



ARTICLE NO: 3A

MEMBERS UPDATE 2011/12

**CORPORATE OVERVIEW
AND SCRUTINY COMMITTEE**

SEPTEMBER 2011

Article of: Director of People and Places

Relevant Head of Service : Borough Treasurer

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Relevant Portfolio Holder: Councillor D.Westley

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SUBJECT: ANNUAL VAT REPORT 2010/2011

1.0 PURPOSE OF ARTICLE

- 1.1 To inform Members of developments and performance in relation to Value Added Tax (VAT).

2.0 BACKGROUND

- 2.1 The Accountancy Service has the following objectives for accounting for VAT:
- minimise the Council's VAT liabilities
 - raise the profile of VAT within the Authority
 - develop and improve VAT processes and procedures.
- 2.2 One of the means of achieving these objectives is the production of an Annual VAT Report for Members.

3.0 ACCOUNTING FOR VAT

- 3.1 The Council pays VAT to its suppliers for most of the goods and services it procures. The Council also charges VAT for most goods and services provided to its customers for business reasons. Any VAT paid to suppliers is recovered from Her Majesty's Revenue and Customs (HMRC) and any VAT received on the Council's supplies is paid to HMRC. This is done by the completion of a monthly VAT Return.
- 3.2 Responsibility for the Council's VAT function is incorporated within the Accountancy team and accountancy staff aim to continually minimise the Council's VAT liabilities. This includes ensuring fines, interest, and assessments are minimised and VAT recovery is maximised. To achieve this, every effort is made to ensure that VAT is accounted for correctly throughout the Authority and that all staff are aware of relevant changes in VAT Regulations.

4.0 VAT MANAGEMENT AND PERFORMANCE

External Inspections

- 4.1 External auditors gave a clean bill of health on their last review of the Council's VAT account and systems, which took place during September 2009.

VAT Returns

- 4.2 The Council generally expends more on VAT than it collects from its own activities. This is because most of its own activities are not classed as being carried out for business purposes and VAT is, therefore, not applicable. As such, the monthly VAT Returns reclaim the net VAT from HMRC by the Council. During 2010/2011, the Council paid a total of £3,845,920 to suppliers and received a total of £524,260 VAT from its own customers. This resulted in a net total of £3,321,660 being reclaimed from Revenue and Customs. The average VAT return for 2010/2011 was £276,800 comprising, on average, £320,490 due from Revenue and Customs and £43,690 due to them. Table 1 shows how these values compare to the previous financial year of 2009/2010:

Table 1 - VAT Return Comparison: 2010/2011 to 2009/2010		
	2010/2011 £'000	2009/2010 £'000
Total VAT:		
Paid to Suppliers	3,845	3,214
Received from our own Customers	524	495
Reclaimed from Customs and Excise	3,321	2,719
Average Monthly VAT:		
Paid to Suppliers	320	267
Received from our own Customers	44	41
Reclaimed from Customs and Excise	276	226

VAT Penalties

- 4.3 If there are mistakes within the VAT return or if something is missed from it the Council is liable to fines, interest charges, and other financial penalties. A voluntary disclosure is declared when errors are above a threshold of £10,000. This limit has been increased by HMRC from £2,000 as from 1 July 2008. To date we have not been required to register a voluntary disclosure as the Council has not breached this threshold. As from 1 April 2009 a new penalty regime has been implemented by HMRC, which could have an impact on the Council due to the way that fines, interest charges and other penalties are to be calculated, as this could result in a greater percentage of fine being levied to the Council. However, currently this new regime has had no impact on the Council, which is due to no fines etc being imposed.

De Minimis Calculation (Partial Exemption)

- 4.4 Exempt activities for VAT purposes are defined in the VAT Act 1994 and cover 15 categories. Local Authorities can only reclaim VAT paid to their suppliers for its exempt activities providing that this is less than 5% of the total VAT paid to suppliers. For this Council, this is usually in the region of £190,000 per year. If this threshold is exceeded, the Council would be liable to pay the full value of its exempt VAT to Revenue and Customs, i.e. around £190,000.
- 4.5 The Vat team monitor exempt expenditure throughout the year to ensure that the Council does not exceed the 5% margin. In recent years the percentage was not greater than 2% including 2010/2011.
- 4.6 The Council will take specialist advice, if appropriate, when projects that may affect its vat position substantially are undertaken, for example large scale capital

projects. In addition such issues are raised with HMRC to inform them of the project and the proposed vat approach the Council is undertaking.

VAT Manual and Training

- 4.7 The Council has a VAT manual, which is available on the Council's intranet, updated as at September 2010. VAT training for some key officers also has been undertaken on a one to one basis over the last 12 months. Details on vat issues are also included in the Finance Budget Manual which is published on the Intranet.

Change in VAT rate

- 4.8 The Government changed the VAT rate to 20% from 17.5% effective from 4th January 2011. From a fiscal point of view, the timing may have had the intention to contribute to the flurry of activity in the Christmas period and in the sales period that follows. The 4th January was the back to work Tuesday after the bank holiday at the start of the year. As a result of this measure it meant that some of the financial systems had to be altered to accommodate this rate change to 20%. This system alteration was achieved with no operational issues being encountered.

Overall Performance

- 4.9 Management of the VAT function within the Authority is a well established process. The monthly vat return to HMRC is always completed on time. HMRC inspections in previous years have been undertaken with the result that the Council's processes and procedures have been given a clean bill of health. The Authority is part of a Lancashire wide Council networking group whereby, Vat topics and issues of a common interest can be raised. This promotes good practice across the Councils and the latest Vat topics are discussed in order to maximise performance.

5.0 RECENT VAT DEVELOPMENTS

- 5.1 The Vat Team continually review developments in the sector in order to identify any implications for the Council. Some of the current issues are highlighted below.

VAT on Off-Street Car Parking

- 5.2 Local Authorities can provide off-street parking where for the purpose of relieving or preventing congestion of traffic it appears to be necessary to provide within their area suitable parking places for vehicles. The output Vat levied for this function has been subject to legal proceedings by a group of Councils, commonly referred to as the Isle of Wight case. It is a complex and technical issue, which may result in the Council not levying output Vat for this service area. This may mean that the amount of Vat levied to date by the Council may be repaid to the

Authority at some future date. However, developments are indicating that this is becoming a more unlikely outcome. A protective claim has been submitted to HMRC to safeguard the Council's Vat position, and the sum involved to date is £1,106,455.

- 5.3 This case is still ongoing and we are waiting for High Court and the European Courts of Justice rulings. Once the High Court issue a ruling, this will be analysed and any financial implications will then be taken into account.

Sports Tuition Claim

- 5.4 The Council has submitted a further VAT claim to HMRC under the 'Fleming Case' in relation to Sports Tuition income. The Council received this claim in January 2011, the amount being £79,280 for the claim and interest.

Excess Charge Notices – April 1992 to December 1996

- 5.5 A further 'fleming claim' the Council had submitted was in relation to excess charge notices and the amount of £30,400 was received in June 2010, being the claim and interest.

Trade Refuse – January 1978 to March 2010

- 5.6 The Council is considering whether it can make a VAT claim to HMRC for a sum in the region of £908,000 plus interest, in respect of Trade Refuse Collection income. It appears that this activity will be reclassified as non business, as advised by HMRC and therefore vat is not chargeable to Clients. At present there are a number of issues outstanding that will determine whether the Council will receive this sum, and an update on this will be provided in next year's report.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 There are no significant sustainability impacts or Community Strategy implications associated with this Update.

7.0 RISK ASSESSMENT

- 7.1 The formal reporting of performance on VAT is part of the overall management and control framework that is designed to minimise the financial risks facing the Council.

8.0 SUMMARY

- 8.1 Value Added Tax is a technical and complex area and mistakes can be costly to the Council. The Accountancy team strive to ensure that the Council's VAT liabilities are minimised and VAT recovery is maximised by developing and improving VAT processes and procedures.
- 8.2 The possibility of recovering VAT in relation to car parking and trade refuse claims, would, if successful, provide a significant benefit for the Council in these difficult financial times.

Background Documents:

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Article.

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices:

None