



ARTICLE NUMBER: 2E

**CORPORATE AND
ENVIRONMENTAL OVERVIEW
AND SCRUTINY COMMITTEE**

**MEMBERS UPDATE 2015/16
ISSUE: 1**

Article of:	Borough Treasurer
Relevant Managing Director:	Managing Director (People and Places)
Relevant Portfolio Holder:	Councillor C. Wynn
Contact for further information:	Mr J Smith (Ext 5093) E-mail: Jonas.smith@westlancs.gov.uk

SUBJECT: ANNUAL VAT REPORT 2014/2015

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 officers 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

VAT Returns

- 4.1 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 2014/2015, the Council paid a total of £5,606,307 VAT to suppliers and received a total of £1,071,610 VAT from its own customers. This resulted in a net total of £4,534,697 being reclaimed from Revenue and Customs. The average VAT return for 2014/2015 was £377,891 comprising, £467,192 due from Revenue and Customs and £89,300 due to them. Table 1 shows how these values compare to the previous financial year of 2013/2014:

Table 1 - VAT Return Comparison: 2014/2015 to 2013/2014		
	2014/2015 £'000	2013/2014 £'000
Total VAT:		
Paid to Suppliers	5,606	5,262
Received from our own Customers	1,071	922
Reclaimed from Customs and Excise	4,535	4,340
Average Monthly VAT:		
Paid to Suppliers	467	439
Received from our own Customers	89	77
Reclaimed from Customs and Excise	378	362

VAT Penalties

- 4.2 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)

- 4.3 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 £250,000 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 £250,000.
- 4.4 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 has not been greater than 2% and for 2014/15 it was 1.19% again well within the threshold.
- 4.5 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

- 4.6 The Council has a VAT manual, which is available on the Council's intranet and was last updated in June 2014. Details on vat issues are also included in the Finance Budget Manual which is published on the Intranet.

Overall Performance

- 4.7 Management of the VAT function within the Authority is a well established process. For 2014/15 the monthly vat return to HMRC was 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. Protective claims are submitted to HMRC annually to safeguard the Council's Vat position, and the sum involved to the end of the 2014/15 financial year will be in excess of £1.5m.
- 5.3 On the 16th October 2012 a First Tier (Tax) Tribunal found in favour of HMRC with regards this case, i.e. that VAT is applicable to Off-Street Car Parking charges. However, an appeal was lodged by Isle of Wight Council and others with the Upper Tribunal and although no judgement has been released at the time of writing, Councils are still able to submit requests to stand over further appeals.

- 5.4 A separate issue emerged in 2014/15 in relation to car parking fees. Previously when a customer overpaid parking fees the Council paid over the VAT associated with the total payment received. In fact VAT is only applicable to the cost of parking, any overpayment is considered a donation and is not subject to VAT. The Council will therefore save approximately £2,500 per annum in overpaid output VAT.

Trade Refuse

- 5.5 The Council submitted a VAT claim to HMRC in respect of Trade Refuse Collection income for a sum in the region of £155,000 plus interest. This activity had been reclassified by HMRC as non-business and therefore VAT should not have been charged to Clients. In October 2014, HMRC wrote to the Council and offered to pay 20% of the total claim as settlement. This was the standard settlement offered to all Local Authorities with Trade Waste claims outstanding and was calculated by HMRC based on test cases. The Council therefore accepted the offer, as did all Lancashire district Councils and in December 2014 received a payment of £32,375 from HMRC.
- 5.6 HMRC have been defending a case called the Littlewoods case whereby Littlewoods are claiming that an overpayment of VAT was settled by HMRC plus a simple interest payment but that it should have been a compound interest payment. In May 2015 the Court of Appeal agreed with Littlewoods but HMRC may appeal to the Supreme Court. If compound interest is allowable some commentators estimate that it would mean a substantial extra payment to Littlewoods, possibly in excess of £1 billion. This may have positive implications for previous claims that WLBC have submitted, namely the leisure claim whereby the Council received in excess of £1million.

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.