

**Football And Community Facility - Opt To Tax
Council 5 January 2015**

RECOMMENDED

- (i) that the Council opts to tax the site of the proposed Football and Community Facility on Britten's Field and the building to be constructed upon that site**
- (ii) that the appropriate action is taken to notify HMRC of (i) above)**

Contextual Information

1. In general the VAT rules as they apply to local authorities include:
 - Supplies of land or buildings are generally VAT exempt
 - Input Tax (The VAT paid on purchases) on exempt supplies is only reclaimable if it amounts to less than £7,500 per annum (this is a guide figure)
2. As the Town Council has already agreed it will own the proposed Football and Community Facility this means that the Town council would only be able to reclaim VAT incurred for the construction and fit-out to a maximum of £7,500.
3. There are options available to the Town Council which would enable greater VAT recovery
 - A) The building is not leased but weekly bookings are made (taxable)
 - B) The building is let for a peppercorn rent or £1.00 rate with a full repairing lease (non-business arrangement)
 - C) Opt to tax (the exempt supply becomes taxable)
4. The Town Council needs to decide what option it wishes to take before incurring any expenditure that it wishes to reclaim.
5. Option A "Bookings"
The option for weekly bookings rather than a lease has been disregarded as the Town Council has already stated its intention to lease the building to Ilminster Football Club - and many of the grants towards the project require a lease arrangement with a guaranteed tenure
6. Option B "Peppercorn Rent"
A specific rental figure has not yet been discussed by Councillors nor have any negotiations started with the Football Club, however Councillors have always given the impression that they intended to charge a rate commensurate with the standard of facility and its type of use; based upon this impression Option B has been disregarded.
7. Option C - "Option to Tax"
 - (i) Opting to tax would enable the Town Council to reclaim VAT with regard to the football and community facility.
 - (ii) VAT Notice 742A states "*Supplies of land and buildings, such as freehold sales, leasing or renting are normally exempt from VAT. This*

means that no VAT is payable but the person making the supply cannot normally recover any of the VAT incurred on their own expenses. However, you can opt to tax land. For the purposes of VAT the term "land" includes any buildings or structures permanently affixed to it. You do not need to own the land in order to opt to tax. Once you have opted to tax all the supplies you make your interest in the land or buildings will normally be standard rated. And you will normally be able to recover any VAT you incur in making those supplies."

- (iii) An area of land or a building can be specified for the option to tax – and all the land buildings or civil engineering works which are part of the land are included. VAT Notice 742A says *"If the building stands in a large area of land, the extent of the curtilage (or how far the option to tax extends over the land) depends on how far the services of the building can be utilised. For example, a racecourse grandstand may provide electricity and shelter for stalls, or other facilities, within its peripheral area. An option to tax on the grandstand would extend over the whole area of land that uses the benefits. Equally, an option would normally extend to an area adjacent to a building which is put to a use that is ancillary to the use of the building, such as car parking."* This means that the area of land for the Football and Community Facility Pitch could be the specified area for an Option to Tax and would include the main football pitch and the car parking.
- (iv) Opting to tax is a separate issue to registering for VAT. (An option to tax can be made regardless of whether or not an organisation is VAT registered but the amounts involved in an option to tax must be included when considering whether or not an organisation should be registered for VAT.) As the Town Council has already resolved to become VAT registered deciding to opt to tax would have no additional impact on whether or not the Town Council should be VAT registered.
- (v) An important implication is that VAT would need to be charged in relation to the building.
- (vi) Once an Option to Tax has been exercised it cannot normally be revoked until at least 20 years have passed. (If there is a change of mind within 6 months of the effective date of the option to tax the decision can be revoked provided that specific conditions are met.)

8. Deciding to Opt To Tax

Opting to Tax requires an organisation to complete 2 stages:

- Making a decision to opt to tax
- Notifying HMRC in writing of the decision to opt to tax within 30 days of the decision being made.

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For Further Information: Contact the Town Clerk, tel: 01460 52149 or email town.council@ilminster.gov.uk

Background papers

VAT Notice 708: Buildings And Construction

VAT Notice 742: Land and Property

VAT Notice 742A Opting to tax land and buildings