

EXPLANATORY MEMORANDUM

THE VALUE ADDED TAX (REFUND OF TAX) ORDER 2014

S.I. 2014/1112

1. 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (“HMRC”) and is laid before the House of Commons by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument specifies five named combined authorities for the purposes of section 33 of the Value Added Tax Act 1994 (“section 33”). The effect is that those authorities are entitled to claim refunds of VAT charged on supplies, acquisitions and importations even though those supplies, acquisitions and importations are not for the purpose of a business carried on by them.
3. **Matters of special interest to the Select Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 This instrument is made under sub-section (3)(k) of section 33.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to the whole of the United Kingdom, although it concerns combined authorities established in relation to local government areas in England.
6. **European Convention on Human Rights**
 - 6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - 7.1 Public bodies are not normally able to recover VAT paid on purchases, acquisitions and importations made to support their statutory duties because these are not business activities. Input VAT is only recoverable on purchases, acquisitions and importations made to support taxable business activities. However, since 1973, certain public bodies – mainly in local government – have been entitled to recover this VAT under a special refund scheme provided for in section 33. This scheme exists to ensure that irrecoverable VAT does not become a cost that has to be met from local taxation.

7.2 Section 33(3) lists the bodies that may recover VAT under the special refund scheme provided for in the section. The Treasury has the power under section 33(3)(k) to specify bodies to which section 33 applies.

7.3 Since 1 April 1973, local authorities have been able to recover VAT under the special refund scheme. These bodies are defined in section 96(4) of the Value Added Tax Act 1994, and in the main they are county, district, parish, borough and unitary councils and joint boards or committees established by these bodies. Similarly, integrated transport authorities have been able to recover VAT.

7.4 Section 103 of the Local Democracy, Economic Development and Construction Act 2009 enables the Secretary of State to establish combined authorities to assume overall responsibility for economic development, regeneration and transport in an area consisting of two or more local government areas. Combined authorities are presently not named in section 33(3) or section 96(4).

7.5 The Treasury is using its powers under section 33(3)(k) to provide parity of treatment so that five named combined authorities established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 can also recover VAT incurred on purchases etc made for non-business purposes. These are:

The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority
The Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority
The Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority
The Greater Manchester Combined Authority
The West Yorkshire Combined Authority

8. Consultation outcome

8.1 This minor amendment is required as a result of changes to the structure of local government bodies, and as such it has not been subject to consultation.

9. Guidance

9.1 Existing guidance is being updated to name these bodies. No further guidance is required at this stage.

10. Impact

10.1 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins/htm>.

11. Regulating small business

11.1 The change will have no impact on small businesses.

12. Monitoring & review

12.1 For reasons of consistency, the VAT issues relating to the public sector are dealt with by a dedicated unit within HMRC. Normal audit activity will encompass

the change. Additionally, the measure will be kept under review through communication with affected taxpayer groups.

13. Contact

13.1 David Ogilvie at HMRC Tel: 03000 585990 or email: david.ogilvie@hmrc.gsi.gov.uk can answer any queries regarding this instrument.