMRC have previously rejected, please contact your usual VAT Liaison advisor or our VAT Liaison Helpline on 0800 700 652 and we will be happy to discuss your circumstances.

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