

## **VAT on High Court Enforcement Officer Fees**

1. Debt collection services carried out by High Court Enforcement Officers are subject to VAT according to the normal VAT rules, more information on these can be found on the [HMRC website](#). This guidance clarifies the approach for VAT where it is, or is associated with, a cost of enforcement.
2. Although the judgment creditor who receives the service is liable for any VAT due, enforcement services will assist in the onward recovery from the judgment debtor of the costs of enforcement, including where relevant a sum equivalent to the VAT on fees, and in the distribution of the sums recovered.
3. This guidance, agreed with Her Majesty's Revenue and Customs (HMRC), clarifies both when VAT charged to judgment creditors but which is correctly part of the costs of enforcement will be collected from judgment debtors and, alternatively, when and how VAT will be collected from judgment creditors.
4. This guidance does not limit a VAT registered judgment creditors' ability to reclaim from HMRC the VAT whether directly or on their behalf, for enforcement services, subject to normal VAT rules
5. This guidance is intended to ensure that a judgment debtor should be asked to pay that sum equivalent to VAT only when it is correctly part of the enforcement costs.
6. In all cases the High Court Enforcement Officer should be involved in the collection of VAT or of the sum equivalent to VAT in the manner set out below.
7. References in this guidance note to the Regulations are to the Taking Control of Goods (Fees) Regulations 2014.
8. This guidance is to apply to all relevant enforcement services that are commenced on or after the date it is published.

## **Fees of High Court Enforcement Officers who are VAT-registered**

9. If you are a High Court Enforcement Officer and you are VAT-registered or work for an enforcement firm which is VAT-registered, it is your responsibility and the judgment creditor's to assist, as to whether the judgment creditor you are acting for is VAT-registered and eligible to reclaim the VAT from HMRC under the normal VAT rules. If that information is not provided, then the default position is that the judgment creditor is liable to pay any VAT costs and they must not be recovered from the judgment debtor as part of the enforcement costs.

### **If the judgment creditor is eligible to reclaim their VAT**

10. The High Court Enforcement Officer should issue the judgment creditor with a VAT invoice that includes the VAT payable on their enforcement fees. Upon receipt of this VAT invoice the judgment creditor must themselves pay to the High Court Enforcement Officer this VAT. The judgment creditor is able to reclaim this VAT paid as an input tax on their VAT return in accordance with the normal VAT rules.

11. VAT should not be paid by or recovered from the debtor or deducted from any remainder of the proceeds of sale that are to be paid to the debtor.

### **If the judgment creditor cannot recover VAT from HMRC**

12. If the judgment creditor cannot recover VAT from HMRC because, for example, they are not VAT-registered, then the High Court Enforcement Officer should deduct from the proceeds of sale, or other monies collected, their fee element together with a sum of the same amount as the VAT when accounting for the enforcement costs. That sum of the same amount as VAT must be accounted for by the High Court Enforcement Officer on their VAT return according to the VAT rules. The judgment creditor should still be issued with a VAT invoice.
13. For example, if a judgment debtor owes £1000 to a judgment creditor (who cannot recover VAT from HMRC) and enforcement fees are £75 and VAT is £15, then the High Court Enforcement Officer may recover **£1090** from the judgment debtor, as the £15 would be considered to be an enforcement cost.
14. Subject to HMRC's rules on recovery of pre-registration VAT, in the event that the judgment creditor subsequently registers for VAT and utilises the VAT invoice from the High Court Enforcement Officer to recover this VAT from HMRC, the judgment creditor must refund a sum of the same amount as the VAT to the judgment debtor. The time limit for recovering pre-registration VAT incurred on services is 6 months, the services supplied must not be made more than 6 months before the business became registered.
15. For example, if a judgment creditor holds a paid VAT invoice for £15, which the judgement debtor paid as part of enforcement costs and the judgment creditor then becomes VAT-registered and claims back this £15 from HMRC, the judgment creditor has an obligation to return the £15 to the judgment debtor.
16. A VAT invoice should not be issued to the judgment debtor in any circumstances. It should be made clear on any documents that this sum is an enforcement cost and is not VAT and therefore cannot be recovered from HMRC by the judgment debtor.

### **In circumstances where the judgment creditor can recover some but not all of the VAT as an input tax**

17. Where judgment creditors are only able to recover part of the VAT from HMRC because the remainder relates partly to their exempt supplies, the remainder may not be recovered from the debtor as an enforcement cost.

### **Where debts are consolidated**

18. Where debts owed to different judgment creditors by one judgment debtor are consolidated and one fee is charged, the VAT status of the judgment creditor with the priority debt should determine by whom VAT is to be paid in the manner set out above.

## **Fees of High Court Enforcement Officers who are not VAT-registered**

19. In the event that a High Court Enforcement Officer or the firm they work for is not VAT-registered, VAT cannot be charged on their fees. Therefore, a VAT invoice must not be issued on the High Court Enforcement Officer's fees.
20. However, VAT may be charged by the suppliers of services treated as disbursements.

## **Disbursements**

21. For disbursements which are recoverable from the judgment debtor pursuant to regulations 8, 9, 10 and 11 of the Regulations, the judgment creditor must be invoiced directly by the provider of those services, is liable for the VAT and, if VAT registered, can recover it from HMRC in the normal way in compliance with paragraph 25 of VAT Notice 700.
22. Where the judgment creditor is not eligible to recover this VAT from HMRC, the High Court Enforcement Officer may recover an amount equivalent to the disbursement costs inclusive of VAT from the judgment debtor as an enforcement cost when accounting for the proceeds of sale. The third-party supplier of the services must not issue a VAT invoice to the judgment debtor.
23. In each case the third-party supplier must, in the normal way, account to HMRC for VAT on the sums paid to it.

## **Where an agent acts for a judgment creditor**

24. Where a High Court Enforcement Officer is instructed by an agent of the judgment creditor, including a solicitor, the VAT invoices referred to above, including for disbursements, must be made out to the judgment creditor and not to their agent. The VAT must be accounted for by the judgment creditor on their VAT return and must not be accounted for on the VAT return of the agent.
25. No VAT or fees of the agent may be charged to the debtor by the High Court Enforcement Officer,

## **Notifying Debtors**

26. High Court Enforcement Officers have a responsibility to be clear in their communications with judgment debtors about whether the judgment debt will include an amount equivalent to the VAT charged on their fees.

## **Certificate of Satisfaction**

27. A judgment creditor may not rely on any delay in receiving their VAT from HMRC in relation to invoices for enforcement of the judgment debt as a reason for failing to

provide to the court, if requested to do so, confirmation that a debtor has satisfied their debts.

Ministry of Justice

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