



VAT: power to provide for refunds to certain persons

Who is likely to be affected?

Named public bodies which enter into shared service arrangements, where a funding agreement exists with HM Treasury.

General description of the measure

This measure will create a new section 33E of the Value Added Tax Act 1994 (VATA), which will refund to named non-departmental public bodies, and similar public bodies, the VAT incurred as a part of shared services arrangements used to support their non-business activities. Ordinarily VAT can only be recovered on purchases made to support a person's taxable business activities.

Policy objective

The measure will ensure that what would otherwise be irrecoverable VAT does not deter public bodies from sharing back-office services, where this would otherwise result in greater efficiencies of scale.

Background to the measure

The overall policy is for public bodies to enter into shared services arrangements. Where this happens the body or bodies providing services to the others engages in a business activity for VAT purposes, just as any supplier of this type of service does, and VAT is charged to the purchasers of the services. To date these services have mainly been in the fields of HR, recruitment and training, and IT services.

Government departments and NHS bodies recover the VAT incurred on certain outsourced services purchased for their statutory, non-business purposes. This is under section 41(3) of VATA. The eligible services are listed in a Treasury direction, and they include the type of service common to shared services arrangements. Local government bodies recover VAT under section 33 VATA.

There has been no provision to refund VAT to non-departmental public bodies sharing services with their parent department or between themselves. Many such bodies are not engaged in business activities which would allow the recovery of VAT under the normal VAT provisions. With the expected wider take-up of shared services, the Government wishes to ensure that these bodies are not at a VAT disadvantage when they enter into such arrangements. Because of competition issues, this will also include situations where they procure an eligible service directly from a private sector provider.

Detailed proposal

Operative date

This measure will have effect from the date of Royal Assent to Finance Bill 2015.

Current law

There are no special provisions in VAT legislation concerning the VAT incurred by non-departmental public bodies, and similar bodies, on the goods and services they purchase. However, due to their nature, a few such bodies do currently benefit from the existing VAT refund provisions in VATA.

Proposed revisions

A new section 33E VATA will refund VAT incurred by named bodies on goods and services purchased, and goods imported or acquired, for their non-business purposes. Before a body can be named, it (or its parent department) must have entered into an agreement with HM Treasury to adjust the overall level of its public funding to take into account the VAT that will be recoverable. This is because such funding includes tax liabilities.

Because it will not be possible to name bodies in primary legislation as and when such agreements are made with HM Treasury, the measure contains a power to make Treasury Orders to name the bodies. While it is expected that most bodies will be non-departmental public bodies, the measure is not limited to them as there are other types of arms-length public body that may qualify.

It is considered sensible for these bodies to have the same level of VAT recovery as is available to government departments under section 41(3) VATA. Consequently, the Treasury direction made under that provision, which lists the eligible services upon which VAT can be recovered, will also become the direction made for the same purpose under this measure.

In common with government departments, eligible bodies will have a shorter period in which to claim a refund.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	-	nil	nil	nil	nil	nil
	The measure is not expected to have an Exchequer impact.					
Economic impact	The measure is not expected to have any economic impact.					
Impact on individuals, households and families	The measure is not expected to have any impact on individuals as it concerns the funding of public bodies. The measure is not expected to impact on family formation, stability or breakdown.					
Equalities impacts	The measure is not expected to have any equalities impact.					
Impact on business including civil society organisations	This measure is expected to have no impact on businesses. It will only impact on certain public bodies which enter into shared service arrangements.					
Operational impact (£m) (HMRC or other)	There will be no significant operational impact.					
Other impacts	Other impacts have been considered and none have been identified.					

Monitoring and evaluation

This measure will be monitored through information collected in tax returns and through communication with the affected taxpayer group.

Further advice

If you have any questions about this change, please contact Graham Spencer on 03000 585822 (email: graham.spencer@hmrc.gsi.gov.uk).

1 VAT: power to provide for refunds to certain persons

- (1) In Part 2 of VATA 1994 (reliefs, exemptions and repayments), after section 33D insert—

“33E Power to extend refunds of VAT to other persons

- (1) This section applies where—
- (a) VAT is chargeable on—
 - (i) the supply of goods or services to a specified person,
 - (ii) the acquisition of any goods from another member State by a specified person, or
 - (iii) the importation of any goods from a place outside the member States by a specified person, and
 - (b) the supply, acquisition or importation is not for the purpose of—
 - (i) any business carried on by the person, or
 - (ii) a supply by the person which, by virtue of section 41A, is treated as a supply in the course or furtherance of a business.
- (2) If and to the extent that the Treasury so direct, the Commissioners shall, on a claim made by the specified person at such time and in such form and manner as the Commissioners may determine, refund to the person the amount of the VAT so chargeable.
This is subject to subsection (3) below.
- (3) A specified person may not make a claim under subsection (2) above unless it has been agreed with the Treasury that, in the circumstances specified in the agreement, the amount of the person’s funding is to be reduced by all or part of the amount of the VAT so chargeable.
- (4) A claim under subsection (2) above in respect of a supply, acquisition or importation must be made on or before the relevant day.
- (5) The “relevant day” is—
- (a) in the case of a person who is registered, the last day on which the person may make a return under this Act for the prescribed accounting period containing the last day of the financial year in which the supply is made or the acquisition or importation takes place;
 - (b) in the case of a person who is not registered, the last day of the period of 3 months beginning immediately after the end of the financial year in which the supply is made or the acquisition or importation takes place.
- (6) Subsection (7) applies where goods or services supplied to, or acquired or imported by, a specified person cannot be conveniently distinguished from goods or services supplied to, or acquired or imported by, the person for the purpose of—
- (a) any business carried on by the person, or
 - (b) a supply falling within subsection (1)(b)(ii) above.
- (7) The amount to be refunded under this section is such amount as remains after deducting from the whole of the VAT chargeable on any supply to, or acquisition or importation by, the specified person such

proportion of that VAT as appears to the Commissioners to be attributable to the carrying on of the business or (as the case may be) the making of the supply.

- (8) In this section “specified person” means a person specified in an order made by the Treasury.
 - (9) An order under subsection (8) may make transitional provision or savings.
 - (10) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.”
- (2) In section 79 of VATA 1994 (repayment supplement in respect of certain delayed payments or refunds) –
- (a) in subsection (1), after paragraph (e) insert “or
 - (f) a person who is registered is entitled to a refund under section 33E,”;
 - (b) in subsection (5), after paragraph (e) insert “, and
 - (f) a supplement paid to a person under subsection (1)(f) shall be treated as an amount due to the person by way of refund under section 33E.”;
 - (c) in subsection (6)(b), after “33C” insert “or 33E”.
- (3) In section 90 of VATA 1994 (failure of resolution under PCTA 1968), in subsection (3), before “35” insert “33E,”.
- (4) In Schedule 9 to VATA 1994 (exemptions), in Group 14 (supplies of goods where input tax cannot be recovered), in Note (9), before “39” insert “33E,”.

EXPLANATORY NOTE

VAT: POWER TO PROVIDE REFUNDS TO CERTAIN PERSONS

SUMMARY

1. This clause allows Non-Departmental Public Bodies, and similar arms-length bodies, to recover the VAT they incur when they enter into cost-sharing arrangements. Refunds of VAT are subject to certain funding agreements with the Treasury. This will commence from the date of Royal Assent to Finance Bill 2015.

DETAILS OF THE CLAUSE

2. Subsection (1) 1 of the clause adds a new section 33E into the Value Added Tax Act 1994.

3. Subsections (1) and (2) of section 33E provide for refunds to be made to specified persons (Non-Departmental Public Bodies and similar arms-length bodies specified in an order) of the VAT they incur on purchases made, and goods imported and acquired, for non-business purposes in so far as the Treasury directs for this to happen. Subsection (2) of section 33E allows HMRC to determine how and when claims are to be made.

4. Because the specified persons will all be publicly funded bodies, subsection (3) of section 33E requires that they enter into agreements with the Treasury to adjust their overall funding by the amount of VAT now reclaimable.

5. Subsections (4) and (5) of section 33E determine the latest time at which a claim may be made.

6. Subsections (6) and (7) of section 33E require an apportionment to be made where goods and services are purchased both for business and for non-business purposes.

7. Subsections (8) and (9) of section 33E provide for the Treasury to make orders naming the specified persons who will be entitled to reclaim VAT under this measure.

8. Subsection (10) of section 33E excludes certain purchases from credit under this measure.

9. Paragraphs 2 to 4 of the clause make consequential amendments to the Value Added Tax Act 1994.

BACKGROUND NOTE

10. The Government wishes to encourage public bodies to enter into cost-sharing arrangements where these result in greater efficiencies. Government departments already benefit from refunds of VAT under a provision in section 41(3) of the Value Added Tax Act 1994, provided that the purchase is of a type listed in a Treasury direction. The purpose of this measure is to afford the same benefit to bodies such as Non-Departmental Public Bodies, which may enter into cost-sharing arrangements between themselves or with government departments. It will not, however, be confined to cost-sharing arrangements and consequently it will also extend refunds of VAT to purchases from third parties, in so far as the Treasury directs.

11. As the recipients of the refunds are all publicly funded bodies, their overall funding is intended to cover any VAT they incur which cannot be recovered.

12. In order to prevent double-funding, it will be a requirement that – where necessary – the original funding is adjusted to take into account the VAT now recoverable. Because of this requirement, and the fact that not all bodies may choose to enter into such an agreement, it will be necessary to name those bodies which will benefit from refunds of VAT. The measure will therefore allow the Treasury to do this in an order.

13. Refunds of VAT will be as the Treasury directs, which is also the case for refunds of VAT to government departments and NHS bodies. This is presently done through a direction which is published in the Government Gazettes, and it is intended that the same direction will apply to persons specified under this measure.

14. Government departments and NHS bodies have shorter time limits in which to make their claims than apply elsewhere in VAT legislation. This is because of public expenditure requirements. Similar shorter claim timescales will apply to claims made by bodies covered by this measure.

15. If you have any questions about this change, or comments on the legislation, please contact Graham Spencer on 03000 585822 (email: Graham.Spencer@hmrc.gsi.gov.uk).