

Compound interest and repayment supplement are payable on delayed input VAT payment
Purple International PLC (19795)

Background

The Appellant operated as a broker in the bulk sales of mobile telephones.

Between January 2003 and June 2004, HMRC refused to repay the Appellant input VAT on the basis that the transactions in question formed part of a chain involving missing trader intra-Community VAT Fraud (MTIC Fraud). This led to the Appellant suffering serious cash-flow difficulties, which it attempted to mitigate by obtaining various credit and loan facilities until it was forced to cease trading in March 2004.

Customs lost the joined cases of *Optigen, Fulcrum & Bondhouse* and therefore accepted that the Appellant was entitled to the disputed input tax which it repaid together with a repayment supplement of 5%. The Appellant appealed to the Tribunal to exercise its powers under VATA 1994, s84(8) to order interest on monies repaid.

The Tribunal found in favour of the Appellant and awarded compound interest.

“Interest arising from the unjustifiable withholding of payment of input tax is an essential component of the right to deduct under Article 17.. Community law requires the remedy to be a full one which includes an order for compounded interest at periodic intervals”.

Summary

The Tribunal has decided that the award of compound interest is the appropriate remedy in circumstances where HMRC has wrongly withheld monies payable. A business suffering a similar withholding of monies may be able to claim significantly more by way of interest than HMRC historically believed, albeit that in order to secure compound interest it may be necessary to appeal to the Tribunal.

Due to the uncertainties surrounding this area and the different possible procedures for initiating claims, businesses that have suffered the withholding of monies due from HMRC are advised to consider at an early stage whether an appeal to the Tribunal is appropriate and to seek advice from a VAT litigation specialist.