

Membership Newsletter

March 2012



Local Authority cemeteries - memorials & VAT

The following message has been kindly shared with the Institute by our partner the Society of Local Council Clerks. The message clarifies the current position and therefore you should ignore any previous news or circulars on this subject:

Following representation by the CIPFA VAT Committee the VAT treatment change of local authority supplies of memorials in their cemeteries announced by HMRC on 20 October 2011 is deferred. Our existing policy as published in HMRC guidance, paragraph 7.6.1 of V1-14 Government & Public Bodies (copied below) may be relied upon.

This will allow time for the outcome of litigation to be known in the case of Sandwell Metropolitan Borough Council that concerns local authority supplies of memorials.

Local authority supplies of memorials in their crematoria were not affected by our memo of 20 October 2011 and our existing policy as published in HMRC guidance, paragraph 7.6.2 of V1-14 Government & Public Bodies (copied below) may be relied upon.

V1-14 Government & Public Bodies

7.6 Cemeteries and crematoria

7.6.1 Cemeteries

As a result of the Rhondda Cynon Taff County Borough Council Tribunal (LON/99/670), the provision and maintenance of cemeteries are to be regarded as non-business activities because the local authority is acting "as a public body". It was further decided that since the great majority of cemeteries are operated by local authorities, "the treatment of local authorities as non-taxable persons in connection with these activities would not lead to significant distortions of competition". Thus a local authority is able to recover VAT on those activities under s33, whilst not charging VAT on its income.

It is to be expected that most supplies in local authority cemeteries will be made under provisions in the Local Authorities' Cemeteries Order 1977.

7.6.2 Crematoria

However, the provision of crematoria by a local authority is primarily a business activity. This is because local authorities act under the same legal regime as private crematoria act, and not a regime specific to local authorities. Thus, any costs incurred relating to exempt activities should be included in the s33 method and partial exemption calculations.

There are some exceptions where the use of local authority crematoria can be treated as non-business, e.g. free cremations (often for young children), and cremations carried out under the Public Health Acts.

ICCM – Developing and promoting good practice in cemeteries and crematoria

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