



MANSFIELD DISTRICT COUNCIL
FAO: MR BILLINGTON
FINANCE DEPARTMENT CIVIC CENTRE
CHESTERFIELD ROAD
SOUTH MANSFIELD
NOTTS
NG19 7BH

WMBC
HM Revenue and Customs
BX9 1LH

Phone 03000569596

Email mohammad.hussain@
hmrc.gsi.gov.uk

Web www.gov.uk

Date 30 January 2019
Case Ref CFS-1643443 & 118 1055 04

Dear Mr Billington

I write subsequent to the receipt of your request for clarification on the proposed crematorium capital works Mansfield and District council Joint Committee further to your e-mail dated 17th January 2019

Crematorium Services

The provision of crematoria by a local authority is primarily a business activity. This is because local authorities act under the same legal regime as private crematoria operators; namely LA Cemeteries Order 1977. Further details can be found under [VATGPB8645](#)

Local Authority crematoria services are a mix of exempt (under Schedule 9 VATA 1994 group 8: cremation fees and rights over land), standard rate and non-business supplies. (The list below is purely for illustrative purposes and not a conclusive list)

Services directly linked to the crematorium	VAT treatment
Cremation fees	Exempt
Scattering of ashes	Exempt
Cremation certificates signed by a doctor	Non-business
Free Cremations carried out under Public Health Acts	Non-business
Car parking - charged	Standard Rated
Car Parking - Free	Non-business
Mercury Abatement	Exempt
Gardens of remembrance (free use)	Non-business

Further detail within VATGPB8645 provides details for services also linked to the commemoration of the dead all of which must be taken into consideration whilst accounting for income but crucially identifying if there are any partial exemption restrictions as a result.

Any costs incurred relating to exempt activities should be included in the section 33 method and partial exemption calculations. A basis of apportionment should be therefore used as described in [VAT Notice 749](#) section 8.

VAT recovery

As I understand from the provided induction handbook, the joint committee has up to date followed VAT accounting and recovery of input tax by way of partnership structure as described under “Lead body partnership” under VATGPB6200

The lead body in this respect has been and is currently Mansfield District Council (MDC) with both the other parties involved namely Ashfield DC (VRN:118 1685 68) and Newark and Sherwood DC (VRN:118 1156 95) with both being VAT registered and also being Section 33 bodies. Crucially, this means that where applicable all three members are able to recover non-business expenditure under Section 33(1) VATA 1994 and business expenditure under section 26 VATA 1994 subject to the partial exemption restriction afforded to Local Authorities.

I understand that MDC is now correctly concerned that the expenditure and accounting for VAT as the lead body within the partnership of the joint committee will result in the breach of its test of insignificance for partial exemption.

The proposed alternative in which the structure is that of a “Management board or committee” further to VATPB6200 is one that is applicable and perhaps should have been adopted from the onset as I am unable to identify from the induction handbook that a legal entity has ever been formed under principles of the lead body partnership.

Giving consideration that all 3 members have been VAT registered as well as being section 33 bodies and further to reading the induction handbook; I am satisfied that the Joint Committee would satisfy conditions of an arm’s length body.

I do not therefore view this to have had any impact on the eligibility and accounting of VAT on the basis of the information reviewed and will not require a retrospective review.

The proposed method of split of income and expenditure between the partners in accordance with the current split between the partners at 48.5% for Mansfield DC; 44.7% for Ashfield DC and 6.8% for Newark and Sherwood DC, is acceptable as it is in accordance with VATGPB6200 “Management board or committee” structure.

I hope that this clarifies the matter however should you feel that I have misunderstood or overlooked any particular issue then please contact me at the address provided above or alternatively if you wish then via e-mail. In addition if you feel that there is some additional supporting information which will aid me in making an accurate decision based on the facts then please forward this to me urgently.

Whichever method you choose to contact us about this check, you need to quote the case reference CFS-1643443 and any other references shown above. If you write you need to use the address shown above. If you send documents you must tell us if you want them returned as we may securely destroy them after 50 days.

Yours sincerely

Mohammad E Hussain
VAT Tax Specialist

To find out what you can expect from us and what we expect from you go to www.gov.uk/hmrc/your-charter and have a look at ‘Your Charter’.