



British Aggregates Association

Press Notice - 11 May 2006 Immediate

LEGAL DECISION SPURS ON QUARRY INDUSTRY CLAIMS

A recent opinion from an official adviser to the European Court has reinforced the need for quarry companies to lodge precautionary claims for repayment of Aggregates Levy which may have been collected illegally.

According to the recently reported Opinion of the Advocate-General in the *IRAP* case (Banca Popolare di Cremona v Agenzia Entrate Ufficio Cremona C-475/03), the illegality of a tax may not be relied upon in order to claim reimbursement except by persons who have made early claims.

British Aggregates Association director Robert Durward;

If the principle that was followed in this case were to be applied to the British Aggregates Association case, currently before the Court of First Instance, then this could have extremely serious implications for any quarry operator who has not yet submitted a precautionary claim.

Although the Court is not bound to follow this Opinion it does in fact normally follow Advocate-General recommendations. Therefore, if the Advocate-General's opinion is followed by the Court, and the scope of the Court's decision is not restricted to the particular Italian issue, it would follow that precautionary claims by quarry operators will need to be made prior to the decision being announced in the BAA case.

Robert Durward;

Our association has been warning its members, as well as the wider industry, since the start of this year, that they should lodge claims for repayment of all the Levy they have paid without delay to protect them against the possible imposition of a three year cut-off rule. However, the far reaching implications of this ruling make postponing a claim any longer a risk not worth taking.

Ends:

Notes to editors;

1. Over forty operating companies have now lodged formal claims with HM Revenue & Customs
2. The levy generates an annual £385m for the Treasury and was introduced in April 2002
3. You can read earlier BAA press releases on their legal case here <http://www.british-aggregates.co.uk/news/press.html>
4. Further notes are attached in a pdf. file

BAA Contacts

Director - Robert Durward 01555 663 444

Executive Officer - Richard Bird 01786 842483, Mobile: 07776 298347

Association Secretary - Peter Huxtable 01433 639879, Mobile: 07711 492378

Herbert Smith London contact

Herbert Smith LLP - Derek Hill (partner) 020 7466 2257

Herbert Smith LLP is a Limited Liability Partnership registered in England and Wales with registered number OC310989. It is regulated by the Law Society of England and Wales whose rules can be accessed via www.guide.lawsociety.org.uk. A list of the members and their professional qualifications is open to inspection at the registered office, Exchange House, Primrose Street, London EC2A 2HS. We use the word partner to refer to a member of Herbert Smith LLP, or an employee or consultant with equivalent standing and qualifications. Herbert Smith LLP's registration number for Value Added Tax in the United Kingdom is 243 3423 89.

Herbert Smith LLP, Gleiss Lutz and Stibbe are three independent firms which have a formal alliance. Further information is available from www.herbertsmith.com