

HMRC's right of set-off
Xicom Systems Ltd [2008] EWHC 1945 (Ch)

HMRC's claim to set off legal costs awarded against it against a debt due from the taxpayer despite the taxpayer's claim that its inability to pay the tax debt was caused by HMRC's refusal to repay input VAT in the first place has been upheld on appeal. HMRC's refusal was the subject of a case in which the VAT Tribunal awarded the costs to the taxpayer because of HMRC's 'tardy behaviour' in preparing its case.

Although this is an unusual case and not directly related to recent set off legislation, it may indicate that HMRC intends to take a hard line on the use of those powers, particularly if it can do so without recourse to the courts.