

VAT GUIDANCE DOCUMENT

Financial Services
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1 – Purpose of the Guidance Document

This Guidance has been produced to assist staff and to give a basic outline of aspects of Value Added Tax ("VAT" also known as "Tax") which affect local authorities. It is not an exhaustive guide to VAT, which sometimes can be very complex. No guide can comprehensively cover every possible transaction that might be undertaken by the Council, neither can it state the law definitively - this is a matter for tribunals and the courts. It should however give sufficient guidance on some key subjects and to draw attention to others where further advice might be needed. An item may be referred to as being 'Taxable' or 'subject to VAT', both have the same meaning.

Any scenarios not covered by this document or any specific circumstances that you would like to discuss further, please contact your accountancy team in the first instance or if additional advice is needed, then please contact the following VAT officers:

Alison Greene – VAT & Deputyships Manager - 01267 224133
Argreene@carmarthenshire.gov.uk

Gareth R Davies – Finance Manager – Corporate – 01267 224137
Grdavies@carmarthenshire.gov.uk

2 – Introduction

The purpose of this guidance is to explain the basic principles of VAT followed by the fundamental rules.

Value Added Tax (VAT) is a tax on the supply of goods and services. The tax is administered in the UK by His Majesty's Revenue and Customs (HMRC). VAT incurred on purchases is known as "Input Tax" and is usually recovered from HMRC. VAT charged on Sales/Income is known as "Output Tax" and is paid to HMRC. The difference between the tax we pay and the tax we reclaim represents the net tax payable on the value added by our business operations.

A monthly VAT return is submitted to HMRC via an online submission.

Compliance with VAT regulations is enforced by HMRC who undertake a continuous rolling audit of the Council's VAT management. Financial penalties for non-compliance can be very severe. HMRC normally charge interest on VAT errors and can charge penalties of up to 100% of any VAT errors made by the Council. Therefore, we must all ensure that we correctly apply the VAT rules to our income and expenditure.

VAT is often a complex subject, therefore in cases of doubt or for any queries on the VAT treatment, please contact the officers listed on Page 3.

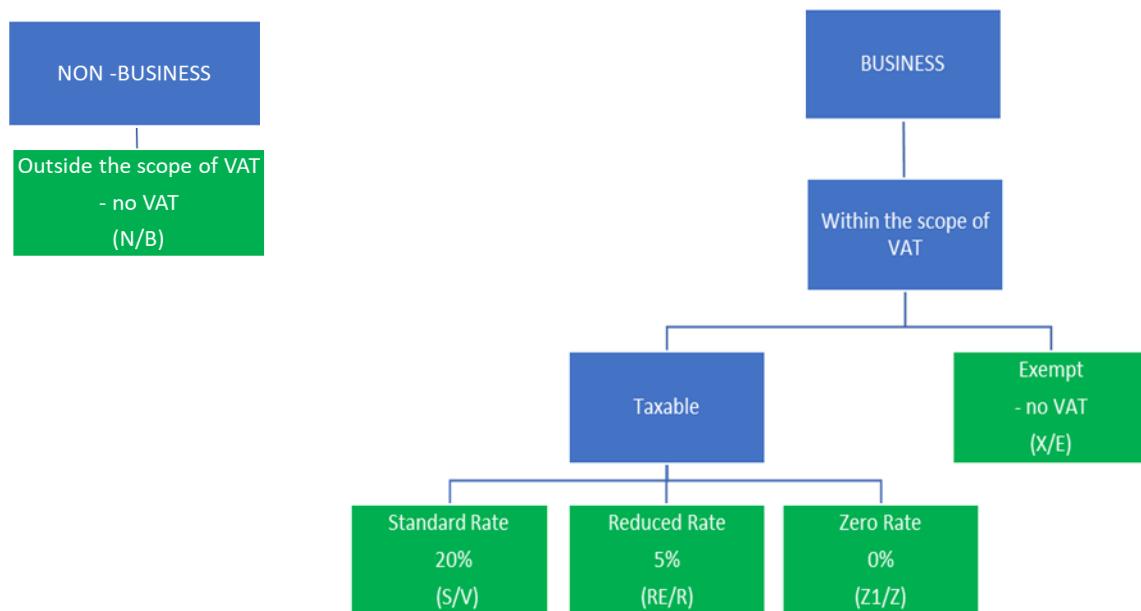
Carmarthenshire County Council (CCC) staff should not approach HMRC direct with VAT queries. The HMRC National Call Centre may not be familiar with Local Authority Special Rules nor any specific VAT agreements between CCC and their VAT inspectors.

Although some of the guidance has general application, much of it is specific to local authorities. The notes must not be used to give advice to other persons or organisations as they might be subject to different VAT regimes. CCC accepts no responsibility for errors or losses arising from misuse of the guidance.

CCC is registered for VAT, Registration number (GB) **655 6026 33**. This VAT registration encompasses all activities of CCC, including schools.

3 – VAT Categories and Coding of VAT

All transactions must be assigned to one of the following VAT categories:



The General Rule

As VAT is a tax on transactions, individual circumstances need to be considered according to their facts. But the general rule is that where a public body is funded by way of public expenditure (such as grant) to do something for the public good, it's unlikely to be engaging in business activities for VAT purposes. Such activities are outside the scope of VAT.

However, where a VAT registered public body such as Carmarthenshire County Council supplies goods or services for consideration and by way of business, such activities are within the scope of VAT. The term 'business' has a wide meaning for VAT purposes.

In addition to the input tax related to business activities, Section 33 of the Value Added Tax Act 1994 provides that certain bodies, mainly local government bodies, can claim refunds of the VAT that they are charged on supplies of goods and services for their non-business activities.

In addition, as a Section 33 body, we can recover exempt related input tax under a special 'partial exemption' provision.

Sales / Income

Several services provided by local authorities are outside the scope of VAT i.e. VAT is not chargeable on services which are provided under a "special legal regime" or "statutory activity" and are not in competition with the private sector.

Other services and sales should be standard rated unless they clearly fall into another category. Income should be coded and Debtors invoices issued using the following VAT indicators (**Tax Codes used within Unit4 ERP (Agresso)**):

- a. Taxable
 - S** (i) Standard-rated at 20%
 - Z1** (ii) Zero-rated - taxable at 0%
 - RE** (iii) Reduced / Lower rate 5%
- b. Exempt **X** non-taxable by virtue of being excluded by legislation (strict conditions to be met to use this)
- c. Non-business **N** non-taxable by virtue of not being regarded as a business activity by HMRC (outside the scope)

It is the responsibility of the VAT registered supplier to determine the rate of VAT for each and every transaction they instigate.

It should be stressed that the default is standard-rated VAT at 20% – everything is subject to standard-rated VAT unless reason can be shown as to why not.

Purchases

The County Council can reclaim most of the VAT charged by suppliers on their invoices. Supplier invoices are normally the best guide when coding expenditure and should be processed using the following VAT indicators (**Tax Codes used within Unit4 ERP (Agresso)**):

- a. Taxable
 - V** (i) Standard-rated at 20%
 - Z** (ii) Zero-rated - taxable at 0%
 - R** (iii) Reduced / Lower rate 5%
- b. Exempt **E** non-taxable by virtue of being excluded by legislation
- c. Non-business **B/O** non-taxable by virtue of not being regarded as a business activity by HMRC (outside the scope)

For the council to reclaim VAT on individual payments, the council is required under VAT Regulations to obtain a **valid** VAT invoice containing the supplier's name, address and VAT registration number and the invoice needs to be addressed to Carmarthenshire County Council or one of its Schools. For transactions under £250 a less detailed Tax Invoice/Receipt can be processed but must contain the suppliers name and VAT registration number. (See Section 4 below.)

Tax can be reclaimed only on purchases ordered by and paid for by the Authority. Input tax cannot be reclaimed on purchases made on behalf of a third party.

4 – VAT Invoices

The basis for most VAT accounting is the VAT invoice. It defines the rate and amount of any VAT payable and sets the tax point – the date on which the tax is accountable to HMRC. Importantly, it is usually the essential evidence to support any claim by the recipient to recover input tax. Please note that documents titled 'pro-forma' or 'pro-forma invoice' are not allowable as VAT invoices and payment will not be made from these documents.

4.1 Standard VAT Invoice

A full VAT invoice must be issued for taxable transactions between registered persons for values above £250. For transactions of a value below £250 a simplified invoice can be provided (see below). The VAT invoice is required to show the following particulars:

- a) Supplier name, address and VAT registration number
- b) Identifying number – invoice number
- c) Time of supply (tax point).
- d) Date of issue.
- e) Customer name, address.
- f) Description of the supply.
- g) VAT rate.
- h) The price per item excluding VAT and the quantity of each item.
- i) Net, VAT and Gross values in GBP (£) or appropriate currency if not GBP.
- j) Any discounts offered.
- k) If invoiced in a foreign currency, the exchange rate of sterling.
- l) Cross border invoices must show customers VAT registration number (EU only).
- m) Mixed supplies may contain components liable to different VAT rates. The VAT liability for each component will need to be shown.

4.2 Simplified VAT Invoice

For values invoiced below £250, a full invoice is not always needed, however business customers can request a full VAT invoice if required. A simplified tax invoice must contain the following:

- a) Supplier name, address and VAT registration number.
- b) Invoice Number.
- c) The time of supply (tax point).
- d) A description sufficient to identify the goods or services.
- e) VAT rate charged per item.
- f) The total amount payable, including the VAT rate.
- g) For each rate of VAT payable, the gross amount payable including VAT, and the VAT rate applicable.

5 – Time of Supply – Tax Point

The “Tax Point” determines when VAT is due. Its normal purpose is to pinpoint the VAT Return on which the VAT is to be declared, but at a time of VAT rate change “Tax Point” is crucial in determining the correct rate of VAT.

There are three significant events in the creation of a *Tax Point*:

- i. The basic tax point. This is either the date when the goods were delivered OR the date when the service was completed
- ii. The date of issue of a tax invoice
- iii. The date when payment is received

The *Tax Point* is largely whichever of these three events comes first. Exceptions to this basic rule are:

- a) Provided that an invoice per ii) is issued within 2 months of the basic event per i) then the Tax Point shifts to the date of the invoice. BUT if this period is exceeded then the Tax Point reverts to i) the basic event
- b) Where a service is not completed but remains ongoing, often termed “Continuous Supply of Services”, then item i) does not exist hence the date of the invoice is the *Tax Point* regardless (unless there is a pre-payment per iii)

It will be apparent from the above that in most cases the *Tax Point* is created hence the VAT is due to HMRC in advance of the customer actually paying.

6 – Correcting VAT Errors

Errors can arise because the wrong value of goods or services is invoiced, the wrong VAT liability is applied, or calculations are incorrect. Your accountancy team or the VAT officers (page 3) should be contacted **in all cases** where errors are identified, to ensure that they are accounted for correctly using the error correction process. (e.g. If you need to increase the VAT, a supplementary invoice should be issued for the additional amount).

Interest and penalties are chargeable on misdeclarations on VAT returns. The penalties, and sometimes interest, may be avoided by making a voluntary disclosure to HMRC. The disclosure must identify the VAT accounting periods in which the errors were originally made.

The Authority maintains separate VAT Adjustment Accounts in which errors are recorded under the month and year in which they occurred. VAT accounting errors must be referred as soon as possible to your Accountancy Team.

The Accountancy Team should be advised of the reason for the error, the amount of VAT under or over recorded and the date the error occurred and will make the necessary accounting adjustments. They will also liaise with the VAT officers.

7 –Specific VAT Issues

7.1 Supplies made between Section 33 bodies / Local Authorities / Local Health Board

Supplies of Goods

All supplies of goods must be treated as business supplies and are taxable under the normal rules.

Supplies of Services

Supplies of services to Government departments, other than some supplies of staff, are usually taxable.

Supplies of services between authorities are governed by the following rules:

- Supplies made under a statutory obligation (special legal regime) and not in competition with the private sector (doesn't lead to distortion of competition) are non-business and outside the scope of VAT.
- Supplies of any services in competition with the private sector, whether or not made under a statutory obligation, are business supplies and subject to the appropriate rate of VAT.
- The effect of the rules is that virtually all supplies of services to other authorities are regarded as business transactions and liable to VAT.

7.2 Schools

Carmarthenshire schools are part of the Carmarthenshire County Council VAT registration. Any transactions between the Council and the schools are classed as internal, meaning they are 'Outside the Scope' of VAT, as are supplies between Carmarthenshire schools.

7.3 Sales / Rental of Land and Property / Option to Tax

Most sales and rentals of land and property are exempt from VAT but there is provision in VAT law for normally exempt supplies of land and property to be treated as taxable at the option of the supplier. An option to tax ('opt to tax') must be made in respect of specified land and buildings, should be advised to HMRC and are effective for a minimum of 20 years.

Any proposals to lease or sell or opt to tax any Authority land or property should be checked with the VAT officers to see if there is an option to tax.

When land or property is purchased by the authority discussions should be held with the VAT officers to discuss future plans etc and whether an option to tax is needed.

It may seem unusual that there should be a choice in a tax, but for transactions involving the sale, lease, rental or letting of property, including a licence to occupy, the supplier/landlord has the choice to turn the natural VAT Exemption into standard rated

VAT by taking the 'Option to Tax'. The purpose in doing so is to remove Exempt income (with its potential for restricting the full recovery of VAT incurred upon expenditure) and replace it by income subject to standard rated VAT, thereby creating taxable turnover. The Option can only be carried out by the VAT officers (page 3) in conjunction with the relevant budget holder and requires formal written notification, using specified forms, to a specialist unit within HMRC.

A list of Carmarthenshire County Council properties Opted to Tax is held by the VAT officers.

7.4 Sponsorship and Donations

Simple outright Donations to the Authority are outside the scope of VAT and have no VAT implications. This applies to monetary donations as well as donations of equipment.

Donations connected with any reciprocal benefit to the donor such as advertising, publicity or use of equipment would be deemed as sponsorship income and would be considered as a taxable payment for services supplied by the Authority and standard rate VAT would be chargeable.

However, sponsorship income may be regarded as outside the scope of VAT provided the sponsor receives minimal or zero benefit, such as merely being named discreetly in a list acknowledging support.

7.5 Domestic Reverse Charge for Construction Services

Under the terms of the Domestic Reverse Charge provisions; as introduced in the Value Added Tax (section 55A) (Specified Services and Excepted Supplies) Order 2019; we believe that most of the supplies made will be related to works on our property or land and therefore CCC will always be the end user. That then means that the 'reverse charge' would not apply and we carry on as we have been in terms of VAT being included on the invoices we receive.

Suppliers and contractors need to be informed that we are the end user and that they should continue to invoice CCC inclusive of VAT for work within the scope of the Construction Industry Tax scheme.

If however you believe there is a scenario when CCC are not the end user, please contact the VAT officers to discuss further.

7.6 Time Limits

With effect from 1st April 2010, the time limit for VAT is 4 years. This applies to everyone – the VAT inspectors cannot assess errors more than 4 years old, while the VAT registered body such as Carmarthenshire County Council can only adjust VAT back to 4 years from the date of the invoice/omission/other event. Any earlier VAT whether owed to HMRC or due from HMRC is out of time, lost forever.

7.7 Issuing of Non-business VAT Invoices

Some of the most common Non-business / Outside scope activities include debtors' invoices raised for the following purposes:

- Income received without a supply i.e. where nothing is provided in return for the funding:
 - i. grant funding
 - ii. donations
- Payroll related recoveries of overpayment of salaries
- Certain supplies of staff (secondments) - where the secondment complies with VAT Notice 700/34 Staff section 2.2 –
 - i. 'Secondments between and by government departments which require specialist knowledge that cannot be obtained from the private sector'
 - ii. 'Some secondments between local authorities and by local authorities where they have a statutory obligation or monopoly'

Knowing when to charge VAT for staff secondments can be complicated. Please contact the VAT officers on page 3 if you have these scenarios.

7.8 Imports and Exports

If this scenario arises, please contact the VAT officers on page 3.

7.9 Maintenance of Records

Business records must normally be retained securely and in good order for 6 complete financial years. These include:

- orders and delivery notes
- relevant business correspondence
- purchase invoices from suppliers
- credit notes
- cash records and till rolls
- invoices raised by the council
- bank statements and paying in slips
- annual accounts

7.10 Incorrect Tax Invoices

Where a supplier fails to provide a correct tax invoice it should be returned to them for re-issue. Except when taking agreed prompt payment discounts, the price on the invoice before VAT is charged should never be altered. The amount of VAT must never be changed.

7.11 Proforma Invoices

Sometimes the supplier will issue a 'pro-forma' invoice. This will either exclude VAT or, more commonly, state 'this is not a tax invoice'. VAT cannot be recovered on these documents and the whole invoice amount should be coded to the Service. VAT should then be claimed and adjusted for on receipt of a proper VAT invoice.

8 – Conclusion

Well established VAT rules exist across the Authority; however these tax rules can alter due to changes in legislation. In addition, staff changes can impact on established processes etc. A phrase often heard from VAT advisors when challenged with a scenario, is “it depends”. Given some uncertainties around the correct application of VAT codes to invoices, if in any doubt, please contact the officers named on page 3.