



HM Revenue
& Customs

The Value Added Tax (Refund of Tax) Order 2019 [Measure Number xxxx]

Who is likely to be affected

This Instrument will only affect the bodies that are named in it. These are: the East West Railway Company (EWRC), High Speed Two Ltd (HS2), Transport for Wales (TfW) and the Single Financial Guidance Body (SFGB).

General description of the measure

This measure will entitle the four public bodies named above to receive refunds of the Value Added Tax (VAT) incurred on some purchases made to support their non-business activities.

Policy objective

The policy objective is that as non-departmental public bodies (NDPBs) and similar bodies may carry out similar activities as government departments, NDPBs should be able to recover the VAT incurred on purchases made to support their non-business activities insofar as the Treasury directs; and either

- Where the activities are publicly funded and could have been carried out by, or under the control of, a government department that is eligible for VAT recovery under section 41; or
- Where the bodies have entered into a cost-sharing arrangement.

Background to the measure

Under the normal rules, VAT can only be reclaimed on the purchase of goods and services made by a VAT-registered person, and which are used in the course of taxable business activities. NDPBs, like government departments, mostly engage in non-business activities and therefore cannot ordinarily reclaim the VAT on purchases made to support those activities.

Government departments may reclaim VAT on the cost of contracting out a number of services, or the VAT incurred in cost-sharing arrangements, listed in a Treasury direction. This scheme ensures that what would otherwise be irrecoverable VAT does not become a disincentive to contracting out public services to other providers, or to departments sharing their back-office costs.

Section 33E of the Value Added Tax Act 1994 (“the Act”) was enacted in 2016, initially to ensure that what would otherwise be irrecoverable VAT, did not dissuade NDPBs and similar bodies from entering into cost-sharing arrangements. The policy objective has since then, been expanded to include publicly funded activities that could have been carried out by, or under the control of, a government department.

The Treasury has the power to make an order naming the bodies that will be eligible for refunds of VAT, subject to any necessary adjustment to their public funding. Once this has happened, the bodies can reclaim VAT insofar as the Treasury direction already mentioned permits.

The four named bodies are publicly funded. Three of them are undertaking infrastructure projects under the control of either the Department for Transport or Welsh Ministers. The other body is an advisory body which has taken on some of the advisory work formerly undertaken within the Department for Work and Pensions.

Detailed proposal

Operative date

The Statutory instrument will have effect from 1 January 2020.

Current law

Section 33E of the Act allows for refunds of VAT incurred on non-business activities to specified persons as directed by HM Treasury (HMT). Section 33E(8) defines a specified person as any person named as such in an order made by HMT.

Section 41 of the Act allows refunds for government departments on costs associated with contracting out a list of services contained in the Contracting Out Direction, issued by HM Treasury. This instrument provides for similar treatment for the four NDPBs named.

Proposed revisions

HM Treasury will make an order naming EWRC, HS2, TfW and SFGB as bodies entitled to recover VAT under section 33E.

Summary of impacts

Exchequer impact (£m)

2019 to 2020	2020 to 2021	2021 to 2022	2022 to 2023	2023 to 2024	2024 to 2025

The Office for Budget Responsibility are expected to reflect the Exchequer impact in their next forecast.

Economic impact

This measure is not expected to have significant economic impacts.

Impact on individuals, households and families

There is no impact on individuals as this measure only affects businesses. The measure is not expected to have an impact on family formation, stability or breakdown.

Equalities impacts

It is not anticipated that this measure will have an impact on any of those groups sharing protected characteristics.

Impact on business including civil society organisations

This measure will impact on four entities named in the SI by allowing them to claim VAT refunds incurred in the course of their non-business activities. This means that HMRC will refund non-business VAT to them. One-off costs include familiarisation with the change. Ongoing costs could include calculating VAT and making a claim to HMRC. This measure is not expected to impact civil society organisations.

Operational impact (£m) (HMRC or other)

There will be no significant operational impact.

Other impacts

There are no other impacts expected.

Monitoring and evaluation

This policy will be kept under review through communication with affected bodies.

Further advice

If you have any questions about this change, please contact David Webb on Telephone: 03000 585994 or email: david.webb@hmrc.gov.uk.

Declaration

Jesse Norman MP, Financial Secretary to the Treasury, has read this tax information and impact note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.