

EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (REFUND OF TAX TO THE CHARTER TRUSTEES FOR BOURNEMOUTH AND THE CHARTER TRUSTEES FOR POOLE) ORDER 2020

2020 No. 1113

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument specifies the Charter Trustees for Bournemouth, and the Charter Trustees for Poole, for the purposes of section 33 of the Value Added Tax Act 1994 (“section 33”). The effect of this instrument is that these two bodies will be entitled to claim a refund of Value Added Tax (VAT) charged on goods and services when purchased for their statutory non-business activities.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The extent of this instrument is the United Kingdom.
4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 This instrument is made under sub-section (3)(k) of section 33.
6.2 Section 33 provides that certain bodies, mainly local authorities, can claim refunds of the VAT that they are charged when they purchase goods or services in pursuance of their non-business activity. In the absence of section 33, this VAT would not be recoverable as local government bodies do not usually make business supplies. Section 33(3)(k) enables the Treasury to make an order specifying additional bodies to which section 33 is to apply.

7. Policy background

What is being done and why?

- 7.1 Input VAT is recoverable on the purchase of goods and services made to support taxable business activities. Ordinarily, public bodies are not able to recover VAT paid on the purchase of goods and services made to support their statutory duties because these are not business activities.
- 7.2 However, certain bodies, mainly local authorities, can claim refunds of VAT under a special scheme provided for in section 33. This scheme ensures that irrecoverable VAT does not become a cost that has to be met from local taxation.
- 7.3 To qualify for VAT refunds, a body must be defined in section 33(3) or separately specified in a Treasury Order. Local authorities are defined in section 33(3) as mainly county, parish, borough and unitary councils. Charter Trustees are not defined in the VAT Act and must therefore be specifically named in an order, under section 33(3)(k), to be included in the refund scheme.
- 7.4 As part of local government reorganisation, the Secretary of State for Housing, Communities and Local Government is empowered to create Charter Trustees to maintain the historic rights and traditions of a particular area when the city, town, or borough council that was previously responsible is abolished, and there is no other suitable local body, like a parish council, for the rights to revert to. These powers were exercised by the Secretary of State to create the Charter Trustees for Bournemouth and the Charter Trustees for Poole, with effect from 1 April 2019.
- 7.5 Prior to 2007, Charter Trustees were specified in a Treasury Order when established under the Local Government Act 1972. In 2009, five further Charter Trustees were specified as bodies eligible to claim refunds of VAT incurred on purchases to be used for their non-business purposes. The Treasury is now using its powers under section 33(3)(k) to specify the Charter Trustees for Bournemouth and the Charter Trustees for Poole for these purposes. This will provide these authorities with parity of treatment with local authorities and previously specified Charter Trustees.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 This instrument does not consolidate any other legislation.

10. Consultation outcome

- 10.1 A draft of the order was published for comment on 30 June 2020. The consultation period ran for 4 weeks. No comments were received.

11. Guidance

- 11.1 Existing guidance <https://www.gov.uk/hmrc-internal-manuals/vat-government-and-public-bodies/vatgpb4300> is being updated to name the two bodies. No further guidance is required at this stage.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 For reasons of consistency, the VAT issues relating to the public sector are dealt with by a dedicated unit within HM Revenue and Customs. Normal audit activity will encompass the change. Additionally, the measure will be kept under review through communication with affected taxpayer groups.
- 14.2 A statutory review clause is not required as this order does not make regulatory provision in relation to a qualifying activity, as defined in section 29 of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 David Smith at HM Revenue and Customs Telephone: 03000 593922 or email: David.smith7@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Eileen Patching, Deputy Director for Indirect Tax Policy, at HM Revenue and Customs, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.