

BMKALC GOOD PRACTICE NOTE

From the Parkinson Partnership

Can a Council recover VAT on purchases by employees and on councillor expenses.

There are two distinct issues here:

- 1) Purchases by an employee in the course of their duties
- 2) Reimbursement of a councillor

Employees

Where an employee buys something on behalf of their employer in the course of their duties, HMRC regarded it as being bought by the employer, even if the employee uses their own funds and then seeks reimbursement. The employee is “the council” when making the purchase. As long as the goods are for the council, they have a valid VAT invoice and the expenditure is for the council’s non-business purposes (or for VAT exempt business activities below the de minimus level, or for taxable business activities if the council is VAT registered) they will be able to reclaim VAT. The council should retain the original invoice.

In [VAT notice 749 section 6.1](#) HMRC states that a council can only reclaim VAT on invoices made out to the council – but this is slightly at variance with VAT law. VAT law permits retailers to issue simplified invoices for purchases of less than £250, and these simplified invoices do not have to be addressed to anyone.

Purchases over £250 (including VAT) must be supported with an invoice made out to the council for VAT recovery to be allowed.

HMRC’s Internal VAT Manual also deals with the issue of addressing invoices:

VATGPB4425 - Section 33 bodies: recoverable VAT: invoices

In the case of local authorities, it is not unusual for invoices to be made out in the name of a local authority institution, for example a school. Invoices may even, on occasion, be made out to employees of the local authority, for instance a teacher or head teacher. However, so long as the purchase meets all other relevant conditions, the VAT may still be recovered.

Councillors

The council should be careful in trying to apply the rules for employees and owners of VAT registered businesses to elected members of an unregistered local council.

Councillors are not employees and unhelpfully HMRC does not publish explicit guidance for cases where costs are incurred by councillors, other than the chairman. Individual councillors have no power to commit the council to expenditure and any purchase would need to be supported by an evidence trail that the council approved the purchase in advance and authorised the individual councillor to act on its behalf, in addition to complying with the usual rules about evidence.

Councillors are not generally entitled to reimbursement of “expenses”, although councils are able to pay them a basic parish allowance.

A chairman can be paid an allowance (Section 15, the 1972 Act) to meet the expenses of their office and HMRC's VAT Manual covers the use of this:

VATGPB8775 - Other local authority activities: miscellaneous (F to M): mayoral and chairman's expenses

Although a mayor or chairman is an elected councillor they are, for VAT purposes, treated as an employee when carrying out their official duties. As a result any VAT incurred in the course of their official duties can be recovered subject to the following conditions:

- *the local authority accepts responsibility for the actual expenses incurred and includes them in its normal accounts*
- *the goods or services are ordered in the name of the authority and invoices are addressed to it, and*
- *adequate documentation is retained to support the claim for refund of the VAT.*

The council should note that HMRC's VAT Manual also says:

VAT cannot be recovered where it is incurred through expenditure of a flat rate allowance provided in the form of money placed freely at the disposal of the mayor or chairman.

This information is provided by the Parkinson Partnership. Steve and his colleagues provide one of our member support services covering finance questions and VAT advice. The Parkinson Partnership provide excellent courses on all aspects of finance in our sector. Access to their training diary and booking details are available on our website.