

The Vale of Glamorgan Council

Cabinet Meeting: 19 February, 2018

Report of the Leader

VAT Exemption on Sporting Services

Purpose of the Report

1. This report is to recommend exemption from VAT on the Council's provision of sporting services from 1 April 2018.

Recommendations

That:

1. The Authority implements an exemption from VAT on the Council's provision of sporting services from 1 April 2018.
2. Delegated authority be given to the Head of Finance, in consultation with the Cabinet Member for Performance and Resources, to submit a claim to HMRC for over declared output tax, if the sum is determined to be material.

Reasons for the Recommendations

1. To gain approval to amend the VAT supply on the Council's provision of sporting services.
2. To reclaim an overpayment from HMRC resulting from the implementation of the exemption outlined in the report

Background

2. The provision of local authority sporting services has always been subject to the standard rate of VAT. The exception is where an affiliated organisation/constituent association is able to demonstrate that it meets the criteria for a 'block booking' facility and could therefore claim an exemption from VAT on the hire charges. Otherwise there has always been a statutory requirement to charge VAT on the supply.
3. This has been legally challenged and the Court of Justice of the European Union found, in the case of the London Borough of Ealing (Case C 633/15), that Her Majesty's Revenue & Customs (HMRC) had incorrectly required local authorities to charge VAT on the provision of sporting services. Local authorities had been required to charge VAT to ensure that there was no distortion of competition.

4. However, the court decided that any restriction on those grounds should be applied to both public bodies as well as private non-profit-making bodies providing sporting services. It followed that local authorities were entitled to treat those supplies as exempt from VAT provided that they did so on a consistent basis. HMRC has accepted the decision.
5. The effect of the judgment is that Councils can elect to make a claim for exemption from VAT on the sporting services that they supply to members of the public under the European VAT directive.

Resource Implications (Financial and Employment)

6. Invoking the exemption will have some effect on the Council's partial exemption calculation. HMRC require local authorities to complete this calculation on an annual basis. The calculation demonstrates the level of input tax claimed back in the year that relates to the exempt supplies. HMRC has set a de minimus limit of 5%. Providing the limit is not exceeded, the Council is entitled to retain the exempt input tax on its exempt supplies claimed during the year.

The Council's partial exemption limit calculated for 2016/17 of 1.94% is significantly less than the de minimus limit of 5%. The effect therefore of implementing the exemption on sporting facilities will have a limited effect on the Council's partial exemption position. However in the event the Leisure Centre function returns to Local Authority control, the estimated impact on the Council's partial exemption position is an increase of approximately 1.3%. Nevertheless the increase can be accommodated.

7. There may be an opportunity to submit a claim to HMRC for over declared output tax. It will be necessary to review previous VAT claims to determine the value of overpaid output tax. Materiality of the claim value will be considered before it is submitted to HMRC. All claims are subject to a retrospective 4 year time limit. The value of the claim is in the process of being assessed.

Sustainability and Climate Change Implications

8. There are no sustainability and climate change implications as a direct result of this report.

Legal Implications (to Include Human Rights Implications)

9. To ensure the Council discharges its legal obligations in accordance with the VAT Act 1994.

Crime and Disorder Implications

10. There are no Crime and Disorder implications arising from this report.

Equal Opportunities Implications (to include Welsh Language issues)

11. There are no equality implications as a direct result of this report.

Corporate/Service Objectives

12. To effectively administer the Council's VAT program in accordance with statutory requirements.

Policy Framework and Budget

13. The proposals within this report are in accordance with the Policy Framework and Budget and are a matter for Executive decision by Cabinet.

Consultation (including Ward Member Consultation)

14. None.

Relevant Scrutiny Committee

15. Corporate Performance and Resources

Background Papers

Revenue and Customs Brief 6 (2017)

Contact Officer

Mike Bumford
Senior Accountancy Technician
Accountancy

Officers Consulted

Responsible Officer:

Carys Lord
Head of Finance/Section 151 Officer