

19 July 2011

**Item 4**

**Possible EU proposals on VAT and public authorities – next steps**

**Summary**

The report provides a short update to the report discussed at the June 2011 board meeting.

It highlights the current state of play and what members can do to ensure LGG is well prepared to further influence legislative proposals expected in 2012.

**Recommendations**

Members are asked to discuss the issue and consider the next steps (paragraphs 11-16).

**Action**

Officers to take forward steps outlined within the report, subject to Members' comments.

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## **Possible EU proposals on VAT and public authorities – next steps**

### **Background**

1. As discussed at the June 2011 Board meeting, the European Commission has launched a major review of the current VAT system as applied across the EU, and may bring forward legislative proposals in 2012 affecting public bodies.
2. The EU's aim is to simplify the VAT rules by more closely aligning national VAT regimes with each other, and more closely aligning the public and private sector VAT regimes.
3. The principal issue is that some council services can be delivered without charging VAT to the final consumer because the services are either outside the scope of the EU VAT regime, or they are exempted from it. Private sector operators competing in the same markets however are required to charge VAT and it is claimed that this harms fair competition.
4. Car parks, crèche services, adult education and training, sports facilities, and letting of business units are some areas which have caused difficulties.
5. As a solution the EU may propose in 2012 a move towards 'full taxation' of local authorities. This means VAT is applied to all local authority goods and services provided to the public (all 'outputs') in the same as private sector provision. The system is currently operated in New Zealand which is often cited as a best practice.
6. The issue is particularly relevant in the UK as councils have special 'powers to trade' on the market and are increasingly do so. This is not the case to the same extent in many other Member States where the dividing line between public and private sector provision is often more clearly defined.
7. An important part of any EU proposals will be that local authorities can continue to claim back from government the VAT they pay on goods and services purchased (all 'inputs') to support the provision local services.
8. LGG has conducted some research on the situation in other member states. Austria, Denmark, Finland, France, Netherlands, Portugal, and Sweden also operate a similar VAT reimbursement system to the UK allowing local authorities to claim back they VAT they spend.

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9. These Member States, and their local and regional government associations are therefore likely to be important allies in our ongoing advocacy work towards the European institutions.
10. It is notable that Germany does not operate such a VAT reimbursement system for its local authorities. The views of the Federal Republic (not yet formulated) will hold weight in both the Council and the European Parliament and may be decisive to the final shape of any new VAT regime governing public bodies.

**Next steps**

11. In the June meeting members gave consideration to key messages and provided LGG with a mandate to engage with Whitehall and the European institutions on this topic.
12. Given the potential importance of the issue, LGG has consulted with local authority experts who have made some early representations to the EU, including a detailed written submission.
13. Alliances have also been made with the NHS who are considering the potential impact on the provision of health services.
14. The Commission has not yet drafted its proposals expected for 2012, so some informal discussions via the Committee of the Regions with like-minded associations would be valuable towards the end of 2011. Building alliances at an early stage with the German LGAs and those seven countries operating VAT reimbursement systems for their local authorities would be particularly helpful.
15. One challenge is that other associations are not yet considering the issue as no proposals are yet published. LGG however recognises the value of lobbying at the 'pre-legislative' stage and is leading the debate in Brussels.
16. November 2011 will be a decisive moment in the timetable when we will learn a little more about the Commission's plans as part of their 2012 work programme.