

**Mid Devon District Council**

**Tax Strategy**

**February 2021**

## Version Control Sheet

*Title:* **Tax Strategy**

*Purpose:* **To outline the Council's approach to handling its tax affairs and potential risk areas.**

*Owner:* **Group Manager for Performance, Governance and Data Security**  
**[cyandle@middevon.gov.uk](mailto:cyandle@middevon.gov.uk)**  
**Telephone number 01884 234975**

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*Consultation* **This document was sent out for consultation to the following:**

Leadership Team

Cabinet Member

## Document History

This document obtained the following approvals.

<b>Title</b>	<b>Date</b>	<b>Version Approved</b>
Leadership Team*		<b>1.0</b>
Cabinet Member		<b>1.0</b>
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Council*		<b>1.0</b>

\*- Delete if not applicable

## 1. Introduction

This Tax Strategy document sets out the Council's approach to managing its own tax affairs.

## 2. Scope

2.1. The taxes this Council is subject to or collects on behalf of the UK government are:

- a) Employment Taxes
- b) Value Added Tax (VAT)
- c) Property Taxes
- d) Indirect Taxes
- e) Environmental Taxes

2.2. How the Council Manages its Tax Risks

The Council maintains robust processes and controls which are designed to minimise the risk of errors arising which could impact the amount of tax that we pay. These processes and controls are regularly monitored, reviewed and tested and underpin the submission of returns prepared by us and, as employer, for our staff.

Where we contract with suppliers we ensure that we correctly deal with our tax obligations in respect of payments to them.

Our guiding principles and codes of conduct govern how we manage our own taxation affairs. These are supported by both underlying detailed governance and risk management frameworks.

Ultimate responsibility for the Council's tax strategy and governance rests with the Deputy Chief Executive (S151).

Managers and Directors are responsible for ensuring that the appropriate controls and procedures are operated within their service areas in relation to taxation issues.

2.3. The Council's Attitude to Tax Planning

The Council strives for full compliance with all statutory obligations, full disclosure to relevant tax authorities and payment of the right amount of tax.

Advice is sought from external advisers where uncertainty exists.

2.4. The level of Risk the Council is prepared to accept for Taxation

The Council's appetite towards risk is primarily governed by the aim of retaining a low-risk rating from HMRC. This reduces the risk of inspections and business risk reviews by HMRC.

If the Council fails to account for taxes properly we may be charged interest and/or penalties by HMRC.

## 2.5. How the Council works with HMRC

The Council will always co-operate with HMRC in any inspections or enquiries they make of us.

We will ensure we respond to all questions promptly and accurately as required.

## 3. Related Documents

- 3.1. Financial Regulations
- 3.2. Anti-Fraud and Corruption Policy
- 3.3. Whistleblowing Policy

## 4. Specific Tax Risks faced by the Council

### 4.1. VAT Partial exemption

The Council is partially exempt for VAT purposes as it makes both taxable and exempt supplies. The usual rule for partial exemption is that the input VAT charged to the Council on supplies would be only partially recoverable from HMRC. However the Council benefits from legislation specific to the Public Sector (S33 VAT Act 1994) which enables the Council to recover all its input VAT as long as the de minimis level of 5% exempt supplies is not exceeded.

Exceeding the de minimis % is therefore a key tax risk for the Council so it is essential that large expenditure such as capital projects and any new income streams are discussed with the Finance Service to ensure that the VAT consequences of projects are fully understood, and advice can be obtained from external tax advisors where necessary, before they take place.

### 4.2. Other VAT Risks

That expenditure is not supported by valid documentation or we fail to account for VAT on sales at the correct date (tax point). Late submission of VAT returns. Further information on these are available in the Financial Regulations.

Debtors can help with ensuring the VAT treatment of sales is correct.

Creditors can help with the documentation required for expenditure.

### 4.3. IR35 Off Payroll working

IR35 is tax legislation that is designed to combat tax avoidance by workers supplying their services to clients via an intermediary, such as a limited company, but who would be an employee if the intermediary was not used. Such workers are called 'disguised employees' by HMRC.

Even if an individual can demonstrate that they are registered with HMRC as self-employed this does not mean that they should necessarily be treated as such when they undertake an engagement for Mid Devon District Council. It depends upon the contractual arrangement with the individual.

It is vital to resolve the issue of employment status and inform the individual how they will be paid, before they undertake the work.

There is an online tool that can be used to help determine the status of individuals at:

[www.hmrc.gov.uk/calcs/esi.htm](http://www.hmrc.gov.uk/calcs/esi.htm)

If you have any doubt as to the correct treatment, the matter should be referred to the Deputy Chief Executive (S151) or Corporate Manager for People, Governance and Waste without delay.

If the Council treats someone incorrectly then HMRC will charge interest and penalties; these will fall on the service that has commissioned the work.

#### **4.4. Construction Industry Scheme (CIS)**

CIS covers construction operations carried out in the UK. The rules of the scheme define the types of work that are classed construction operations.

The Council is responsible for deducting the correct amount of tax from sub-contractors and suppliers (if applicable) and paying the deductions over to HMRC monthly with payroll deductions. It is therefore essential that suppliers are set up properly before they are paid for the first time.

Procurement can help with setting up new suppliers.

#### **4.5. Other Employment Tax Risks**

The Council, in common with all other employers, operates PAYE/NIC deduction at source for all employees including Members. The procedures are largely on line and operate smoothly so the risks in this area are low.

#### **4.6 Other Taxes**

The Council pays other taxes in its own right as appropriate to the nature of transactions undertaken such as business rates. These are all viewed as low risk.

### **5. Corporate Offence**

5.1 The Criminal Finances Act 2017 introduced a corporate offence which applies to relevant bodies including local authorities. This offence can occur where an associated person of a local authority, which can include suppliers, has

committed tax evasion offences and the local authority is held guilty of “Failure to Prevent”.

- 5.2 The only defence is to have reasonable preventative procedures in place that are proportionate to the risk. These include tax policies, procedures and training of staff.
- 5.3 The Council must ensure that its tender documents and procurement processes make clear that the Council expects all suppliers to ensure that their own internal procedures ensure that the correct amount of taxes are accounted for and paid over to HMRC. The Council will not tolerate tax evasion offences.