



22 December 2008

Dear Secretary/Treasurer

Value Added Tax Opportunity: Green Fee Income from visitors

We refer to our recent letter of 26th November 2008 on the above topic. We have now had positive news on this opportunity by the firm of VAT Consultants that we referred to in our original letter, VAT Services Limited. You may recall from previous correspondence they have highlighted other VAT opportunities in the past.

Update

VAT Services Limited have explained that the European Court of Justice (ECJ) have opined on the "Canterbury Hockey Club" Case and have passed their opinion back to the High Court in the UK. The ECJ made the following statement:

- Article 13(A)(1)(m) of the Sixth Directive was to be interpreted as meaning that, in the context of persons taking part in sport, it included services supplied to corporate persons and to unincorporated associations, provided that, which it was for the national court to establish, those services were closely linked and essential to sport, that they were supplied by non-profit making organisations, and that their true beneficiaries were persons taking part in sport;
- The expression "certain services closely linked to sport" in article 13(A) (1) (m) did not allow the member states to limit the exemption under that provision by reference to the recipients of the services in question.

VAT Services Limited explained that these statements lead to the conclusion that HM Revenue & Customs (HMRC) cannot limit the exemption to members of non-profit making organisations and as a result Green Fee income from visitors is also exempt when supplied by a non profit making organisation, and is not standard rated.

How does the Canterbury Case affect Golf Clubs?

Whilst there is a possibility that HMRC may appeal the final High Court decision in Canterbury, as things stand there is a window of opportunity now to submit a refund claim to HMRC seeking a VAT refund on Green Fee income from visitors in the last three years, and also in the period 1990 to 1996. The latter claim is time critical, as under the previous Fleming/Conde Nast decisions, there is a deadline to submit the claim to HMRC by 31st March 2009.

What do you need to do now?

Clearly it is a matter for individual clubs to select appropriate professional support on VAT matters. You may wish to raise this matter with any existing VAT advisors, or alternatively should you consider it appropriate you may wish to contact VAT Services on 0141 636 9353.

Current Visitor fee income

VAT Services Limited advise that Clubs continue to charge VAT on Visitor fee income prior to the High Court acting on the recent ruling from the ECJ. The reason for this is that there is a possibility that HMRC may appeal the final High Court decision and as such, in the interim, Clubs should continue to account for Input VAT from Visitor fee income.

Yours sincerely

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