**VAT Act 1994 section 33** allows for councils to claim VAT on some non business activities. Councils are required to register for VAT if they make any taxable supplies, no matter the value of the supplies. However, Councils do not have to be VAT registered in order to claim VAT back.

Councils can recover VAT, provided they:

* purchase the goods or services themselves
* Remain the owner of the goods or services.
* Use the goods or services for non-business purposes.

It is important the Council keeps sufficient records for HMRC to easily identify the goods and services that have been bought and the reasons for purchasing them.

Claims must be for a period of at least one calendar month and must end on the last day of a calendar month. Claims for less than £100, must cover a period of at least 12 months. Claims must be submitted within 3 years after the end of the month in which the supply was received.

Definition of business activities:

* making supplies for payment
* have frequency and scale
* continue over a period of time
* within scope of VAT

Examples of business activities are:

* purchase of streetlighting
* electricity for streetlighting
* internet use for business

Definition of non-business activities are:

* free of charge activities
* activities for academies or multi-academy trusts
* One off or infrequent activities
* outside the scope of VAT

Examples of non business activities are:

* leases that are granted,
* freehold sale of land and buildings for peppercorn rent

**Taxable Definition**

Goods or services that are used or supplied regularly are VAT-taxable. Most goods and services are taxable.

**Zero-rated definition:**

The goods or services are VAT-taxable but the rate of VAT you must charge is 0%. Examples include:

* books and newspapers
* children’s clothes and shoes
* admission to zoos

**Exempt Definition**

Items are either exempt for being VAT taxable or are out of scope of VAT such as: stamps, lottery and education. Out of scope items are goods and services bought or used outside of the EU.

**10.1 Recovering VAT incurred on community projects, particularly work to village halls**

If you’re a local authority, you may:

* agree with a voluntary group to set up a project fund into which any funds raised locally and any grants received by the voluntary group will be paid
* use this fund to make the purchase or pay for the work on behalf of the voluntary group

But these funds do not belong to you and so you cannot recover the VAT incurred.

**10.2 Recovering VAT if you pay your own money into the project fund**

You cannot recover the VAT unless the project fund is part of the local authority. For example, this may be the case where:

* the project fund forms part of your statutory accounts
* you retain control over how the money is spent

**10.3 Recovering VAT incurred on work done to a village hall that you own**

If you:

* use your own funds and use of the hall is for your own non-business activities, then you are not making a supply for VAT purposes and you can recover the VAT under section 33
* use your own funds and use of the hall is for your business activities, then you’re making a supply for VAT purposes and you can recover the related VAT if your supply is a taxable supply
* receive funds from another body in return for letting it use the hall, then you’re making a supply for VAT purposes and you can recover the related VAT if your supply is a taxable supply
* receive funds from another body in return for letting a third party use the hall, then you’re making a supply for VAT purposes and you can recover the related VAT if your supply is a taxable supply
* receive unconditional funding from another body-that is, the funding is freely given and neither the donating body nor a third party benefits, then the funding qualifies as a donation and you can recover the VAT provided you [satisfy the conditions](https://www.gov.uk/guidance/local-authorities-and-similar-bodies-notice-749#para7-3)

You should note that:

* we treat a hall as being owned by a local authority if it’s the sole managing trustee, but not if it’s sole custodian trustee only
* allowing someone to use the hall in return for non-monetary payment is a business activity

**10.4 Using your funds to finance building works to a hall that you do not own**

If you:

* use your own funds to carry out work to the hall and give the work away to the owners of the hall (for example, a voluntary group) and receive nothing in return then you are not making a supply for VAT purposes
* receive anything in return from either the owners or a third party, then what you receive is likely to be consideration for the supply of the work to the owners, and the supply will normally be a business supply and you must charge VAT at the appropriate rate

**10.4.1 Considerations**

The consideration need not be in money. For example, if you carry out the work only on condition that you can use the hall afterwards, then use of the hall could be consideration from the owners for your supply of the work.

**10.4.2 If the consideration is not in money but you’re not sure what its value is**

You should consult the guidance in the [VAT Valuation Manual](https://www.gov.uk/hmrc-internal-manuals/vat-valuation).

**10.4.3 Acting as an agent of the owners for work to a hall, rather than as the main contractor**

The work is not supplied to you but to the owners and you cannot recover VAT. But if you act as agent in your own name, separate rules apply. You can find out more about this in [VAT guide (Notice 700)](https://www.gov.uk/guidance/vat-guide-notice-700).

If you:

* can treat yourself as both receiving and supplying the goods or services then you’re liable to account for VAT on the onward supply of the work to the owners, you can recover as input tax any VAT you’re charged on the works, the input tax you claim is normally equal to the output tax you account for on the onward supply, and you must not reclaim the input tax before you have accounted for the output tax
* charge the owners of the hall for the service of arranging the work, then this charge is liable to VAT at the standard rate

**10.4.4 Recovering the VAT incurred for the work done if you do not own the hall**

If you:

* carry out the work, give it away and receive nothing in return, then this is not a business activity and you can recover the VAT under section 33
* act as a main contractor, then your onward supply to the owners is a business activity, you can recover the VAT under the normal rules, if your onward supply is taxable