



Spring 2016

## VATflash

# HMRC lose in relation to input VAT for Single Farm Payment Entitlement.

HMRC have recently lost an important case which has resulted in farming businesses that have purchased units of Single Farm Payment Entitlement (SFPE), where HMRC have disallowed the input VAT claims, to now make a back claim to HMRC for the VAT plus interest.

The SFPE units are tradable and the business claimed a VAT repayment. HMRC argued that the SFPE units were not services used or to be used for the purposes of the company's taxable business supplies, therefore, the input VAT could not be reclaimed. HMRC argued that it was effectively an investment activity similar to investment in shares and that the VAT was a cost component of that non-business activity.

The First Tier Tribunal (FTT) found, as a matter of fact, that the purchasing of the SFPE units had been a 'wholly integrated feature of the farming enterprise', rather than a separate activity. The FTT also placed a great deal of weight on the taxpayer's intentions. HMRC appealed to the Upper Tribunal where the Court focused on whether the cost had been incurred for the purposes of the overall business operation, which HMRC claimed it wasn't.

It followed that the input VAT was reclaimable as a general overhead cost of the business, ie. a 'cost component' of the overall business operation.

HMRC's position was that any purchase of SFPE units, regardless of how closely it was related to a farming business, was made for the purpose of a non-economic activity with no input VAT reclaim. The Court has clearly dismissed this argument and followed the line of many other Court decisions that have dismissed HMRC's narrow focus on 'cost component' analysis.

The decision allows farming businesses to back claim VAT plus interest. Since HMRC's approach has been found to have always been incorrect, in theory the four year cap will not apply to any such claims, but HMRC are expected to resist this. Therefore, claims are likely to be limited to four years in practical terms.

### THE NEXT STEP

For further information or to arrange a meeting to discuss your specific requirements, please contact one of our agricultural specialists by visiting: [www.uhy-uk.com/rural-and-agriculture](http://www.uhy-uk.com/rural-and-agriculture) or email our national marketing team, who will forward your enquiry to your local specialist: [marketing@uhy-uk.com](mailto:marketing@uhy-uk.com).

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