

Name of meeting: Cabinet

Date: 15th December 2015

Title of report: Impact of VAT on Theatre Hire charges in Town Halls

| | |
|--|-------------------------------------|
| Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards? | No |
| Is it in the Council's Forward Plan? | No |
| Is it eligible for "call in" by Scrutiny? | |
| Date signed off by <u>Director</u> & name | David Smith – Director of Resources |
| Is it signed off by the Director of Resources? | Yes – 2 nd December 2015 |
| Is it signed off by the Assistant Director - Legal & Governance? | Yes – 3 rd December 2015 |
| Cabinet member portfolio | Cllr Graham Turner |

Electoral [wards](#) affected: All

Ward councillors consulted: N/A

Public or private: Public

1.0 Purpose of report

To bring to the attention of cabinet the changes in VAT expectations for theatre hire in our Town Halls. To seek approval to increase the charges to hirers to reflect the VAT element and a voluntary disclosure to the HMRC for backdated VAT payments.

2.0 Key Points

- 2.1 Local authorities (LA's) generally have not charged VAT on the hire of concert halls, but have done so on all other charges associated with the hire.
- 2.2 The Town Halls service does not currently charge VAT apart for additional services associated with the hire e.g. resources, staffing and catering (we charge VAT on the additional services only - not the hire of the concert hall)

- 2.3 In December 2014 LA's received advice from Her Majesty Revenue & Customs (HMRC) who confirmed its view on the VAT treatment of theatre hire.

HMRC guidance is that for VAT to not apply *'the hirer must be able to occupy the building as though it were the owner and as such the actual owner takes no more than a passive role, first in transferring the right and second in providing no other services'*.

- 2.4 Since December 2014 there have been ongoing discussions with the HMRC and LA representatives and it is now accepted that we need to charge VAT on the full amount of services provided – e.g. hall hire, inclusive services (box office, stewarding) and any additional services.
- 2.5 As HMRC claim that they are only confirming existing guidance, there is a risk that they may seek to recover underpaid VAT retrospectively. The maximum period they could backdate is 4 years.
- 2.6 There are ongoing discussions between local authority representatives and HMRC. To date no decision has been made on backdating the charge.
- 2.7 There is an acceptance that VAT charges should be made and LA's are now preparing to make those charges. The voluntary disclosure from December 2014 is a local decision only following discussions with our own tax advisors. There is no national guidance at the present time.

3.0 Implications for the Council

- 3.1 We currently receive approximately £90,000 in income from theatre hire in our Town Halls. The additional amount in VAT charges (20%) would increase this by £18,000.
- 3.2 Passing on the VAT charges will be difficult for some hirers. The service has already sought to help hirers mitigate the impact of VAT by offering an alternative charging structure. Whereby hirers can opt not to have all levels of the concert hall open and paying just for the parts of the hall they use, available at Huddersfield, Dewsbury & Cleckheaton town halls.
- 3.3 An implementation date of 1st April 2016 is sought meaning that the Council will meet the VAT charges up to and including 31st March 2016.
- 3.4 Attached at, appendix A, are the theatre hire charges for 2016/17 with the increase for VAT added. The attachment also shows the respective charges (including VAT added) for those hirers who opt to not have all levels of the concert hall open.
- 3.5 HMRC could set an implementation date in the past as they state that in December 2014 they were confirming existing guidance. Should this happen it will cost the Council approximately £18,000 for each year the charge is backdated.

3:6 Making a voluntary disclosure of payment from 1st December 2014 and absorbing the VAT charges on hires up to 31st March 2016 will cost the Council approximately £24,000. The cost can be met from the underspend within the Resources Directorate reported to Cabinet in November 2015.

4 Consultees and their opinions

4.1 Colleagues in Finance and the Council's tax advisers have been consulted and their advice is that the Council should arrange to amend its charges to reflect VAT charges.

4:2 They further advise that the Council should make a voluntary disclosure to HMRC and meet the VAT charges on hires from December 2014.

5 Decisions required by Cabinet

5.1 To implement the new charges taking into account the VAT to hirers on all hires from 1st April 2016.

5:2 Alert hirers affected and confirm the opportunity to mitigate additional costs as identified in 3:2 & at Appendix A.

5.3 To offer to pay the HMRC through a voluntary disclosure the VAT on hires for the period beginning 1st December 2014.

6. Officer recommendations and reasons

6.1 That Cabinet approve the updated Town Hall charges for theatre hire to include the 20% VAT charge from 1st April 2016.

6.2 That the Council meets the additional cost of VAT on hires up to 31st March 2016 and does not pass the backdated charge onto hirers.

6:3 That a voluntary disclosure is made to HMRC for payment of VAT on appropriate hires from 1st December 2014.

7. Cabinet portfolio holder recommendation

Portfolio Holder supports officer recommendations.

8. Contact officer and relevant papers

Dave Thompson, Head of Customer Services
David Roche, Town Halls manager

9. Assistant Director responsible

Jane Brady, Assistant Director for Customer & Exchequer Services

Appendix A – Current Concert Hall Charges from 1st April 2016 (not including VAT)

Huddersfield Town Hall

| | Monday – Wednesday | Thursday – Sunday |
|-----------|--------------------------|--------------------------|
| Concert | £1194.00 | £1342 |
| Rehearsal | £235 per session (4 hrs) | £275 per session (4 hrs) |

Dewsbury Town Hall

| | Monday – Sunday |
|-----------|--------------------------|
| Concert | £408.00 |
| Rehearsal | £102 per session (4 hrs) |

Cleckheaton Town Hall

| | Monday – Sunday |
|-----------|-------------------------|
| Concert | £372.00 |
| Rehearsal | £77 per session (4 hrs) |

Batley Town Hall

| | Monday – Sunday |
|-----------|-----------------|
| Concert | £205.00 |
| Rehearsal | £35 per session |

Appendix A – Concert Hall Charges from 1st April 2016 including VAT

Huddersfield Town Hall

| | Monday – Wednesday | Thursday – Sunday |
|-----------|--------------------------|--------------------------|
| Concert | £1433.00 | £1610.00 |
| Rehearsal | £282 per session (4 hrs) | £330 per session (4 hrs) |

Dewsbury Town Hall

| | Monday – Sunday |
|-----------|--------------------------|
| Concert | £490.00 |
| Rehearsal | £122 per session (4 hrs) |

Cleckheaton Town Hall

| | Monday – Sunday |
|-----------|-------------------------|
| Concert | £447.00 |
| Rehearsal | £92 per session (4 hrs) |

Batley Town Hall

| | Monday – Sunday |
|-----------|-----------------|
| Concert | £246.00 |
| Rehearsal | £42 per session |

NEW CHARGING OPTION FOR MAIN HALL HIRES (Huddersfield, Dewsbury, Cleckheaton)

| HUDDERSFIELD | All Levels Open | Stalls & Balcony Only |
|---------------------|------------------------|----------------------------------|
| Mon-Wed | £1433 | £1224 |
| Thu-Sun | £1610 | £1366 |
| DEWSBURY | All Levels Open | Stalls Only |
| Mon-Sun | £490 | £428 |
| CLECKHEATON | All Levels Open | Stalls Only |
| Mon-Sun | £477 | £386 |