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Notice

## **VAT Notice 749: local authorities and similar bodies**

Updated 8 February 2016

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Do you have any comments?

If you have a complaint or suggestion

### **Foreword**

This notice cancels and replaces Notice 749 (April 2000). Details of any changes to the previous version can be found in paragraph 1.1 of this notice.

### **Further help and advice**

If you need general advice or more copies of Customs and Excise notices, please ring the National Advice Service on Telephone: 0300 200 3700. You can call Monday to Friday, 8am to 8pm.

If you have hearing difficulties, please ring the Textphone service on 0300 200 3719.

If you would like to speak to someone in Welsh, please ring Telephone: 0300 200 3705, Monday to Friday, 8am to 6pm.

All calls are charged at the local rate within the UK. Charges may differ for mobile phones.

## **1. Introduction**

## 1.1 What is this notice about?

This notice will help local authorities and other public bodies decide:

- which of your activities are business or non-business for VAT purposes and
- when you can reclaim VAT incurred on costs that relate to non-business activity

It has been restructured and rewritten to improve readability, but the technical content has not changed from the April 2000 edition.

## 1.2 Who should read this notice?

Local authorities and other public bodies.

## 1.3 What law covers this notice?

VAT Act 1994 Section:

- 33 enables certain bodies to recover VAT on costs relating to non-business activity
- 42 compels local authorities to register for VAT when they make taxable supplies
- 96(4) defines what 'local authority' means

# 2. Public bodies

## 2.1 Who are Public Bodies?

For the purpose of this notice, you are a 'public body' if you are:

- a local authority-see paragraph 2.3
- a river purification board established under section 135 of the Local Government (Scotland) Act 1973, and a water development board within the meaning of section 109 of the Water (Scotland) Act 1980
- an internal drainage board
- a passenger transport authority or executive within the meaning of Part II of the Transport Act 1968
- a port health authority within the meaning of the Public Health (Control of Disease) Act 1984, and a port local authority and joint port local authority constituted under Part X of the Public Health (Scotland) Act 1897
- a police authority and the Receiver for the Metropolitan Police District
- a development corporation within the meaning of the New Towns Act 1981 or the New Towns (Scotland) Act 1968, a new town commission within the meaning of the New Towns Act (Northern Ireland) 1965 and the Commission for the New Towns
- a general lighthouse authority within the meaning of Part VIII of the Merchant Shipping Act 1995-but only in respect of the provision, maintenance or management of lights or other navigational aids
- the British Broadcasting Corporation
- a nominated news provider, as defined by section 31(3) of the Broadcasting Act 1990-but only in respect of the provision of news programmes for broadcasting by holders of regional Channel 3 licences
- the Welsh National Water Development Authority
- the Commissions for Local Administration in England, Wales and Scotland and the Commission for Local Authority Accounts in Scotland
- the Inner London Education Authority, the Inner London Interim Education Authority, The Northumbria Interim Police Authority, The London Fire and Civil Defence Authority, The London Residuary Body, Metropolitan county Police Authority, Fire and Civil Defence Authority, Passenger

Transport Authority or Residuary Body

- a probation committee constituted by the Powers of Criminal Courts Act 1973, s 47, 3 Sch 2 a magistrates' courts committee established under Justice of the Peace Act 1979, s 19 and the charter trustees constituted by Local Government Act 1972, s 246(4) or (5)
- authorities established under Local Government Act 1985, s 10
- the National Rivers Authority
- the Environment Agency
- a National Park Authority within the meaning of Environment Act 1995, s 63
- a fire authority constituted by a combination scheme made under Fire Service Act 1947, s 6
- charter trustees established under Local Government Act 1992, s 17 or any statutory instrument made under Part II of that Act
- the Broads Authority
- the Greater London Authority and
- Transport for London

## 2.2 Who are not Public Bodies?

For the purpose of this notice, you are not a public body if you are a:

- joint board or committee set up by bodies other than local authorities
- body that merely obtains financial help from local authorities
- purely advisory committee that does not carry out local authority functions
- Community Council in England or Scotland
- Community Association
- parish meeting
- parochial church council
- village hall management committee
- charity

It is also unlikely that you will be a public body if you are a board or committee where not only local authority but also other members have voting rights.

## 2.3 What is a 'local authority'?

Local authority means:

- the council of a county, county borough, district, London borough, parish or group of parishes (or, in Wales, community or group of communities)
- the Common Council of the City of London, the Council of the Isles of Scilly, and any joint committee or joint board established by two or more of the foregoing and
- in relation to Scotland, a regional, islands or district council within the meaning of the Local Government (Scotland) Act 1973, any combination and any joint committee or joint board established by two or more of the foregoing and any joint board to which section 226 of that Act applies

## 2.4 Can I be added to the list?

The Treasury has powers to add bodies to the list by means of an order. Treasury will consider applications from bodies that meet both the following criteria. The body must:

- undertake a function ordinarily carried on by local government, and
- have the power to draw its funding directly from local taxation

If you meet both these conditions and you wish to apply for inclusion, please contact us initially.

## 3. VAT registration

### 3.1 Do I need to register for VAT?

If you are a local authority or a joint board or joint committee that qualifies as a local authority (see paragraph 2.3) you should read paragraph 3.2 below.

If you not a local authority, the usual VAT registration requirements apply as set out in Notice 700/1 (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) VAT: Should I be registered for VAT?

In particular, if:

- you are legally separate from a local authority
- you are not a joint board or committee and
- the value of your taxable supplies exceeds the threshold for registration- you must register for VAT

If the value of your taxable turnover is below the registration threshold limits, you can apply for voluntary registration.

### 3.2 Must local authorities register for VAT?

The following table will help you to decide whether you must register for VAT.

If you ...	then you...
regularly make taxable supplies (including zero-rated supplies) in the UK in the course or furtherance of business	must register for VAT, whatever the value of your supplies.
make only infrequent or minimal taxable supplies	may not need to register for VAT. You should seek advice from us.

### 3.3 Can public bodies join VAT groups?

Public bodies cannot usually meet the requirements of joining a VAT group-see Notice 702 VAT: (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) Group treatment

If, however, you are a local authority joint committee we normally grant requests to account for VAT under the registration of the lead authority or any other member if we are satisfied that:

- you do not want the arrangement merely for tax avoidance purposes, and
- it does not create distortion

### 3.4 Can public bodies that are not registered for VAT reclaim VAT?

If you are a public body referred to in paragraph 2.1, you can reclaim VAT - but only the VAT on goods and services bought for your non-business and exempt activities. Further information can be found in section 12.

## 4. Recovery of VAT by public bodies

### 4.1 What are the normal rules on recovering VAT?

The normal rules are explained in Notice 700 (<https://www.gov.uk/government/collections/vat-notice-numerical-order>) The VAT Guide. In brief:

<b>If you ...</b>	<b>then you ...</b>
do not make supplies in the course or furtherance of business	cannot recover VAT on related costs.
make taxable (including zero-rated) supplies in the course or furtherance of business	can recover VAT on related costs-see section 6.
make exempt supplies in the course or furtherance of business	cannot (subject to certain limits) recover VAT on related costs.

## 4.2 What are the special rules for public bodies?

If you are a public body referred to in paragraph 2.1 you can also recover the VAT attributable to your:

- non-business activities-see sections 5 and 7, and
- exempt business activities (providing we consider it an insignificant proportion of the total tax you have incurred-see section 8)

If you are not registered for VAT, you should read sections 3 and 12.

## 5. The business question

### 5.1 What does 'business' and 'non-business' mean?

The following outlines the main differences between business and non-business activities.

Business activities...

- are mainly concerned with making supplies to other persons- for any form of payment or 'consideration'- whether in money or otherwise
- have a degree of frequency and scale
- continue over a period of time
- are within the scope of VAT and may be- standard-rated- zero-rated or- exempt

Non-business activities are...

- activities you carry out for no charge and no other form of consideration, including- leases you grant, or the freehold sale of land and buildings, for the nominal payment of a peppercorn or a pound and where no other form of payment is involved
- activities you carry out for a charge but- with no degree of frequency or scale and- without continuing over any period of time
- outside the scope of VAT

You can find out more about 'business' and 'non-business' in Notice 700

(<https://www.gov.uk/government/collections/vat-notice-numerical-order>) The VAT Guide. Some examples are given at paragraph 5.8.

### 5.2 Are there any special rules for supplies by local authorities?

Yes. If you supply services to another local authority and you do not supply them in competition with the private sector, you may treat the supply as non-business.

Otherwise you will need to account for VAT at the appropriate rate on the goods and services you supply in the course or furtherance of business.

### **5.3 Are there any special rules for public bodies?**

Yes. You can treat activities that you charge for as non-business when you meet the conditions in the decision table below.

If the conditions are not met, you cannot treat your activities as non-business merely because you are a central or local government body.

#### Step 1

Are you acting as a public authority-see paragraph 5.4?

- if yes, go to step 2
- if no, your activity is business

#### Step 2

Is your activity included in Annex D of the EC 6th VAT Directive-see paragraph 5.5?

- if yes, go to step 3
- if no, go to step 4.

#### Step 3

Is your involvement in the activity on such a small scale as to be negligible?

- if yes, go to step 4
- if no, your activity is business

#### Step 4

Would it lead to significant distortion of competition with other bodies If you treated the activity as non-business-see paragraphs 5.6 and 5.7?

- if yes, your activity is business
- if no, your activity is non-business

### **5.4 Am I 'acting as a public authority'?**

You act as a public authority when you are a public body (see section 2) and you carry out activities for service of the community under a special legal regime applicable to you - that is under different legal conditions from those that apply to private traders.

For example, you act as a public authority when the law gives you:

- the right to make people or organisations pay for a service you provide without giving them any say in what you provide and how you provide it and
- powers to impose penalties on them if they do not comply

### **5.5 What is Annex D of the EC 6th VAT Directive?**

Annex D lists the activities that will always be taxable unless you can show that you carry them out on such a small scale as to be negligible. The activities are:

- telecommunications
- supplying water, gas, electricity and steam
- transporting goods
- port and airport services
- passenger transport
- supplying new goods manufactured for sale
- certain activities of agricultural intervention agencies
- running trade fairs and exhibitions
- warehousing
- the activities of commercial publicity bodies
- running staff shops, co-operatives, industrial canteens and the like, and
- certain commercial activities of radio and television bodies

## **5.6 When will non-business treatment lead to significant distortions of competition?**

Non-business treatment might lead to significant distortions of competition if it means that you:

- do not charge VAT on a supply, while your competitors making similar supplies have to
- can recover the VAT attributable to an exempt supply or a non-business activity, while the VAT incurred by your competitors in making similar supplies sticks with them as a real cost

Significant distortions of competition will occur when non-business treatment:

- places private traders at a commercial disadvantage compared to you
- deters private traders from starting up businesses supplying similar goods or services in competition with you

## **5.7 If there are no local competitors, can I treat the activities as non-business?**

Yes, provided you are sure that nobody else could carry out the activity:

- in the way you have to carry it out
- in similar conditions, and
- achieving the results you have to achieve

This will normally be the case when:

- your clients could not equally well obtain the goods or services from some other supplier
- the activity is not carried on generally by suppliers outside the public authority sector, unless on such a small scale as to be negligible, and
- non-business treatment would not act as a disincentive to a private trader capable of going into business in direct local competition with you

If you have any doubt whether special treatment will lead to significant distortions of competition you should seek our advice. You can also seek help from professional bodies, such as the Chartered Institute of Public Finance and Accountancy.

## **5.8 Examples of 'business' and 'non-business' activities undertaken by public bodies**

### **5.8.1 Community education**

Local authorities have to make sure that certain forms of community education are available in their area but they are not obliged to supply it themselves. If they choose to do so, they compete with a broad range of education providers offering similar services in different parts of the country. This is a business activity.

### **5.8.2 Non-automatic weighing instruments**

The evaluation and surveillance of these instruments, to meet European Community requirements, is a service that any trader with the necessary expertise can supply commercially. If a local authority carries it out, the activity is business because the legal conditions under which it operates are exactly the same as those that apply to a private trader.

On the other hand, when a local authority charges to verify such instruments, it does so in its capacity as a public authority, using legal powers that no private contractor is entitled to exercise. So verification is a non-business activity.

### **5.8.3 Issuing statutory licences, etc**

Public authorities charge for various forms of licensing and approval in a broad range of public activities taking place in their area - for example, approving premises for civil marriages, registering childminders, issuing fire certificates, and licensing and registering firearms. In doing so, the authorities are empowered to act under special legal provisions that private traders cannot call upon. This is a non-business activity.

### **5.8.4 Letting facilities for sport or physical recreation**

If a public authority charges members of the public for sporting or recreational facilities, it is not acting in its capacity as a public authority. It is not acting under a special legal regime applicable to it but rather under the same legal provisions as those that apply to private traders. The activity is business.

### **5.8.5 Care and welfare**

Some local authorities are required through their Social Services Committee to provide a wide range of services to people of all ages, ranging from children and young persons to the provision of accommodation and domiciliary care for elderly persons. They may be entitled to make a charge to recover all or part of the costs they incur in providing these services. Where an authority is acting under a special legal regime applicable to it and not under the same legal conditions as those that apply to private traders, these activities are non-business.

At other times the authority may merely provide residential accommodation - for example, because someone has chosen it in preference to similar facilities available from a charity or commercial provider. Where such accommodation is not provided under a statutory function the supply of accommodation by the authority is a business activity.

The supply of services, such as crèches and playgroups, and recreational holidays for elderly people not in statutory care, is a business activity.

### **5.8.6 Repair works in default**

A local authority has statutory powers to issue a default notice requiring a householder to carry out repair work to his or her property. If the recipient of the notice refuses to comply, the authority may exercise those powers to have the work done and recover the cost from the householder. Only a local authority, acting as a public authority, can issue the default notice and exercise these statutory powers. This is a non-business activity.

### **5.8.7 Car parking charges**

Where a public authority imposes charges for parking at meter bays on the public highway, including excess parking charges, it does so under statutory powers that nobody other than a public authority can exercise. This activity is non-business.

On the other hand, in providing off-street parking in garages, buildings and open spaces, the authority is not acting under any special legal provisions that give it powers beyond those available to the commercial organisations with which it is in direct competition. So the activity is business.

### **5.8.8 Seconding police officers**

A police authority can second police officers to exercise their function as officers in connection with normal policing, using the legal powers which they embody in that capacity - for example, to attend at an incident. Only police authorities can supply officers in this way, and the activity is non-business.

On the other hand, a police authority can also second police officers to outside organisations to advise, for example, about security matters and in potential competition with companies in the private sector that offer a similar service. This is a business activity.

### **5.8.9 Housing**

Shared ownership arrangements usually involve the sharing of equity in a dwelling between an occupier and a housing association. The occupier will purchase a dwelling at a proportion of its value and then pay rent to cover the share in the equity retained by the housing association.

Under these circumstances, the rent paid by the occupier is consideration for a supply in the course of business by the housing association. Where local authorities enter into similar shared ownership schemes and receive payment of rents, the activity is also business.

When a public authority sells and lets land and property, it is in direct competition with the private sector. These are normally business transactions.

However, under a current concession, when local authorities provide domestic accommodation to people seeking housing (normally on a list maintained by the authority) or dispose of properties under the 'right to buy' legislation, it is non-business. This is regardless of circumstances and whether they are acting under any special legal regime applicable to them.

### **5.8.10 Cemeteries**

The provision and maintenance of cemeteries by a local authority is a non-business activity for VAT purposes. This is because of the detailed legal provisions with which they must comply but which do not apply to other providers of such facilities. It also takes into account the fact that there are few privately owned cemeteries, and hence distortion of competition is not a factor.

## **6. Recovering VAT on taxable business activities**

### **6.1 Can public bodies recover VAT on costs related to taxable business activities?**

Yes, but you must be registered for VAT (see section 3) and follow the normal rules for input tax deduction-you can find full details in Notice 700 (<https://www.gov.uk/government/collections/vat-notice-numerical-order>) The VAT Guide. Remember that some costs such as business entertainment and cars (other than those purchased entirely for business use) cannot be recovered.

## 6.2 Will I be charged VAT on goods I have imported or acquired from overseas and can I recover it?

In brief,

If you...	then you...	but...
import goods from a country outside the European Community	will have to pay VAT on the importation of those goods	if the goods are for your business purposes (see paragraph 5.1), you can reclaim the VAT as input tax under the normal rules.
acquire goods from another member State of the European Community	will not normally have to pay VAT to the supplier if you provide him with your VAT registration	you must account for VAT in the UK on the acquisition of those goods on the VAT return for the period in which the tax point occurs and you can treat this tax as input tax on the same return.

For further information about goods you import from outside the European Community read Notice 702 VAT: (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) Imports and Notice 702/9 VAT: (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) Warehouses and free zones.

For further information about goods you acquire from another member State and advice about Single Market requirements generally read Notice 725 VAT: (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) The Single Market.

## 6.3 I have received services from overseas but I have not been charged VAT on them. What should I do?

First read Notice 741 VAT: (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) Place of supply of services.

If...	then...
the services have already been taxed in the country where the supplier belongs	you do not have to account for VAT on them.
the services are ones to which the 'reverse charge' procedure applies	you must account for VAT as output tax and recover the input tax to which you are entitled.

## 6.4 Can I recover VAT incurred in another member State of the European Community?

You cannot recover it as input tax on your VAT return, but you can sometimes reclaim it direct from the authorities in the member State where you paid it.

Notice 723A VAT: (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) Refunds of VAT in the European Community for EC and non-EC traders tells you how to make claims.

## 7. Recovering VAT on costs related to non-business activities

### 7.1 When can I use the special refund provisions mentioned in paragraph 4.2 to recover VAT on costs related to non-business activities?

If you are a public body, you can recover the VAT you have incurred on your non-business activities only if you:

Condition	Action
1	Place the order.
2	Receive the supply.
3	Receive a tax invoice addressed to you.
4	Pay from your own funds (including funds awarded to you - for example, lottery funds).

These conditions apply whether you have incurred the VAT on:

- supplies you have received from VAT- registered traders in the UK
- goods you have acquired from another member State of the EC, or imported from outside the EC

You cannot, however, recover VAT that would normally be irrecoverable in any circumstances-see Notice 700 (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) The VAT Guide.

## 7.2 Do I have to be registered for VAT in order to claim refunds?

No-see section 12 of this notice.

## 7.3 Can I recover VAT under section 33 when I buy goods and services using money given to me for a specific purpose?

Yes, provided you:

Step	Action
1	Buy the goods or services yourself-that is: Place the order, Receive the supply, Receive a VAT invoice addressed to you and Pay
2	Remain owner of the goods or services
3	Use them, or make them available, for your own non-business purposes - see section 5
4	Keep sufficient records for us to easily identify the goods and services you have bought and your reasons for buying them

## 7.4 Examples of when VAT can and cannot be recovered

You will not be able to meet the requirements in paragraph 7.3 if the person giving you the money does so only on condition that:

- you give them something or do something for them in return, or
- another person benefits as a direct result of the payment

The following table will help you to decide whether you can recover the VAT paid on goods and services.

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<b>You can probably recover the VAT</b>	<b>You cannot recover the VAT</b>		
Use	Source of funds	Use	Source of funds
community and foundation schools	Parent Teacher Association and school funds	exterior maintenance and repair at a voluntary aided school	the governors
welfare services	amenity funds	sports equipment at a youth centre you run	an independent youth club-but only on condition that you give them exclusive use of the equipment
homes and schools for the handicapped	voluntary bodies	repairs to a building	the owners of the building

However,

<b>If you ...</b>	<b>then</b>
instigate and carry out a project or pay for goods and meet the cost entirely from your own resources and give the goods or services away free to another body.	your activity is non-business and you can reclaim the VAT you have incurred on the goods and services you have given away.

## **7.5 Can I claim VAT refunds on goods and services I buy using money from trust funds?**

Yes, but only when you act as sole trustee of a trust-for example, a village hall. For your claim to be valid:

- you must be acting as sole managing trustee without payment
- the activities of the trust must be so closely related to your own functions as an authority that you cannot easily distinguish between them, and
- the claim must relate to the non-business activities of the trust

However:

<b>if ...</b>	<b>then ...</b>
we are satisfied that recovery of VAT will create anomalies	we may restrict it.
you are a custodian trustee whose role is simply to hold the property of the trust	you cannot recover the VAT you have incurred unless you are also sole managing trustee.

## **8. Recovering VAT on exempt business activities**

### **8.1 Can I recover the VAT I have incurred on costs related to exempt business activities?**

Yes, but only where we consider this VAT (input tax attributable to exempt activities) to be an insignificant proportion of the total VAT you have incurred.

## 8.2 What do you mean by 'insignificant proportion'?

If you use the model special method for section 33 VAT recovery set out in section 9 of this notice (or any other any other agreed special section 33 method), your input tax attributable to exempt activities is insignificant only if it amounts to:

- not more than £625 per month on average - that is, not more than £7500 per annum
- less than 5% of the total VAT you have incurred on all the goods and services you have purchased in a financial year. This total includes goods and services for your non-business activities but excludes goods and services listed in Notice 700 (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) The VAT Guide, on which you cannot reclaim VAT

If your input tax attributable to exempt supplies exceeds both these figures, you cannot recover any of it.

## 8.3 May I opt to use a special section 33 VAT refund method even though all my business activities are exempt?

Yes, you may use either the model method set out in section 9 of this notice, or any other agreed method. Any method must be 'fair and equitable' and take into account the implications of conditions relating to the Capital Goods Scheme as detailed in section 10 of this notice.

## 8.4 What if I choose not to adopt a special section 33 recovery method?

If you are registered for VAT, you may use any alternative method of partial exemption calculation as detailed in Notice 706 VAT: (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) Partial exemption. Normal limits for recovering exempt input tax will then apply.

## 8.5 I want to opt for a special section 33 VAT recovery method to recover the VAT I have incurred. What do I need to do?

Step	Action
1	Before the start of the financial year call us in order to obtain advice on using a special section 33 recovery method
2	By the start of the financial year, in line with their advice, agree with us the broad principles of the method you intend using
3	By three months before the end of the financial year complete your discussions and have the final method agreed in writing
4	By 31 October following the end of the financial year include all annual calculations on a return and submit it

## 8.6 What if I opt to use a special section 33 VAT recovery method but I have not agreed it before the end of the tax year?

If you do not agree a method before the end of the tax year, you cannot apply it to that year. Under these circumstances:

- you can only begin using it from the start of the next tax year, and
- in the meantime you should use the model special method detailed in section 9 of this notice

## 8.7 Must I include capital projects in my section 33 recovery calculations?

In general, you must include them. However:

if...	then...
you have capital projects that you are going to use for making mixed supplies and	
the cost of the project exceeds £1 million, and it was included in the capital programme or otherwise approved before 1 September 1995 or the cost of the project does not exceed £1 million, and it was included in the capital programme or otherwise approved before 1 April 1997.	you can leave them out of your calculations

## 8.8 How can I claim the VAT refunds I am entitled to?

Step	Action
1	Include the amount of VAT in the 'VAT deductible' side of your VAT account and in boxes 4 and 5 of the VAT return.
2	In box 4 show: the value of the input tax you have incurred on your business supplies and the amount of VAT you are reclaiming under section 33 on goods and services you have brought in for your non-business purposes.
3	Include the net value of your claim in box 7.
4	make your claim within 3 years of the due date of your return for the prescribed accounting period in which the VAT became chargeable, For example, if you should have claimed the refund on your July 1999 return, you must submit your claim by 31 August 2002 at the latest.

## 8.9 How do I go about making a late claim?

Providing you have met the 3 year deadline:

Step	Action
1	Call us.
2	In line with our advice, make your claim in writing.
3	State the amount you are claiming.
4	State the periods covered.
5	Explain the basis of your calculation.
6	Make sure you hold evidence to support your claim.

## 9. Model special section 33 recovery method and partial exemption

### 9.1 What is the model special method for section 33 bodies?

This method, which is based on the budget structure, takes a worst-case scenario. It assumes that, where a budget heading contains any exempt activity, then all the taxable expenditure within that heading is attributable to that exempt activity. If this broadbrush approach shows that your input tax attributable to exempt activities is insignificant, you are not required to refine your calculations.

### 9.2 How do I use the model special method?

You should first work through steps 1 to 4, and then proceed with a more detailed examination if necessary.

Step	Action
1	List, within committee, all budget headings or cost centres that contain any element of exempt activity.
2	Within each of the budget headings or cost centres identified above, record all expenditure (net of VAT) for both capital and revenue that would normally carry VAT.
3	For recharges to budget headings or cost centres that contain any element of exempt activity, record all expenditure that would normally carry VAT.
4	Add up the standard-rated expenditure identified in steps 2 and 3 and calculate the VAT on it - that is multiply by 17.5%. If it is insignificant (less than 5% of total VAT recovered during the year) then no further calculations are required.

Note. The total VAT recovered should take account of any error correction or changes to estimation of input tax.

### 9.3 What do I do if the VAT I have identified at step 4 is not insignificant?

You should now make a progressively detailed analysis of the amount of expenditure that you put to exempt use. If, at any stage, you achieve a result showing that the VAT is insignificant, then you need take no further action.

If the final result shows that the VAT is significant (more than 5% of the total VAT recoverable during the year), a method of allocation or apportionment should be agreed.

### 9.4 Is there any set method of allocation or apportionment?

No. You may adopt a different method for each particular area or activity based on the information available, such as number of staff, amount of income, floor area used, number of sessions, or time. However you must be able to demonstrate that any method you use is fair and equitable.

### 9.5 What if the VAT I have identified still exceeds the 'insignificant' limit (less than 5% of the total VAT recoverable during the financial year)?

If, despite detailed analysis of the amount of expenditure that you put to exempt use, the VAT you have identified still exceeds the 'insignificant' limit, then you may not recover any of the VAT that relates to your exempt supplies.

# 10. Amendments to section 33 recovery methods to include additional conditions relating to the capital goods scheme and change of intention

## 10.1 What is this section about?

This section explains the requirement for section 33 refund methods to include conditions relating to the Capital Goods Scheme and change of intention in the use of purchases. It supplements the guidance available in section 9 of this notice.

## 10.2 What if I have incurred VAT that I have attributed to an intended activity under the Capital Goods Scheme but I change my intention before undertaking the activity?

You must review your original attribution and possibly make an appropriate adjustment. First identify the VAT attributable to the activity for which there has been a change of intention.

If...	then...
the change of intention is from a taxable or non-business activity to an exempt activity - you cannot treat the new total as insignificant (see paragraph 8.2)	you should add the VAT you have identified to the exempt input tax that you have already identified for the year in which you originally incurred the VAT - you must repay the VAT you have identified to us.
the change of intention is from an exempt activity to a taxable or non-business activity - you can treat the new total as insignificant	you should deduct the VAT you have identified from the exempt input tax that you have already identified for the year in which you originally incurred the VAT - you can reclaim the VAT you have identified from us if you have not already done so.

Note: You do not need to rework the calculation itself in full providing you do enough to quantify the new amount of exempt input tax.

## 10.3 What if I have made an error in attribution?

If you have made an error in attribution, you must rework the entire calculation for the relevant years.

## 10.4 What are capital goods items adjustments?

If you have a capital item as defined in Regulation 113 of the VAT Regulations 1995 and the extent to which you use that item in making exempt supplies changes, you must carry out an appropriate adjustment to the amount of VAT that you reclaimed on the initial acquisition.

## 10.5 How do I make these adjustments?

You must carry out accounting adjustments in accordance with the guidance in Notice 706/2 VAT: (<https://www.gov.uk/government/collections/vat-notice-numerical-order>) Capital goods scheme - input tax on computers, land and buildings acquired for use in your business. However, the following slight variations to this guidance are necessary to accommodate section 33 bodies:

- (a) you should treat non-business use as if it were taxable use and
- (b) if your exempt input tax is insignificant, you do not need to make any adjustments.

It follows that you must keep sufficiently detailed records of your capital items to enable you to carry out the necessary calculations.

## 10.6 Is there anything else I need to know about special section 33 refund methods and the Capital Goods Scheme?

If you:

- use the section 33 refund method described in section 9, you must apply the conditions described here for the Capital Goods Scheme with effect from 1 April 1998
- wish to use any alternative method for section 33 refunds, this must include acceptable provisions for dealing with Capital Goods Scheme adjustments
- prefer to deal with partial exemption following the guidelines set out in Notice 706 VAT: (<https://www.gov.uk/government/collections/vat-notice-numerical-order>) Partial exemption, you will have to separate and identify the tax you have recovered that relates to your non-business transactions

## 11. Local authorities and community projects

This Section applies only to local authorities-see paragraph 2.3.

### 11.1 Can I recover the VAT incurred on community projects, particularly work to village halls?

If you are a local authority, you may:

- agree with a voluntary group to set up a project fund into which any funds raised locally and any grants received by the voluntary group will be paid, and
- use this fund to make the purchase or pay for the work on behalf of the voluntary group

However, these funds do not belong to you and so you cannot recover the VAT incurred.

### 11.2 Can I recover VAT if I pay my own money into the project fund?

Not unless the project fund is part of the local authority. For example, this may be the case where:

- the project fund forms part of your statutory accounts, and
- you retain control over how the money is spent

### 11.3 Can I recover VAT incurred on work done to a village hall that I own?

The following table will help you to decide.

If...	then...	and...
you use your own funds and use of the hall is for your own non-business activities	you are not making a supply for VAT purposes	you can recover the VAT under the special refund rules-see paragraph 7.1.
you use your own funds and use of the hall is for your business activities	you are making a supply for VAT purposes	you can recover the related VAT if your supply is a taxable supply.
you receive funds from another body in return for letting it use	you are making a supply for VAT	you can recover the related VAT

the hall	purposes	if your supply is a taxable supply.
you receive funds from another body in return for letting a third party use the hall	you are making a supply for VAT purposes	you can recover the related VAT if your supply is a taxable supply.
you receive unconditional funding from another body-that is, the funding is freely given and neither the donating body nor a third party benefits	the funding qualifies as a donation	you can recover the VAT provided you satisfy the conditions of paragraph 7.3.

You should note that:

- we treat a hall as being owned by a local authority if it is the sole managing trustee, but not if it is sole custodian trustee only, and
- allowing someone to use the hall in return for non-monetary payment is a business activity

## 11.4 What if I use my funds to finance building works to a hall that I do not own?

The following table will help you decide the correct VAT treatment.

If you ...	then ...
use your own funds to carry out work to the hall and give the work away to the owners of the hall (for example, a voluntary group) and receive nothing in return	you are not making a supply for VAT purposes.
receive anything in return from either: the owners or a third party	what you receive is likely to be consideration for the supply of the work to the owners and the supply will normally be a business supply and you must charge VAT at the appropriate rate.

### 11.4.1 Does the consideration have to be in money?

No-the consideration need not be in money. For example, if you carry out the work only on condition that you can use the hall afterwards, then use of the hall could be consideration from the owners for your supply of the work.

### 11.4.2 What if the consideration is not in money but I am not sure what its value is?

You should call us.

### 11.4.3 What I act as agent of the owners for work to a hall, rather than as the main contractor?

The work is not supplied to you but to the owners and you cannot recover VAT. But if you act as agent in your own name, separate rules apply. You can find out more about this in Notice 700 (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) The VAT Guide. In brief:

If you ...	then ...
can treat yourself	you are liable to account for VAT on the onward supply of the work to the owners, you can recover

as both receiving and supplying the goods or services	as input tax any VAT you are charged on the works, the input tax you claim is normally equal to the output tax you account for on the onward supply and you must not reclaim the input tax before you have accounted for the output tax
charge the owners of the hall for the service of arranging the work	this charge is liable to VAT at the standard rate

### 11.4.4 If I do not own the hall, can I recover the VAT incurred on work done to it?

The following table will help you to decide.

If you ...	then ...	and you ...
carry out the work give it away and receive nothing in return	this is not a business activity	can recover the VAT - see paragraph 7.1.
act as a main contractor	your onward supply to the owners is a business activity	can recover the VAT under the normal rules, if your onward supply is taxable.

## 12. Public bodies not registered for VAT

### 12.1 What is this section about?

If you are a public body in section 33 and you are not registered for VAT, this section will help you make sure your claims for VAT refunds are valid. It also explains how to make them.

### 12.2 I am in section 33 but I am not registered. I am not sure what goods and services I can recover VAT on. How can I find out?

Step 1

Read section 4 of this notice to find out the main principles.

Step 2

Read sections 5 and 7 to see whether you can meet the various requirements set out there.

Step 3

Reclaim the VAT you have incurred only when you can attribute it to:

- your non-business activities and (providing you can meet the conditions of paragraph 8.1)
- your exempt business activities.

Step 4

Remember that, because you are not registered, you may neither:

- charge VAT on your taxable business activities nor
- recover the VAT relating to them

## 12.3 How can I claim VAT refunds I am entitled to?

### Step 1

Apply in writing.

### Step 2

Make sure that your claim relates to a period of at least one calendar month-or at least 12 months if it is for less than £100.

### Step 3

Make sure the period you choose ends on the last day of a calendar month.

### Step 4

Make sure you make your claim within 3 years after the end of the month in which you received the supply, acquisition or importation. For example:

- you receive goods in July 2001, so
- you must submit your claim by 31 July 2004

### Step 5

Keep invoices and other records to support your claims for 6 years, unless your local VAT Business Advice Centre agrees in writing to a shorter period.

### Step 6

If you obtain refunds by Bankers' Automated Clearing Service (BACS), inform us of any changes to the details of your bank account.

## 12.4 Do I need a special form to apply for my refund?

No. You need simply make a declaration along the following lines:

I am claiming a refund of £X for the period..... to..... to cover VAT charged on goods and services bought for (name of body) non-business activities.

- The tax claimed includes VAT incurred for exempt business activities that can be reclaimed under Notice 749 (<https://www.gov.uk/government/collections/vat-notices-numerical-order>) Local authorities and similar bodies.

Signed

For (name of body)

Address

Contact name:

Contact telephone number

- Delete as appropriate

## 12.5 Where should I send my claim?

Send your claim to:

HM Revenue and Customs  
Miscellaneous Charges Unit  
DMB 601  
West Yorkshire  
BX5 5AB

## **12.6 What will Customs do once they receive my claim?**

Once we receive your claim we will:

- 1) make your refund by BACS or payable order
- 2) send you a Form VAT 126 (<https://www.gov.uk/government/publications/vat-claim-for-refund-by-local-authorities-and-similar-bodies-vat126>)
- 3) give you a unique number to quote on all claims-but this does not mean that we have registered you for VAT.

## **Do you have any comments?**

We would be pleased to receive any comments or suggestions you may have about this notice. Please write to:

HM Customs and Excise  
Policy Group Social  
Government and Education Team  
4th Floor East  
New Kings Beam House  
22 Upper Ground  
London  
SE1 9PJ

## **If you have a complaint or suggestion**

If you have a complaint about the service you've received please see guidance under Complain to HM Revenue and Customs (<https://www.gov.uk/guidance/complain-to-hm-revenue-and-customs>). If we are unable to resolve your complaint to your satisfaction you can ask the Adjudicator to look into it. The Adjudicator, whose services are free, is a fair and unbiased referee whose recommendations are independent of Customs and Excise.

You can contact the Adjudicator at:

The Adjudicator's Office  
Haymarket House  
28 Haymarket  
London  
SW1Y 4SP

Telephone: 0207 930 2292

Fax: 0207 930 2298

E-mail: [adjudicators@gtnet.gov.uk](mailto:adjudicators@gtnet.gov.uk)