

**From:** Linda Skilbeck <SkilbeckL@buzzacott.co.uk>

**Sent:** 03 March 2022 20:58

**To:** Yvette Hayward <Office1@liskeard.gov.uk>; 'Liskeard Town Clerk' <townclerk@liskeard.gov.uk>

**Cc:** Socrates Socratous <SocratousS@buzzacott.co.uk>

**Subject:** RE: VAT report

Hi Yvette

If the units are not sold but they are disposed of without charge in some other way so that they no longer form part of LTC's business assets then there is a "deemed supply" for VAT purposes.

The value of the deemed supply is taken to be:

- (1) the amount in money that would be payable if, at the time of supply, LTC was to buy units **identical** in every respect (including age and condition) to the units; or
- (2) the amount in money that would be payable if, at the time of supply, LTC were to buy units **similar to** the units concerned and of the same age and condition as those units (where the value cannot be ascertained in accordance with (1), or
- (3) the cost of producing the relevant units at the time of supply (where the value cannot be ascertained in accordance with (1) or (2))

You would calculate the value using these rules then calculate 20% VAT on top. That VAT would be payable as output tax in LTC's VAT return covering the date of disposal. If the units had been used for ten years at the time of disposal its likely their market value would be much reduced.

If LTC was to sell the goods at less than market value to an unconnected third party then the value for VAT would be the sale price.

Kind regards

Linda

**Linda Skilbeck**

Associate Director

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**From:** Yvette Hayward <[Office1@liskeard.gov.uk](mailto:Office1@liskeard.gov.uk)>  
**Sent:** 02 March 2022 13:53  
**To:** Linda Skilbeck <[SkilbeckL@buzzacott.co.uk](mailto:SkilbeckL@buzzacott.co.uk)>; 'Liskeard Town Clerk' <[townclerk@liskeard.gov.uk](mailto:townclerk@liskeard.gov.uk)>  
**Cc:** Socrates Socratous <[SocratousS@buzzacott.co.uk](mailto:SocratousS@buzzacott.co.uk)>  
**Subject:** RE: VAT report

Hi Linda,

Thank you for the clarification.

I note that we can reclaim the VAT, but *'That means that if the units have any value at the end of the term, if LTC disposes of them it will be required to account for VAT on their value at that point, even if they are not sold.'* I assume this means that if we sell them, we will need to charge VAT to the buyer, but if they are not sold how do we account for the VAT on their value at that point? For example, if the value was then £100,000 and we transferred them or sold them at less than the full market value to another organisation would we be liable to VAT on the full value?

Kind regards,

Yvette Hayward

RFO & Deputy Town Clerk  
Liskeard Town Council

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**From:** Linda Skilbeck <[SkilbeckL@buzzacott.co.uk](mailto:SkilbeckL@buzzacott.co.uk)>  
**Sent:** 01 March 2022 12:56  
**To:** Liskeard Town Clerk <[townclerk@liskeard.gov.uk](mailto:townclerk@liskeard.gov.uk)>; 'Yvette Hayward' <[Office1@liskeard.gov.uk](mailto:Office1@liskeard.gov.uk)>  
**Cc:** Socrates Socratous <[SocratousS@buzzacott.co.uk](mailto:SocratousS@buzzacott.co.uk)>  
**Subject:** RE: VAT report  
**Importance:** High

Dear Steve

Thanks you for your email. The issue is whether the 'buildings' can be separated from the land on which they sit. The VAT exemption in the UK for letting of land and buildings (which can be made subject to VAT by opting to tax) assumes that buildings are "immovable property" . In HMRC's Notice 742, about the property exemption, HMRC say at para 2.1 that:

'For the purposes of VAT, the term land includes any buildings, civil engineering works, walls, trees, plants and any other structure or natural object in, under or over it as long as they remain attached to it.'

Immoveable property is a term used in EU VAT law which is still relevant to UK VAT provisions. It includes

- any building or construction fixed to or in the ground above or below sea level which cannot be easily dismantled or moved without effort or considerable cost
- any item that has been installed and makes up an integral part of a building or construction without which the building or construction is incomplete, such as doors, windows, roofs, staircases and lifts;

There have been a number of cases on this issue. In Sibcas (where temporary classrooms were erected on land owned by a school) it was relevant that the accommodation was always supposed to be temporary, and that the connections to the ground were designed not to hinder the removal of the structure. In that case it was found that the structures were not immovable property – although they were intended for us for 3 years not 10 as here.

On the basis that Yvette has confirmed that LTC is not supplying the structures to CC (and it needs to be clear that is the case) and there will be an obligation on LTC in the lease to remove them at the end of the term then we can advise that LTC can deduct VAT on their installation. That means that if the units have any value at the end of the term, if LTC disposes of them it will be required to account for VAT on their value at that point, even if they are not sold.

I can confirm the reference to capital assets does not now need to be considered.

If LTC opts to tax on the site there ought to be no reason for HMRC to query deduction of the VAT

I trust that answers the final questions and apologies for the late reply.

Kind regards

Linda Skilbeck

**Linda Skilbeck**  
Associate Director

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**From:** Liskeard Town Clerk <[townclerk@liskeard.gov.uk](mailto:townclerk@liskeard.gov.uk)>

**Sent:** 28 February 2022 09:31

**To:** 'Yvette Hayward' <[Office1@liskeard.gov.uk](mailto:Office1@liskeard.gov.uk)>; Linda Skilbeck <[SkilbeckL@buzzacott.co.uk](mailto:SkilbeckL@buzzacott.co.uk)>; Socrates Socratous <[SocratousS@buzzacott.co.uk](mailto:SocratousS@buzzacott.co.uk)>

**Subject:** RE: VAT report

**Importance:** High

Hello Linda and Socrates – were you yet able to supply the advice requested by Yvette. We have a meeting at 1.00 pm today and it would be good to report on the VAT situation as it appears to be the only item outstanding.

Best Wishes

Steve Vinson  
Town Clerk  
Liskeard Town Council  
3 West Street  
Liskeard  
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**From:** Yvette Hayward <[Office1@liskeard.gov.uk](mailto:Office1@liskeard.gov.uk)>  
**Sent:** 22 February 2022 15:06  
**To:** 'Linda Skilbeck' <[SkilbeckL@buzzacott.co.uk](mailto:SkilbeckL@buzzacott.co.uk)>; 'Socrates Socratous' <[SocratousS@buzzacott.co.uk](mailto:SocratousS@buzzacott.co.uk)>  
**Cc:** 'Liskeard Town Clerk' <[townclerk@liskeard.gov.uk](mailto:townclerk@liskeard.gov.uk)>  
**Subject:** FW: VAT report

Hi Linda,

I will now be on leave from Wednesday 23 February until Monday 28 February inclusive.

Please could you ensure our Town Clerk, Steve Vinson (copied in) is included in your response, as he will need this to deal with the opening of tenders and request for funds on Friday 25 February.

Thanks for your help.

Kind regards,

Yvette Hayward

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**From:** Yvette Hayward <[Office1@liskeard.gov.uk](mailto:Office1@liskeard.gov.uk)>  
**Sent:** 17 February 2022 14:10  
**To:** 'Linda Skilbeck' <[SkilbeckL@buzzacott.co.uk](mailto:SkilbeckL@buzzacott.co.uk)>  
**Cc:** 'Socrates Socratous' <[SocratousS@buzzacott.co.uk](mailto:SocratousS@buzzacott.co.uk)>; 'Liskeard Town Clerk'

[<townclerk@liskeard.gov.uk>](mailto:townclerk@liskeard.gov.uk)

**Subject:** RE: VAT report

Hi Linda,

Thank you for responding to my queries.

Could I confirm that even though the buildings will be temporary structures (possibly shipping containers) in law they will be owned by the freeholder – CC?

We are obtaining funding to erect the structures, and so would not be invoicing CC for this, and charging VAT. Although CC happen to be one of the funders, their contribution is currently 55% (and this percentage may reduce if the ERDF provide all the additional funding needed) and so would not cover the full cost of the construction.

Kind regards,

Yvette Hayward

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**From:** Linda Skilbeck <[SkilbeckL@buzzacott.co.uk](mailto:SkilbeckL@buzzacott.co.uk)>

**Sent:** 17 February 2022 10:19

**To:** Yvette Hayward <[Office1@liskeard.gov.uk](mailto:Office1@liskeard.gov.uk)>

**Cc:** Socrates Socratous <[SocratousS@buzzacott.co.uk](mailto:SocratousS@buzzacott.co.uk)>; 'Liskeard Town Clerk' <[townclerk@liskeard.gov.uk](mailto:townclerk@liskeard.gov.uk)>

**Subject:** RE: VAT report

Dear Yvette

Thank you for your email.

In relation to the advice regarding the construction, **as freeholder CC owns the land and thus in law it owns any building that sits on that land.** You cannot separate the “building” from the land on which it sits. LTC will not “own” the building nor acquire any ownership of it as a result of contracting with the builders. LTC only ‘ownership’ in relation to the building will be the interest granted to KTC by CC in the form of the peppercorn lease. The lease term is not included in the draft but last time it was 10 years, and this is not a major interest. For example if at any period during that lease LTC were to breach the lease terms CC as landowner would be entitled to regain full possession of the building. **So our advice is that the input tax on construction is proper to CC as the landlord and therefore LTC will be required to charge VAT on the construction to CC.** In our opinion

CC will be entitled to deduct this VAT either because it has opted to tax or because it is using the building to grant a peppercorn lease, in which case our advice results in no loss of input tax for either party.

Paragraph 6.3 is correct as I have confirmed that the session fees will be business income ( note that exempt income **is** business income for VAT purposes). The session fees will be exempt from VAT if they constitute “education” for VAT purposes because LTC is an “eligible body” See HMRC Notice 701/30.. If the courses are simply recreational they will be liable to VAT at 20%.

Opting to tax will make the rental taxable and therefore reduce exempt income which will contribute to making the input tax on ongoing costs “insignificant” (as defined).

**The capital goods scheme will not apply to LTC as long as it acts as intermediary contractor and charges VAT to CC,**

I hope that answers your queries

Kind regards

Linda

**Linda Skilbeck**  
Associate Director

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**From:** Yvette Hayward <[Office1@liskeard.gov.uk](mailto:Office1@liskeard.gov.uk)>  
**Sent:** 16 February 2022 12:04  
**To:** Linda Skilbeck <[SkilbeckL@buzzacott.co.uk](mailto:SkilbeckL@buzzacott.co.uk)>  
**Cc:** Socrates Socratous <[SocratousS@buzzacott.co.uk](mailto:SocratousS@buzzacott.co.uk)>; 'Liskeard Town Clerk' <[townclerk@liskeard.gov.uk](mailto:townclerk@liskeard.gov.uk)>  
**Subject:** RE: VAT report

Hi Linda,

Thank you for your revised report.

I believe there may be an error in the understanding and assumptions in section 1.4. The buildings (small prefabricated modular workspace units and shared spaces) will now be owned by LTC, subject to a lease from CC for the ground they are sited on – to be charged at a peppercorn rent. At the end of the lease term, LTC would be responsible for removing the units and making good the site. I have attached a copy of the ITT on Contracts Finder which sets out how we are commissioning the work with the successful contractor – there will be an NEC4 contract.

To confirm the funding position - Funding of £467,875 is currently agreed for delivery of the workspace, with 45% coming from the ERDF to be paid to us on evidence of defrayal, and the remainder as match funding from CC (90% payable upfront on commencement and the balance paid on completion). Due to the increasing costs of the project, the additional funds we require may be made available by increasing the grant rate from the ERDF. There is now no longer the need for any other exchange of funds between LTC and CC (other than the peppercorn lease for the ground on which the buildings are sited).

The revenue from the facility will be from:

- Rental of the eight workshops to individual tenants subject to a tenancy at will agreement
- Session fees – local arts and crafts people will be able to pay for a session (morning/afternoon) in either of the two shared spaces (a digital fabrication laboratory and a ‘messy space’), where they will be able to use the equipment and facilities within the space – making equipment (eg a 3D printer) available to local businesses who may not be able to afford or have the necessary space to own it themselves. From your previous advice I believe this is a business supply. (I think this should replace the second bullet point under 6.3).

All training, workshops and business support are provided free of charge, and due to the delay in the delivery of the building are currently being delivered at an alternative location.

Your reference in 3.2 to the Capital Goods Scheme, is not something I am familiar with, but infer from your advice that opting to tax would resolve this – any more detail/clarity you can provide here would be helpful. Opting to tax seems to be the safest position for LTC to take on this project, for all VAT to be deductible.

Thanks for your help.

Kind regards,

Yvette Hayward

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**From:** Linda Skilbeck <[SkilbeckL@buzzacott.co.uk](mailto:SkilbeckL@buzzacott.co.uk)>  
**Sent:** 15 February 2022 15:05  
**To:** Yvette Hayward <[Office1@liskeard.gov.uk](mailto:Office1@liskeard.gov.uk)>  
**Cc:** Socrates Socratous <[SocratousS@buzzacott.co.uk](mailto:SocratousS@buzzacott.co.uk)>  
**Subject:** VAT report

Dear Yvette

I attach for your attention our revised report and a spreadsheet appendix.

Kind regards

Linda

**Linda Skilbeck**

Associate Director

Buzzacott LLP, 130 Wood Street, London, EC2V 6DL

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