

**EXPLANATORY MEMORANDUM TO**  
**THE VALUE ADDED TAX (REFUND OF TAX) ORDER 2023**  
**2023 No. 19**

**1. Introduction**

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

**2. Purpose of the instrument**

- 2.1 This instrument specifies the Mid Wales Corporate Joint Committee, the North Wales Corporate Joint Committee, the South East Wales Corporate Joint Committee and the South West Wales Corporate Joint Committee, for the purposes of section 33 of the Value Added Tax Act 1994 (“section 33”). The effect of this instrument is that these four bodies will be entitled to claim a refund of value added tax (“VAT”) charged on goods and services when purchased for their non-business activities.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Select Committee on Statutory Instruments*

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) 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 government bodies, can claim refunds of the VAT that they are charged on supplies of goods and services they receive or goods they import in pursuance of their non-business activity. In the absence of section 33, this VAT would not usually be recoverable because it is not attributable to supplies made in the course of business. 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 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 the refund 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 under section 33, a body must be listed in section 33(3) or separately specified in a Treasury order. Local authorities are defined in section 96(4) of the Value Added Tax Act 1994 as mainly county, district, parish, borough and unitary councils. Corporate Joint Committees are not listed and must therefore be specifically named in an order under section 33(3)(k) to be included in the refund scheme.
- 7.4 The Welsh Ministers are empowered to create Corporate Joint Committees to provide a consistent mechanism for local government in Wales, to undertake strategic planning, collaboration, and delivery at a scale where it makes sense to do so. Corporate Joint Committees help to align the key strategic decisions which underpin the sustainable development and transformation of the Welsh regions as a whole
- 7.5 The four Corporate Joint Committees were established from 1 April 2021 by Regulations made under the Local Government and Elections (Wales) Act 2021. These bodies meet the criteria for consideration by the Treasury for admittance to the section 33 refund scheme. The Treasury is now using its powers under section 33(3)(k) to specify the Mid Wales Corporate Joint Committee, the North Wales Corporate Joint Committee, the South East Wales Corporate Joint Committee and the South West Wales Corporate Joint Committee for these purposes. This will provide these authorities with parity of treatment with other local government bodies.
- 7.6 These authorities do not have any unique identifying numbers that may be included in the instrument.

## **8. European Union Withdrawal and Future Relationship**

- 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 23 November 2022. The consultation ran for 4 weeks. No responses to the consultation 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 four 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 His Majesty's 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 included as this Order does not make regulatory provision in relation to a qualifying activity, as defined in sections 29 and 32 of the Small Business, Enterprise and Employment Act 2015.

## **15. Contact**

- 15.1 David Smith at His Majesty's 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 His Majesty's Revenue and Customs, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Victoria Atkins MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.