

HMRC change to VAT treatment of local authorities and leisure services

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HMRC have recently announced a change in the VAT treatment of leisure services provided by local authorities. Previously, local authorities that provided in-house leisure services to members of the public were to treat those supplies as business activities for VAT purposes and either:

- charge their customers VAT at the standard rate; or
- apply the VAT exemption, provided the services met the relevant conditions for VAT exempt status.

But HMRC have now said that local authorities can now treat their supplies of leisure services as non-business supplies for VAT purposes. After some analysis, HMRC decided that allowing local authorities to treat their supplies of leisure services as non-business would not significantly affect competition. This change was announced in [‘Revenue and Customs Brief 3\(2023\): changes to VAT treatment of local authority leisure services’](#), published on 3 March 2023.

HMRC’s change of position follows a series of cases over the last few years, including *HMRC v Mid-Ulster District Council* [2022] UKUT 00197 (TCC) and *HMRC v Chelmsford City Council* [2022] UKUT 00149 (TCC).

Previously HMRC had allowed local authorities to treat their supplies of leisure services as VAT exempt or to charge VAT (both being business supplies), following the London Borough of Ealing case (Case C-633/15, CJEU [2017] STC1598; and HM Revenue & Customs Brief 6/17). Absent any outsourcing arrangements, that may have meant the local authority either:

- charging VAT to customers, and/or at the [very] least accounting to HMRC for the VAT if not passing it on as a cost to customers; or
- treating the services as VAT exempt, but possibly then not being able to recover all the VAT incurred on their related incoming costs, depending on the local authority’s exempt business VAT recovery position.

By allowing local authorities to treat these leisure services which they provide as non-business supplies in VAT terms, that may allow the local authorities to not charge VAT on those services, and also to recover VAT they incur on related incoming costs (subject to the rules on non-business input VAT recovery, including under section 33 Value Added Tax Act 1994).

If a local authority has previously set up an outsourcing arrangement for provision of leisure services, it would no doubt want to take advice on the VAT and other tax and legal aspects before considering whether to change any such arrangement in the light of this recent HMRC announcement.”

Key contact

Andrew Noble

Partner



andrew.noble@brownejacobson.com

+44 (0)121 237 3952

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