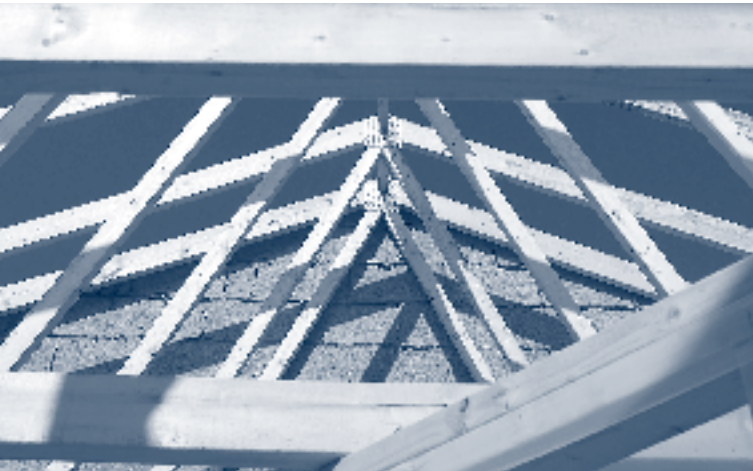


VAT – Reducing the cost to Registered Social Landlords (RSLs)



VAT is a significant cost for RSLs. Much of the VAT incurred on purchases is irrecoverable as it relates to key, VAT-exempt, activities of renting affordable homes and in some cases providing care and welfare services.

In our experience the vast majority of RSLs can improve recovery, or reduce the VAT incurred with professional assistance. HM Customs & Excise (“Customs”) will not help you to do this! We set out below a number of system based and innovative solutions that you should consider to mitigate your VAT cost.

VAT Services

■ Property development and refurbishment

“Mixed” development schemes – are increasingly diverse in order to meet community needs and to achieve the necessary funding for the affordable areas of the scheme. Mixed developments could include a combination of affordable rent, shared ownership, live/work, outright sales, commercial and community facilities. The VAT issues are complex and the potential VAT cost significant. VAT will be incurred, perhaps on the land acquisition, architect and other professional fees, or in respect of commercial and community areas. We find that clients often incur far more irrecoverable VAT than is necessary.

To minimise the VAT charged and improve the recovery of VAT incurred, we could assist by reviewing the VAT treatment of intended supplies to and by the RSL, consider reliefs available such as on RSL land purchases, and implement a revised (perhaps scheme specific) partial exemption method. Use of the standard, income-based method, will invariably be inadequate. Our experience includes, on a number of occasions, saving RSLs considerable amounts of VAT in respect of mixed developments.

For example, one of our clients was developing a number of mixed schemes, achieving a minimal recovery percentage under the existing income-based partial exemption method. We devised a sectorised method allowing each development scheme its own treatment in order to achieve the most favourable recovery rate. The method resulted in an increase of, on average 50% of the residual VAT for the schemes.

Affordable rent (and other wholly exempt) developments – often appear straightforward as VAT should not be charged by a contractor building new houses. But VAT will be incurred by an RSL if it engages architects and other advisers.

We can advise on arrangements to mitigate the VAT, for example, design and build or management contract structures.

We implemented a design and build subsidiary company structure for a client building a care home, which was reviewed by Customs. The structure has saved a considerable amount of VAT on professional fees that would ordinarily have been restricted from recovery by the client.

Conversions and refurbishments – offer an opportunity for an RSL to reduce the VAT cost to 5% on all or some of the work, or even to mitigate the VAT entirely.

We can review projects, even up to three years old, advise on the maximum extent of relief and negotiate with Customs and suppliers as appropriate.

For example, one of our current clients undertook a major project to improve a large block of flats. The contractor charged VAT at 17.5% on the basis that the work was of refurbishing a domestic property. We gained Customs’ agreement that the work was of converting a block of dwellings into a relevant residential institution as the works had improved the support facilities available to residents. The VAT refunded by the contractor amounted to over £200,000.

Large Scale Voluntary Transfers (LSVTs) – inevitably mean that significant sums of VAT will be incurred in refurbishing housing stock post transfer. Customs have accepted a structure that mitigates this VAT cost.

We can advise you on the “VAT Shelter” arrangement and assist with implementation.

■ Managing VAT to minimise costs

Health checks – can be used for peace of mind, to confirm whether an RSL is complying with Customs’ requirements, and they can also identify opportunities to save VAT.

We undertake health checks for our clients on a periodic basis and in our experience inevitably identify issues and opportunities.

For example a recent health check identified the need to revise a partial exemption method to recover a fair and reasonable proportion of development and head office overhead costs.

Decisions by Customs & Excise – can materially affect an RSL's ability to recover VAT, or may leave it with a retrospective cost. Decisions are often incorrect as demonstrated by the number of Tribunal and other court cases heard.

We offer a free initial review of your assessments and other decisions and can challenge those decisions on your behalf. We have successfully challenged Customs on a number of occasions, and have experience of preparing tribunal appeals and documents as necessary.

For example, we assisted a client in successfully appealing to a Tribunal that its supplies of hostel accommodation for homeless people were taxable, which mitigated a considerable retrospective assessment and secured the continued benefit of VAT recovery on refurbishment and overhead costs. We also recently assisted another client in a similar appeal which was successful prior to proceeding to Tribunal.

The partial exemption method – you are using may not be achieving the most beneficial recovery percentage, especially with regard to developments as mentioned above.

Methods should, in our experience, be reviewed when the business circumstances change, or at least every three years. We can negotiate "special" partial exemption methods to improve recovery, based on for example, floor space, development units, staff time or purchases etc. Indeed in many cases it may be appropriate to consider and negotiate a sectorised method, each time a new development commences. We have in the past agreed the use of special methods retrospectively, providing significant VAT savings.

Reliefs from VAT – may be available in addition to the development reliefs mentioned above. If an RSL is a charity, it can benefit from VAT reliefs for tenants with disabilities, advertising etc.

We can review your costs and development programmes to ensure you are maximising the reliefs.

For example we recently advised a client on a significant planned refurbishment/conversion project. VAT at 17.5% was forecast. We advised on the 5% and zero-rated reliefs available, which would potentially mitigate the VAT by in excess of £1million.

RSL Groups – may have intra-group VAT costs, for example management charges and supplies of staff.

We can review the group structure and intra-group charges and advise on solutions to mitigate these costs, such as whether the entities should VAT-group.

Local authority contracts – for example Supporting People contracts may be treated as exempt from VAT, where it is possible

that they are taxable supplies. Treating these contracts as taxable would be beneficial to an RSL as this would ordinarily improve overhead VAT recovery.

We can review the contracts, advise on the treatment and if appropriate negotiate with Customs & Excise.

For example, we gained Customs' agreement for a client that certain Supporting People contracts were taxable, increasing the partial exemption method recovery percentage and thereon the amount of overhead VAT recovered.

The accounting system – may not be recording VAT appropriately.

We can review the system and advise you on how to maximise your wholly and partly recoverable VAT.

Retrospective claims – can be made to Customs & Excise for VAT not previously recovered up to three years earlier and possibly six in certain circumstances.

We can negotiate a claim with Customs & Excise including for example, agreeing a method of sampling invoices where costs have previously been recorded as gross on the accounting system.

■ Training staff

Bespoke training courses – are one of the best ways in identifying issues and especially opportunities.

We develop and deliver courses that are tailored to meet your training needs, whether for accounting staff, development staff, or senior staff needing to appreciate issues such as dealing with VAT officers appropriately. Our courses are interactive and, so we understand from attendees at a recent course, "surprisingly interesting and informative".

VAT manuals and income/expenditure reference matrices – available on the market are often imprecise for your organisation to give you certainty of the treatment of your activities. Unless you can correctly identify the treatment of, for example the difference between outside the scope, exempt and zero-rated income, it will not be possible to recover VAT accurately.

We can write a manual for staff based on your specific activities to enable them to identify the VAT treatment, or suggest they seek further assistance in complex situations. We can also prepare a tabular reference matrix for staff confirming the VAT treatment of all income streams.

■ Contacts

You can contact **Socrates Socratous** on 0870 770 3370, or email us at soc@socvat.com

Solutions On Call