

**Imperial College Union**  
**Finance, Audit & Risk / 27 March 2024**

**VAT Review Update**

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**Purpose:** To provide an update on the VAT review and planned Manual.

**Action(s):** To approve Action Plan.

### **1. Introduction**

The Union has an outstanding audit action to produce a VAT Manual, which was deferred pending the completion of an external VAT review. This paper provides an update on the review for noting. It includes an action plan based on draft recommendations which will inform the Manual.

### **2. Summary**

VAT in students' unions is a relatively complex area, mainly because of different income streams (which include some business, exempt and non-business activities) and requirement for a partial exemption calculation to be undertaken which determines how much expenditure VAT can be recovered. The calculation involves two stages:

- A Business/Non-Business apportionment method (currently staff hours); and
- A Partial Exemption Method (currently a special method is used, also based on staff hours, which was previously agreed with HMRC and is different to the standard income based method).

The rules around VAT are detailed and evolving, and different interpretations can be applied across organisations. It is good practice for organisations to engage a VAT review periodically, to manage inherent compliance risks from this.

The Union recently engaged an external VAT review (from Crowe) to review its approach, which has evolved over time, building on some previous advice and HMRC discussions.

Draft review findings have been communicated and discussed with Management, and accepted. It is necessarily quite detailed (and technical), so we have sought to summarise findings and actions via this Paper. The report is in the process of being finalised, and will be available separately to Committee members on request.

The detailed findings will form the basis of an updated Manual, which Management aim to finalise before the end of the financial year.

### **3. Key Findings**

The Executive Summary set out in the draft findings were as follows:

- Overall the VAT accounting is good, with only a few anomalies, mainly around practices inherited over time (and likely influenced by VAT visiting officers).
- There are some minor errors which need to be rectified but these are limited financially, apart from correcting the VAT recovery of catering VAT costs, which may be a few thousand.
- We recommend that the overhead VAT recovery methods are changed from the current staff time basis:
  - Firstly, these are not compliant, on the basis that ICU does not retain detailed staff time records and
  - Secondly, an alternative Business / Non-business calculation based on floor area is a work-in-progress but appears to be fairer & more reasonable.
  - Thirdly, an alternative to the Partial Exemption Special Method should be considered for the same reason – perhaps reversion to the standard method based upon income.

The report recommends a review of sports membership income VAT treatment, specifically the assumption that of 25% is sociable element subject to VAT. The reviewer’s conclusion on this was:

*This approach appears to go against the principles of VAT and latest case law. We have a theory that this may have been imposed by a visiting assurance officer and pragmatically accepted by the Union many years ago. We do not agree that it applies to sports memberships. We do accept that if there was a social membership (without any participation in sport) this would be Vatable. However, the fact the sports members are able to attend social events (I suspect for an extra charge) does not in our view turn an element of the membership into a taxable supply. Conclusion: In our view such income is 100% exempt of VAT.*

There was a detailed exercise recommended to check UK Reverse Charge declarations against non-UK addressed suppliers. The “Reverse Charge” relates to overseas services where UK VAT may not be identified on invoices (or credit card receipts) but may still be payable. Finance has a process to identify such suppliers and plan to undertake this review check.

The review included a consideration of a potential change in VAT treatment of club & society VAT (to move them outside the scope of VAT) and Tour Operator Margin Scheme (TOMS) VAT. No change ultimately proposed in these areas on the basis of potential challenge and an envisaged negative financial impact.

#### **4. Action Plan from Report**

Finance actions from report planned as follows (all as recommended):

<b>#</b>	<b>Actions</b>	<b>Notes</b>	<b>Timescale</b>
1	Process corrections identified (minor calculation errors and catering correction).	Catering corrections relate to partial recovery calculation and will need to be applied back 4 years. These would require separate disclosure to HMRC if over £10k, but this may not be necessary if under.	Next Return

2	Review and update Sports Membership treatment to 100% exempt.	Currently 25% Social VATable. Finance to seek HMRC confirmation if unsure, as recommended by the report.	Next Return
3	Complete review of floor area data to support revised Business/Non-Business calculation. Apply as new method if it provides a good and reliable proxy.	This data is fairly detailed due to the sheer volume of Union spaces set out in our current data, including club & society storage across College sites, so requires some further review.  Can be changed when available. Any adjustment to already submitted return periods would be 'out-of-period' and is relevant to the £10k limit mentioned above."	By end of Financial Year (July 2024).
4	Seek HMRC permission to change Partial Exemption Method to Standard method (based on income).	HMRC expected to accept this, per the report.	Apply from new Financial Year, subject to HMRC permission.
5	Finance to complete the supplier review exercise for "Reverse Charge" declarations not already identified.	Finance had planned to undertake this review.	Pre-July 2024

Finance will prepare an updated VAT Manual with these changes assumed. We will revert back to the Committee if there are any material deviations to the action plan, or further recommendations in the Final report.

## 5. Catering Considerations

The report notes that the Union has been assessed for 'bar catering' sales when applying the Extra Statutory Concession (ESC) allowing SU student catering to be treated as VAT exempt.

This had already been disclosed in a contingent liability note but not quantified in the Union's year-end accounts. The Union believes it has complied with the concession in good faith, the subjective nature of the interpretation of the concession could mean that HMRC take a different view.

This is still subject to the completion of a judicial review process nationally, with a number of student unions affected. Crowe's view is that HMRC's assessment is incorrect.

We understand this was previously discussed with the College as a potential area of exceptional support, if HMRC's view does change.

## 6. Corporation Tax

Corporation Tax was outside the scope of this review (as this is a separate tax, where the Union may incur a liability on net profits on its non-charitable income, should these exceed the threshold for such activity – currently £50,000). The historic assumption has been that the Union is below the threshold, however this requires review of current and planned future income streams (including the hires mix). Management intend to discuss this with the auditors,

with the potential for a separate external review, and revert back to the Committee in due course.

## **7. Recommendation**

The Finance, Audit & Risk Subcommittee is asked to note this progress update and confirm its agreement to the proposed Action Plan.