

The importance of record keeping
A voluntary disclosure was made at the time of posting

Quintain Estates Development PLC (18877)

Background

On 13 May 2003, the Appellant wrote to Customs & Excise requesting payment of VAT relating to a voluntary disclosure allegedly made by the Appellant in June 2002. The voluntary disclosure related to a claim for input VAT in period 02/2000. (The 11 month delay in pursuing the claim was due to changes in the Appellant's accounting personnel).

Customs & Excise responded that they were unable to trace receipt of the voluntary disclosure and rejected the claim on the basis that it had not been made until the most recent correspondence (i.e. May 2003), at which point it was out of time under the three year capping rule, and it was against this decision that the appeal was made.

The Appellant had the supporting documents to show that the claim had been prepared and a unique accounting entry to prove that nothing had been backdated or manipulated to cover up an earlier error. They had a copy of the original disclosure. It was only the subsequent change in accounting personnel that caused the delay in identifying that the claim had not been dealt with by Customs & Excise.

The Commissioners contended that the point at which a claim is made is when the voluntary disclosure (in this case made on Form VAT 652) is received by the Commissioners.

The Tribunal held that the Appellant made its claim for input tax once it had completed Form VAT 652 and had notified that claim to Customs & Excise. In this respect, all that the Appellant needed to show was that it did all that was required to notify its claim. The form may have been received and lost or misfiled. Alternatively, it may never have been received. Neither party could prove this beyond doubt but that was not the legal requirement. It was sufficient for the Appellant to prove that it posted the letter to the Commissioners on 19 June 2002. It was unnecessary for it to prove that Customs & Excise received the letter in the ordinary course of post.

Although on this occasion the Appellant was successful, taxpayers should ensure that all dealings with Customs & Excise, both written and oral, are carefully documented, as there have been many instances where taxpayers have suffered financial loss as a result of having insufficient evidence of correspondence with, or rulings from, Customs & Excise.