

# VAT Alert

## *Bad Debt Relief – HMRC invites claims*

### *Summary*

HMRC has issued Revenue & Customs Brief 01/2017.

The Brief acknowledges that businesses that suffered bad debts between 1 April 1989 and 19 March 1997 may be entitled to make a claim for a refund.

Following the Court of Appeal's judgments in the cases involving British Telecom and GMAC UK.

The Court found that the previous conditions imposed by UK VAT law were disproportionate but that claims prior to 1 April 1989 were 'out-of-time'.

If businesses can satisfy evidential conditions, claims for BDR will be repaid.

### **Revenue & Customs Brief 01/2017**

HMRC has issued Revenue & Customs Brief 01/2017

The Brief confirms that, after many years of litigation, HMRC has finally accepted that Businesses are entitled to claim Bad Debt Relief for VAT periods between 1 April 1989 and 19 March 1997.

There have been two ongoing VAT cases (British Telecommunications PLC and GMAC UK Ltd) which challenged the legality of conditions imposed by HMRC during the above period. The first of those conditions was that, in order to qualify for Bad Debt Relief, the debtor had to have entered into some form of formal insolvency arrangement and the creditor had to have lodged a claim in the insolvency. The second condition imposed by HMRC was that title in the goods supplied had to have passed from the supplier to the customer. The Court of Appeal decided in the above two cases that those two conditions were disproportionate and were, thus, contrary to EU law.

Revenue & Customs Brief 01/2017 acknowledges those judgments and accepts that affected businesses may now be entitled to a VAT refund.

The Brief makes it clear that any claimant will need to support its claim with evidence that they supplied goods under a retention of title or similar clause and that they suffered a bad debt, relief for which has not previously been claimed. A claimant will also need to satisfy HMRC that the amount claimed is accurate.

***Comment – businesses that have already made relevant claims should now see their claims repaid with interest. If the evidential requirements can be met, any businesses that has not yet claimed for bad debts incurred during the relevant period should do so without delay.***

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