

Our Ref: CAW/RB

January 2009

Dear Club Treasurer/ Finance Manager

VAT Refunds

Further to our letter of October 2008 in connection with the above subject, it is evident that there is much activity and marketing by advisors in promoting their services to help clubs secure VAT refunds.

It is quite clear that key to success is a coordinated approach that allows the sector as a whole to put its best case forward and to maximise the potential opportunity. Whilst there is no guarantee of success, a fragmented approach is likely to be detrimental to the possibility of a successful outcome.

As a first step to adopting a strategy that provides a coordinated approach we asked our contacts at Vatability UK Ltd to meet with KPMG. KPMG have been focusing on visitor green fees post 1 January 1990 whilst Vatability UK Ltd have focused, primarily, on member subscriptions prior to 1 January 1990.

The pre 1 January 1990 opportunity and post 1 January 1990 opportunities demand an understanding by all parties of the strength and the detail of the technical and legal arguments for each opportunity and the need to ensure that relevant arguments do not open the doors for one opportunity but close the doors for the other opportunity.

Any action taken independently by clubs, which is their prerogative and choice, should be carefully considered, particularly, if by doing so, the consequence is:

1. To put at risk, the aim to create a benefit for the sector as whole.
2. Clubs lose out because they fail to maximise the claim in terms of quantum because sufficiently robust input tax arguments have not been fully considered, unjust enrichment arguments have also not been fully considered or the period claimed is limited.
3. A claim is made and successfully challenged by HMRC and the club ends up with a VAT amount due to HMRC having sought to get money back.
4. Clubs lose out because they fail to maximise the level of statutory interest beyond that of simple interest payable.
5. Claims are rejected and the legal process is not followed such that clubs no longer have a valid claim and are out of time to submit new claims by the 31 March 2009 deadline.

6. Claims are rejected and the legal process is followed with the result that the costly expense of an appeal falls to that club.

What we suggested previously was the need for consistency and to that end claims and appeals are being lodged in connection with the opportunity that exists for the pre 1 January 1990 period. It is in the interests of the sector that clubs who wish to take advantage of the opportunity to email Vatability UK Ltd at enquiries@vatability.co.uk.

It is also our view that a similar approach is adopted for the opportunity which exists for the period post 1 January 1990. Vatability UK Ltd following their meeting with KPMG have agreed that KPMG are best placed to handle and lead the visitor green fee opportunity. The parties agreed to ensure that a coordinated approach is adopted and the best interests of the sector are respected. KPMG have offered to resource and pay for a case before the VAT Tribunal, only seeking a fighting fund should the matter be referred to a higher court, most likely the European Court of Justice. Any club who wish to understand more about this opportunity can contact either Paul Stewart or Alistair O'Hara at KPMG on 0161 246 4917/ 0118 964 2200 or email paul.stewart@kpmg.co.uk or alistair.o'hara@kpmg.co.uk.

Although the visitor green fee issue does not exist in the proprietary sector we are actively exploring a course of action with the ultimate aim of reducing the burden of VAT on proprietary clubs. This requires an understanding of the implications of recent EU case law, the intention behind the relevant existing EU legislation and the options available to member states in relation to the taxation of sporting services, particularly with the EU Commission's intended review of the VAT exemption of services in the public interest expected to start later this year. The ultimate aim of the EGU is to see a better, easier and more equitable method of VAT accounting for all our affiliated golf clubs.

Yours sincerely

C A Wagstaff
Finance Director