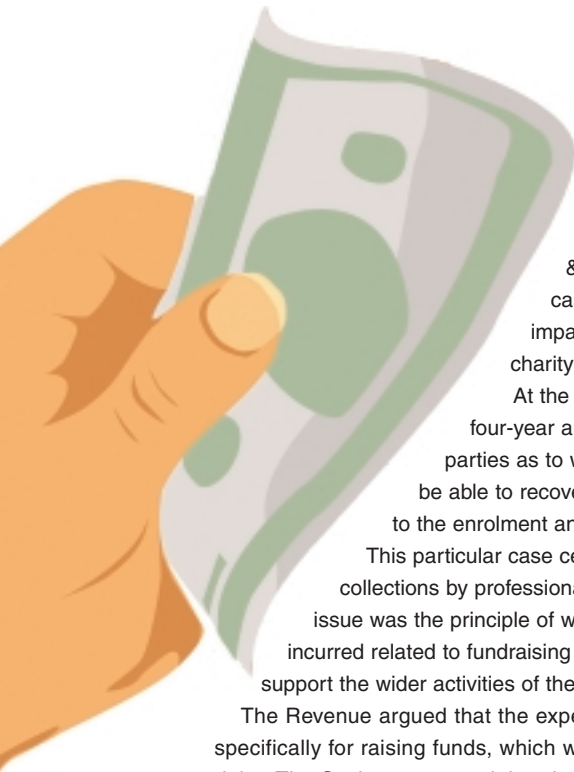
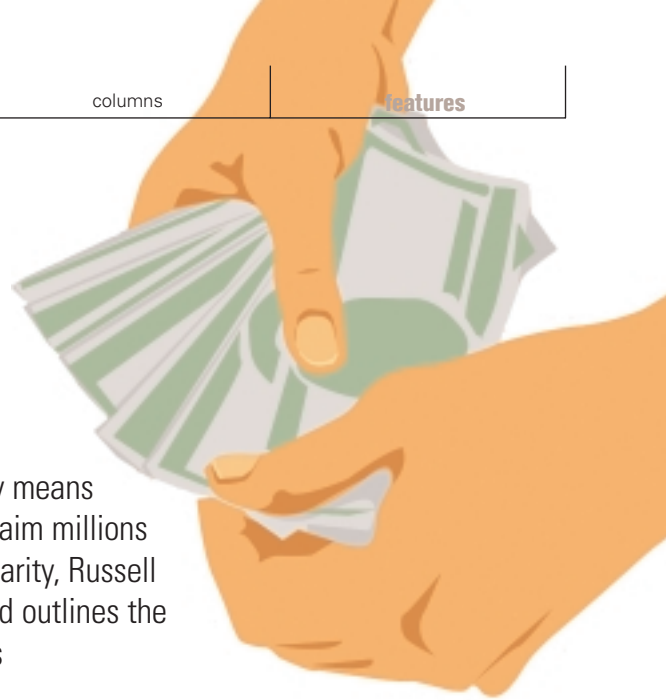


VAT recovery

Take VAT

A recent landmark ruling in favour of The Children's Society means charities and voluntary organisations should be able to reclaim millions of pounds in previously irrecoverable VAT. Advisor to the charity, Russell Moore, sets out how this could benefit other charities – and outlines the first steps that they should consider taking to recover funds



The recent successful appeal by The Children's Society against HM Revenue & Customs was a test-case ruling that will impact significantly upon the charity sector.

At the nub of the case was the four-year argument between the two parties as to whether a charity should be able to recover VAT input tax in relation to the enrolment and retention of its donors.

This particular case centred on the street collections by professional fundraisers, and at issue was the principle of whether the expenses incurred related to fundraising alone, or were incurred to support the wider activities of the charity.

The Revenue argued that the expenses were incurred specifically for raising funds, which was an activity in its own right. The Society contested that the raising of unrestricted funds is not an activity in its own right but merely a means to an end for raising funds to support its actual activities. This being so, the VAT incurred on the raising of unrestricted funds should properly be treated as a general overhead and be partially recovered.

The decision of the High Court in favour of the Children's Society – and the Revenue's confirmation in the past few days, at time of writing, that it does not plan to contest the verdict – means that the latter is surely now the case.

Now, therefore, is the time for all charities to review their position. If they undertake similar fund-raising activities, they may well be able to reclaim some of the VAT they have incurred and not previously recovered.

What next?

So how should charities and voluntary organisations go about the task of seeking to recover this VAT, and what do they need to consider?

As I have said above, The Children's Society case concerned VAT incurred on the fees of professional fundraisers. However, by applying the principles of the case, charities will be able to recover VAT incurred on other costs such as database upgrades, telemarketing and mailing.

Charities should be aware that time limits apply to retrospective claims. Current legislation states that VAT incurred in a given accounting period must be claimed within three years of the date by which the VAT return for that period was required to be made.

So, for example, where a charity submits returns for calendar quarters, the VAT return for the quarter ending 30 September 2002 would need to be submitted to the Revenue by 30 October 2002 and the claim by no later than the same date in 2005.

There are no limits on the amounts that a charity can potentially reclaim. It was recently estimated by the Charities Tax Reform Group that every year the voluntary sector pays unrecoverable VAT of over £500 million to suppliers. It is anticipated that the High Court's ruling will enable tens of millions of pounds of additional VAT recovery every year.

However, other practitioners and I in the charity sector believe that the actual figure could be a great deal higher, and possibly as much as £1 billion. The ruling is therefore a truly significant decision of which the sector should take full advantage.

A word of caution though: as all of the above is centred on a new ruling, I would suggest that professional advice should be absolutely fundamental to your calculations and decision-making.

VAT is especially complicated for charities because of the diversity of activities that they undertake – and which can often see year-on-year changes, both in the funding they receive and the rate of partial VAT recovery. Therefore, the question of what can and cannot be recovered, and at what rate, is one in which the right advice cannot be underestimated.

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