# Agency models revolutionise VAT recovery for local authority leisure services



Two years after HM Revenue & Customs (HMRC) revised its VAT treatment of local authority-run leisure services, the sector has witnessed significant financial and structural shifts. Previously, leisure services delivered directly by local councils were considered “business” activities, requiring the charging of VAT on end users. Many local authorities circumvented this by setting up leisure trusts or contracting with existing trusts to take advantage of their VAT exempt status. However, in March 2023, HMRC ruled these services as “non-business,” meaning councils could provide them without VAT charges and recover all input VAT linked to these activities. This marked the most substantial change in local authority leisure management since the inception of leisure trusts in the late 1990s.

The new VAT treatment has encouraged the emergence of an agency model in leisure management. Leisure operators, conscious that some councils might reconsider insourcing, proposed arrangements where local authorities retain their non-business status benefits while outsourcing management through agency contracts. Under this model, operators act as agents, collecting income on behalf of councils, which allows the councils to avoid charging VAT to customers and to recover VAT input costs, including fees paid to the operators. Early estimates and emerging contract data suggest that this approach can deliver financial uplifts of £80,000 to £100,000 annually for a typical wet and dry leisure centre, with even greater benefits for authorities with larger or multiple facilities. In an era of constrained finances and rising capital costs, such savings offer councils valuable opportunities to close funding gaps and support facility investments.

The transition to agency models has involved complexities. Local authorities need HMRC to acknowledge these arrangements as genuine principal-agent relationships rather than formal titles alone. Additionally, concerns around procurement law compliance—such as whether contract variations constitute fresh procurements—created initial hesitancy. Authorities and operators have been cautious to ensure that agency models allocate financial and operational risks comparably to traditional contracts, avoiding arrangements that inappropriately transfer risks back to councils. Considerations around property arrangements also play a role, as leases versus licences to occupy may attract differing scrutiny from HMRC regarding the legitimacy of the agency structure.

Despite early uncertainties, the absence of HMRC challenges, no reported procurement disputes, and sustained financial benefits have encouraged more councils to embed agency models in new procurements or convert existing contracts. Transparency in tendering allows fair comparison between traditional and agency bids, fostering competitive and compliant procurement processes. The growing adoption of agency models appears likely to continue, especially given ongoing local government budget pressures.

Tax advisers now generally believe that HMRC is unlikely to contest these agency arrangements, despite concerns that they reduce government VAT revenue by millions of pounds. Local authorities are advised to carefully draft contract variations to reflect genuine agency relationships, safeguard risk allocations, and address property issues prudently. Additionally, councils can submit claims for historic VAT overpayments linked to leisure services, further enhancing financial recoveries.

The agency model’s rise reflects a pragmatic adaptation to the significant VAT rule change affecting about 500 in-house leisure centres across the UK. Some councils have reported annual VAT benefits from £80,000 up to £150,000 per centre due to these arrangements. This approach not only helps councils maximise revenue and reduce costs but also allows leisure operators to reclaim previously irrecoverable VAT on their operating costs by charging VAT on their fees while passing VAT recovery opportunities to councils.

In summary, the ongoing evolution of VAT policies coupled with innovative agency outsourcing structures is reshaping the landscape of local authority leisure services. As this model becomes more established, it offers a financially efficient and legally sound framework for councils navigating post-pandemic fiscal realities and capital investment challenges.

### 📌 Reference Map:

* Paragraph 1 – [[1]](https://www.localgovernmentlawyer.co.uk/projects-and-regeneration/317-projects-features/62186-local-authority-leisure-services-and-the-agency-model-what-is-the-impact-two-years-on), [[2]](https://www.gov.uk/government/publications/revenue-and-customs-brief-3-2023-changes-to-vat-treatment-of-local-authority-leisure-services/changes-to-vat-treatment-of-local-authority-leisure-services), [[4]](https://www.menzies.co.uk/vat-claim-for-local-authorities/), [[6]](https://www.icaew.com/insights/tax-news/2023/mar-2023/news-in-brief-08-march-2023)
* Paragraph 2 – [[1]](https://www.localgovernmentlawyer.co.uk/projects-and-regeneration/317-projects-features/62186-local-authority-leisure-services-and-the-agency-model-what-is-the-impact-two-years-on), [[3]](https://www.trowers.com/insights/2024/december/local-authority-leisure-services-vat-efficiencies-and-the-rise-of-the-agency-outsourcing-structure), [[5]](https://www.trowers.com/insights/2023/november/hmrc-revises-treatment-of-vat-on-in-house-leisure-services)
* Paragraph 3 – [[1]](https://www.localgovernmentlawyer.co.uk/projects-and-regeneration/317-projects-features/62186-local-authority-leisure-services-and-the-agency-model-what-is-the-impact-two-years-on), [[7]](https://www.max-associates.com/uncategorised/local-authority-leisure-services-vat-efficiencies-and-the-rise-of-the-agency-outsourcing-structure/)
* Paragraph 4 – [[1]](https://www.localgovernmentlawyer.co.uk/projects-and-regeneration/317-projects-features/62186-local-authority-leisure-services-and-the-agency-model-what-is-the-impact-two-years-on), [[3]](https://www.trowers.com/insights/2024/december/local-authority-leisure-services-vat-efficiencies-and-the-rise-of-the-agency-outsourcing-structure), [[5]](https://www.trowers.com/insights/2023/november/hmrc-revises-treatment-of-vat-on-in-house-leisure-services), [[7]](https://www.max-associates.com/uncategorised/local-authority-leisure-services-vat-efficiencies-and-the-rise-of-the-agency-outsourcing-structure/)
* Paragraph 5 – [[1]](https://www.localgovernmentlawyer.co.uk/projects-and-regeneration/317-projects-features/62186-local-authority-leisure-services-and-the-agency-model-what-is-the-impact-two-years-on), [[4]](https://www.menzies.co.uk/vat-claim-for-local-authorities/), [[7]](https://www.max-associates.com/uncategorised/local-authority-leisure-services-vat-efficiencies-and-the-rise-of-the-agency-outsourcing-structure/)

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## Bibliography

1. <https://www.localgovernmentlawyer.co.uk/projects-and-regeneration/317-projects-features/62186-local-authority-leisure-services-and-the-agency-model-what-is-the-impact-two-years-on> - Please view link - unable to able to access data
2. <https://www.gov.uk/government/publications/revenue-and-customs-brief-3-2023-changes-to-vat-treatment-of-local-authority-leisure-services/changes-to-vat-treatment-of-local-authority-leisure-services> - In March 2023, HMRC announced a change in VAT treatment for local authority leisure services, allowing them to be treated as non-business activities. This means local authorities can provide these services without charging VAT and recover all input VAT related to them. This change follows court cases where it was determined that such services are provided under a statutory framework, making them non-business for VAT purposes. Local authorities can now submit claims to HMRC for overpaid VAT on these services.
3. <https://www.trowers.com/insights/2024/december/local-authority-leisure-services-vat-efficiencies-and-the-rise-of-the-agency-outsourcing-structure> - Following HMRC's 2023 VAT policy change, local authorities can now treat in-house leisure services as non-business activities, allowing them to recover VAT on related costs. This has led to the adoption of an agency model by leisure operators, where they collect income on behalf of local authorities, enabling VAT recovery for both parties. This model has resulted in significant financial benefits, with some contracts seeing annual savings exceeding £100,000. The agency model is becoming increasingly common in the sector.
4. <https://www.menzies.co.uk/vat-claim-for-local-authorities/> - HMRC has permitted local authorities to stop charging VAT on their leisure services, including those already supplied. This change follows VAT tribunal cases where it was determined that leisure services are provided under a statutory framework, making them non-business for VAT purposes. Local authorities can now apply non-business treatment to these services and consider making claims for overcharged VAT historically. They can recover VAT under their normal claim for VAT incurred on non-business activities, ensuring they do not lose the ability to recover VAT on costs.
5. <https://www.trowers.com/insights/2023/november/hmrc-revises-treatment-of-vat-on-in-house-leisure-services> - HMRC's revised VAT treatment allows local authorities to treat in-house leisure services as non-business activities, enabling them to recover VAT on related costs. This change is estimated to benefit approximately 500 in-house leisure centres in the UK, with potential VAT benefits ranging from £100,000 to £150,000 per centre annually. The adoption of an agency model by leisure operators has further enhanced VAT efficiencies, leading to significant financial benefits for both local authorities and operators.
6. <https://www.icaew.com/insights/tax-news/2023/mar-2023/news-in-brief-08-march-2023> - HMRC has updated its VAT treatment of local authority leisure services, allowing them to be treated as non-business activities. This change follows court cases where it was determined that such services are provided under a statutory framework, making them non-business for VAT purposes. Local authorities can now revisit their VAT position and apply non-business treatment to their supplies of leisure services, enabling them to recover VAT on related costs and submit claims for overpaid VAT.
7. <https://www.max-associates.com/uncategorised/local-authority-leisure-services-vat-efficiencies-and-the-rise-of-the-agency-outsourcing-structure/> - Following HMRC's revised VAT treatment, many not-for-profit operators managing leisure centres face irrecoverable VAT on operations, which is passed on to local authorities. By adopting an agency model, operators charge VAT on their fees for running the leisure centres, while local authorities can reclaim VAT from HMRC, allowing operators to recover previously irrecoverable VAT on their costs. This model has been implemented in several contracts, with the first contract variation going live in 2024, resulting in significant financial benefits for both parties.