

**CIPFA VAT Committee
Notification of Technical Query to HMRC**

Subject	Section 33 exemption
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Type of authority affected
Community Council/ Community Groups and Scottish Local Authorities
<p>Description of the issue</p> <p>The Community Empowerment Act (Scotland) 2015 enables communities to request to participate in decisions and processes which are aimed at improving outcomes. The Act aims to empower communities by strengthening their voices in decisions about public services and making it easier for them to own and manage land and buildings.</p> <p>As part of this process Local Authorities intend to allocate an annual amount / budget to Community Councils /Community Groups for them to purchase the most appropriate goods/ services for their community. Previously the Council would have undertaken these activities and would have procured goods and services for localities, but in applying this act, local communities are empowered to improve local outcomes.</p> <p>As these community groups do not have Section 33 status, it means that the local communities will not be able to reclaim the VAT, and community groups will not be able to maximise their budget in the same way the local authority can. Thus localities will lose out, and public funds will not benefit communities to the same extent.</p>
Impact and extent of the issue
All Scottish Local Authorities have Community Councils/ Community Groups within their boundaries, and this would affect the public in these communities.
Government department sponsoring the initiative, if any
<p>Funding</p> <p>The Local Authority is either making a payment to or setting aside a budget to be called upon for each Community Council / Community Group. The Act aims to empower communities with funds being used to provide local outcomes for public services. These Community Councils/ Community Groups will purchase land, equipment, and services beneficial to their communities. The funds provided by the Local Authority to the Community Groups are viewed as an allocation of funds.</p>
Legal powers used or relied upon
Current VAT treatment

If the Council allocates an annual amount to a Community Council which is then used to buy goods from the Council then it will be deemed that a taxable supply has been made to them. Community Councils / Community Groups also purchase goods direct from suppliers and pay VAT on goods which is not recoverable.

References in HMRC publications, including websites if any

Section 96(4) which defines 'local authority' as in turn referred to under Section 33

[VAT Government and Public Bodies Manual page 4120](#) and those admitted by [Treasury Order on page 4300](#).

Tax analysis

Include reason for change and alternative liability proposed

To enable compliance with the Community Empowerment Act (Scotland) 2015, without imposing additional tax burdens on local communities to the current tax arrangements. We would propose that the Order under Section 33(3)(k) was amended to include Scottish Community Councils / Community Groups within Section 33.

References in tax legislation supporting change

Other supporting evidence

Community Empowerment Act (Scotland) 2015

Date