

Stratfield Mortimer Parish Council

Finance and General Purposes – 02/03/2023

VAT on Sporting Fees

Agenda item 22/084 5: To receive an update and agree any further actions.

BACKGROUND

Further to advice received from Hampshire Association of Local Councils (HALC) via their VAT advisor Parkinson Partnership, HMRC have conceded that charges for council sports facilities are non-business. This means they are outside the scope of VAT - *see document 22-084 5.1 VAT on Sporting Fees.*

As a provider of tennis courts, SMPC have been charging VAT on:

- Pay per use tennis court sessions – VAT for last 12 months approx. £439.
- Ad hoc tennis court hire by Mortimer Tennis Club – their regular sessions are VAT exempt as they meet the criteria for 5.4 “Lets for a series of sessions” Land and property (VAT Notice 742) – VAT for last 12 months £4.90.
- Hire of the tennis courts to a business individual for coaching purpose – VAT for last 12 months approx. £51.00.

Parkinson Partnership is suggesting councils consider various steps in relation to their sports facilities depending on their circumstances. As an authority registered for VAT and charging VAT on sports services, it is suggested SMPC:

- a. stops charging VAT on sports services as soon as possible and certainly before 1 April 2023.
- b. compile and submit a claim to HMRC for a refund of such VAT declared for the past four years, and
- c. consider whether you will refund that VAT to the bodies charged for sports.

From the guidance, it should be noted:

- HMRC have not issued any guidance and might refuse claims or require them to be submitted in a particular way.
- For VAT-registered councils, adjustments cannot be made more than 4 years after the due date of the VAT return that is being amended.
- In reclaiming any VAT charged, councils must avoid “unjust enrichment”, which might occur if an authority reclaims the VAT and keeps it rather than refunding it to its customers. Where council facilities are subsidised and operate at a loss due to low charges, or where charges were made VAT-inclusive rather than being increased, HMRC are unlikely to consider that unjust enrichment.

Further clarification was sought from HALC as to whether the new advice was relevant for the VAT charged on the hire fee for the tennis coaching. The following response was received:

“We simply don’t know at the moment. The Chelmsford case was about the provision of sports facilities to the public and we believe that includes through their membership of sports clubs. Its hard to say whether that will extend to hire by individuals in business offering training to others, corporate bodies or a first division football team.”

RECOMMENDATIONS

In line with the advice given the pay per play fee for members of the public hiring the tennis courts has been reduced from £5.50 inc. VAT to £4.58 net of VAT, this can easily be changed back again if necessary.

It is proposed to proceed as follows:

- Further advice to be sought regarding VAT charged on ad hoc tennis court hire by Mortimer Tennis Club.
- To continue to charge VAT on the hire fee for the coaching business until further clarification is available. As stated above, the Chelmsford case was about the provision of sports facilities to the public, and it is not currently known if the exemption will extend to businesses.
- Not to seek to reclaim any VAT paid in the previous 4 years. This is because 1) the amounts which could easily be reimbursed are negligible 2) in many cases it would be impractical to reimburse those individuals to whom the VAT is due meaning SMPC would be unjustly enriched.