

**Bad Debt Relief - relief available even though tax paid was not related to specific invoices**

***Times Right Marketing Limited (in Liquidation)***

The claimant had rendered its VAT returns showing the output tax due on all its supplies, including the unpaid invoices that were the subject of the claim. However as it had gone into liquidation it had not settled the liability shown as payable to HMRC on those returns. HMRC therefore refused the bad debt relief (BDR) claim, on the grounds that the VAT due on the supplies that were the subject of the claim had not been paid in full and so the conditions for a claim were not met. However the Tribunal allowed the appeal, holding that the input tax credit shown on the returns in question amounted to part payment of the output tax due for the periods. As a result a partial BDR claim could be made.

The calculation of the claim was done as follows:- The output tax due on the non bad debts was calculated. This was all deemed to have been paid by virtue of the input tax credit. The excess input tax credit was then regarded as part payment of the VAT due on the bad debt invoices and this was the amount of the claim. The fact that not all of the VAT on the unpaid invoices could be shown to have been paid to HMRC did not prevent the BDR claim being made for the part that had been paid, by input tax credit, as EU law was less prescriptive than HMRC's interpretation. HMRC's interpretation made exercising the right to a BDR claim excessively difficult or impossible.

*This decision will be of particular interest to insolvency practitioners.*