

# Eview



## Pensions

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### Tax Refunds for Pension Schemes

#### **Withholding tax**

Following a recent European Court of Justice ruling (in the case of Aberdeen Property Fininvest Alpha Oy), pension schemes should not be subject to withholding tax on dividends received from investments in other EU countries (unless that country applies such withholding tax in its own country to its own pension funds).

We understand that the Netherlands has begun to make repayments of withholding tax, whilst many other EU countries are currently examining their own domestic tax laws.

Pension scheme trustees should check with their investment manager or custodian whether such withholding tax has been applied and whether refund claims have been submitted to the EU countries in question. Submission of a refund claim is advisable but refunds are unlikely to be swift or straightforward in most cases.

#### **VAT**

At present the UK treasury subjects pension fund investment management fees to VAT. Usually this VAT is not reclaimable by either the trustees or the employer and is therefore a cost to the pension fund. There is however a good argument that investment management fees should be exempt from VAT under European law.

The Wheels Common Investment Fund is taking a test case to the tax tribunal on this point. Although there have been a number of preliminary hearings, no date has yet been set for the hearing of the substantive issue. If the challenge is successful, investment management fees will be exempt from VAT in the future. Repayments will also be possible in respect of VAT paid by pension fund trustees to investment managers in past years.

Repayment claims are time limited and trustees who have not yet done so should be exploring the possibility of a protective claim with fund managers. Since a test case has been identified, it should not be necessary for the trustees to become involved in the litigation.

## Any questions?

Hammonds' Corporate Strategy & Finance and Pensions team can advise trustees about withholding tax or VAT claims. If this is of interest in relation to your pension scheme, please contact any of our partners listed below.

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