

VAT Change – 4 January 2011

How the New Year VAT rise will work

Value Added Tax goes up from 17.5% to 20% on 4 January 2011

New guidance is available on what the VAT increase to 20% will mean for our providers.

Produced in consultation with HM Revenue & Customs (HMRC) the guidance explains that the rate of VAT to be paid will depend on how providers report their work.

The LSC cannot provide VAT advice as providers are responsible for their own VAT accounting. So if you have any issues please discuss them with your local VAT office.

General principle

Our general approach is that all cases reported as concluded:

- on or after 4 January 2011 will attract a VAT rate of 20%
- before 4 January 2011 will comply with the guidance issued in January 2010

Past guidance is available at:

http://www.legalservices.gov.uk/civil/remuneration/guidance_vat_change.asp

and http://www.legalservices.gov.uk/criminal/guidance_vat_change.asp

This is the broad approach for all claims and all areas of LSC funded work. Exceptions are explained in the detailed guidance below.

How the VAT rate applies to different cases

Crime

Area of work	How to claim	Date we use to determine VAT rate	How will it work?
Police Station and Magistrates Court Standard Fees	LSC Online (CDS6)	Reported case concluded date	When you report these cases on your CDS6 you indicate whether you want VAT to be applied and what the VAT amount is for any disbursements – per case. Where you report the case concluded date as on or after 4 January 2011 indicating “yes” will result in VAT being applied at 20% to that case. The Disbursement rules are provided below.
Magistrates Court – Non- Standard Fee	CDS7	Reported case concluded	The case concluded date you report on the CDS7 will determine which level of VAT is applied.

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		date	<p>You record costs net of VAT on page 5 of the CDS7 and you add VAT when summarising the claim on page 1.</p> <p>Where you report the case concluded date as on or after 4 January 2011, we will calculate VAT at 20%.</p>
Magistrates Court - Assigned Council	CDS8	Reported case concluded date as per CDS7	<p>Assigned Counsel's fee note must accompany the CDS7 for that case. Costs are recorded on the CDS8 (and the CDS7) for assigned counsel's costs without VAT, and the VAT amount is also claimed.</p> <p>Where you report the case concluded date as on or after 4 January 2011, the VAT amount you claim should be calculated at 20%.</p> <p>You should report the case concluded date as the date the work is actually concluded and not the end of counsel's work- the only exception is where the work was completed before 4 January 2011 and you need to apply the 20% rate. If this is the case; report the case concluded date as 4 January 2011 and explain the situation in an accompanying note.</p>
High Cost Cases	Standard reporting process with HCC team	Stage End Date	<p>Where each stage ends this is an interim bill and the VAT amount will be dictated by the stage end date.</p> <p>Where the stage end date is on or after 4 January 2011, we will calculate VAT at 20%.</p> <p>This rule also applies to disbursements– see also below</p>
Crown Court Litigator Fee	LSC Online	Payment Request Date	<p>VAT is reported as a value.</p> <p>Where the payment request date is on or after 4 January 2011, we will calculate VAT at 20%.</p> <p>This will apply to each payment requested, including any disbursements, per case.</p> <p>If you are treating a disbursement as a disbursement for VAT purposes ((in accordance with HMRC guidance paragraph 25.1, Notice 700 - The VAT guide) please see the separate disbursements section below this table.</p>
Disbursements & Prior Authorities	LSC Online (CDS6), CDS7, CDS8 & CDS4	Reported case concluded date	<p>The VAT rate applies consistently to all costs within the class, including any disbursements, and is therefore driven by the reported case concluded date.</p> <p>Where you report the case concluded date as on or after 4 January 2011, we will calculate VAT at 20%.</p> <p>You should claim VAT on any disbursements in line with the reported case concluded date and not the date that any disbursements were incurred or paid by you.</p> <p>If you are treating a disbursement as a disbursement for VAT purposes (in accordance with HMRC guidance paragraph 25.1, Notice 700 - The VAT guide) please see the separate disbursements section below.</p> <p>Prior Authorities are not a payment and so the above rule still applies in cases where a Prior Authority has been granted (which are granted net of VAT).</p>

Civil

Area of work	How to claim	Date we use to determine	How will it work?
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		VAT rate	
Civil Legal Help (except Immigration, Asylum & TFF). Including exceptional cases	LSC Online "Controlled Work Report Form" (CWRP)	Reported case concluded date	<p>When you report these cases on your CMRF you indicate if you want VAT to be applied and what the VAT amount is for any disbursements – per case.</p> <p>Where the case concluded date is on or after 4 January 2011; indicating 'yes' will result in VAT being applied at 20% to that case. The Disbursement rules are provided below.</p> <p>Although there maybe different levels reported (and fees credited) for each case only one claim is made per case, and as such the case concluded date will determine VAT.</p> <p>Exceptional Cases may be assessed and re-valued at a later date however as no further work is undertaken once the case is initially reported the case concluded date will remain the determining factor for VAT.</p> <p>If the case concluded date you report is different from the actual date the case concluded you must explain this in an accompanying note.</p>
Civil LH – Immigration & Asylum staged billing	LSC Online (CMRF)	Reported case concluded date	<p>The case concluded date for each stage (i.e. the stage concluded date) you report on the CMRF will determine which level of VAT is applied.</p> <p>Although the case may continue, the basic tax point is regarded as being the case concluded date, even where the case continues to stage 2.</p> <p>Where you report the case concluded date as on or after 4 January 2011, we will calculate VAT at 20%.</p>
Licensed/Certificated Work – Bills	CLAIM1, 1A & CLAIM 2.	Reported case concluded date	<p>The case end date you report (called date last worked on) will determine which level of VAT is applied.</p> <p>Where you report the case concluded date as on or after 4 January 2011, we will calculate VAT at 20%.</p>
Licensed/Certificated Work – Payment on Account (POA)	CLS POA1 (CLAIM 4)	Reported case concluded date	<p>The VAT rate applies consistently to all costs within the class driven by the reported case concluded date.</p> <p>As a general rule Providers will account for VAT included in POAs at the appropriate rate for the date they receive the POA, however POAs are not interim bills and as such the case end date you report (called date last worked on) will determine which level of VAT is applied.</p> <p>Where you report the case concluded date as on or after 4 January 2011, we will calculate VAT at 20%.</p>
Disbursements & Prior Authorities (Controlled work and Licensed work)	CLAIM1, 1A, POA1, APP8 (licensed work) LSC Online (Controlled work)	Reported case concluded date	<p>The VAT rate applies consistently to all costs within the class, including any disbursements, and is therefore driven by the reported case concluded date.</p> <p>We ask therefore that you calculate the VAT on any disbursements in line with the reported case concluded date and not the date that any disbursements were incurred.</p> <p>If you are treating a disbursement as a disbursement for VAT purposes (in accordance with HMRC guidance paragraph 25.1, Notice 700 - The VAT guide) please see the separate disbursements section below.</p> <p>Prior Authorities are not a payment and so the above rule still applies in cases where a Prior Authority has been granted (which are granted net</p>

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			of VAT). Where you report the case concluded date as on or after 4 January 2011, we will calculate VAT at 20%.
Family Graduated Fee Scheme (FGF)	CLAIM 5	Reported Hearing Date	The hearing date you report will determine which level of VAT is applied. If you are claiming multiple hearings on the same CLAIM 5 each individual hearing date reported will determine which level of VAT is applied for that particular hearing. Where you report the hearing date as on or after 4 January 2011, we will calculate VAT at 20%.
Mediation	CWRF	Submission Date	As the case concluded date is not reported and as VAT is applied (or not applied) to a whole submission (and not on a case by case basis), the submission month will be used for all cases. For example November's CWRF (received by us in December) will have VAT applied at 17.5%, and December's (received in January) will have VAT applied at 20%.

Disbursements

As explained above, the VAT rate applies to the whole case cost. This will include disbursements already incurred, and some already paid (perhaps at 17.5%).

However as the value of work to be credited is calculated without VAT, and any VAT in addition to this amount is accounted for in your VAT returns, you will not 'lose out'.

If you treat a payment as a disbursement for VAT purposes (in accordance with HMRC guidance in paragraph 25.1, Notice 700 - The VAT guide), you cannot alter the original VAT charge (NB: there will not always be a VAT charge on such disbursements).

You should only be applying these rules to items that are disbursements as more strictly defined by HMRC. In these circumstances you will not account for any of this VAT in your VAT returns. You should claim these disbursements as a total amount (i.e. not a Net amount plus a separate VAT amount).

Full guidance on what can be treated as a disbursement for VAT purposes is in the HMRC Notice 700 – The Vat Guide - paragraph 25.1

www.hmrc.gov.uk/index.htm

We would also add that whatever VAT we pay to the legal aid supplier, this is the VAT amount which must be passed to HMRC.

If you have any further queries about the application of VAT to the type of work you perform please contact your Relationship Manager. The LSC cannot provide VAT advice. For that, please contact HMRC.