

## **Tax Claim Update**

### **Current claims**

Current tax claims are dealt with by the custodian. Officers review these claims on a regular basis and ensure repayments are made on a timely basis.

### **Retrospective claims**

#### **Background to claims**

As UK pension funds are exempt from paying tax on their income, UK pension funds routinely reclaim withholding taxes on dividends and interest received.

However, in applying UK law, HMRC denied repayment of tax credits on dividends designated "Foreign Income Dividends" as well as "Manufactured Overseas Dividends" (being similar to Foreign Income Dividends but on shares in the stock lending programme). Similarly other European states denied tax credits to pension funds registered in other European states.

Following some key decisions by the European Court of Justice (Manninen and Fokus cases), these denials of tax credits by European states to tax exempt bodies have been challenged as being in contravention of EU law. EU law guarantees equal treatment to all European investors, regardless of the income source or the country in which the tax exempt body is registered.

While the principle of equal treatment is now generally accepted, the extent to which retrospective claims can be made is being contested by European states. The Fund has joined a joint UK litigation being managed by the accountants KPMG and solicitors McGrigors, seeking recovery of tax credits from HMRC. It also lodged claims in France, Germany and the Netherlands for the repayment of tax credits suffered on dividends received from those countries.

#### **FID/Manninen claims (claim value - £9,136,142)**

See summary of progress in attached KPMG document.

KPMG have advised that they were hoping to receive a decision on the test case before the February committee meeting. If this is received a verbal update on this decision will be given. If not received details of the decision will be reported in April.

#### **Fokus claims**

- Netherlands

Repayment of £264,712 has been received

- Germany (claim value - £284,042)

Due to recent changes in German law in 2010 and various cases proceeding through the German court system the filing position had become unclear. Based on advice from KPMG these claims have been re-filed at local tax offices in addition to the claim already submitted to the central tax office. We are still awaiting a response on the re-filing of these claims.

- France (claim value –£125,590)

Awaiting a response from the French tax authorities.

### **Manufactured Overseas Dividend claims (claim value –£1,634,735)**

HMRC suggested a meeting in December 2010 to discuss a suitable test case for the first tier tribunal, this meeting has been delayed until 2011 due to resource issues at HMRC.

HMRC have assured McGrigors (solicitors representing the claimants) that they are progressing matters and the case management proposals set out by McGrigors.

McGrigors advise the officers monthly of any updates on this claims and any progress will be reported to the committee.