

[Insert into the 'Calculation of a levy' chapter subject to the Draft SSI on Exemption under section 11(6) of the Visitor Levy (Scotland) Act 2024 being approved]

Visitor Levy and third party bookings

The Act ensures that when a third party (such as a Destination Management Company (DMC), tour operator, other travel intermediary, or in some cases Online Travel Agents (OTAs)) purchases accommodation from an accommodation provider as part of a wider travel package, the visitor levy should be calculated based on the first sale price (or contract price) agreed between the accommodation provider and the third party at the point of contracting.

The visitor levy price will remain constant after the initial contract, regardless of the number of subsequent third party transactions that take place after, right up to and including the point at which the visitor purchases the accommodation.

In most cases, it is expected that a third party selling an accommodation package directly to visitors will choose to include the visitor levy charge in the packaged price.

Where the third party does not include the visitor levy in the overall package cost, the accommodation provider is not prevented from collecting the visitor levy at another time. However, collecting the levy at check-in or check-out, for example, will present challenges around commercial sensitivities and additional credit card charges.

OTAs that purchase accommodation direct from an accommodation provider and then sell it on to the visitor can charge the levy on the accommodation portion of the cost agreed with the accommodation provider; the first sale price. Where an OTA acts as a facilitator, selling the accommodation on behalf of the accommodation provider, but where no transaction on the accommodation price has occurred, the first sale price would be the transaction between the OTA and the visitor directly. In such circumstances, the OTA would either need to provide the accommodation provider with the levy paid for by the visitor so that they could make necessary returns to the local authority. Or the OTA could seek permission from the relevant local authority to make returns directly.

Commission can be included in the accommodation portion on which the visitor levy is calculated.

Given that accommodation providers remain the liable person in all circumstances, they must make arrangements with third parties around collection of the visitor levy.

In every circumstance, the final total price inclusive of the visitor levy must be clearly communicated to the visitor at the point of booking, adhering with existing UK pricing regulations.

In certain circumstances, it may be appropriate for a third party to remit and pay the visitor levy directly to the relevant local authority with prior consent. For further information, see *Chapter 13 Liable Persons*.

Delayed payments

Local authorities should be mindful that contractual arrangements between accommodation providers and third parties can often result in payments not coming through to accommodation providers until after the stay has taken place, for example 90 days later. Where this will impact ability to make returns, local authorities will need to provide clear

instructions to accommodation providers and early engagement on the matter is therefore strongly encouraged.

[Note: the following wording will be included at the start of worked example section in main guidance] Where an accommodation provider is VAT registered, VAT must be accounted for on the visitor levy. The visitor levy being charged will include VAT at the standard rate of 20%. The following worked examples will be worked out on this basis where the accommodation provider is VAT registered.:

Worked Example 1: Third party bookings (DMC)

A DMC arranges a two-night trip that includes hotel accommodation (VAT registered), guided tours, meals, and transport. The DMC contracts the hotel room from the accommodation provider at a net rate of £100 per night on a bed and breakfast basis.

The local authority has set a visitor levy at 5%, which applies only to the accommodation portion of the total cost. Therefore, the accommodation provider must reasonably attribute the cost of breakfast and deduct it from the overall accommodation cost prior to calculating the visitor levy. In this case, the breakfast is estimated at £20 per night. The visitor levy is calculated on the first sale price agreed between the accommodation provider and the DMC - not the retail package price paid by the visitor.

Item	Net Price	VAT (20%)	Gross Total
Accommodation	£160.00	£32.00	£192.00
Visitor Levy (5%)	£8.00	£1.60	£9.60
Breakfast	£40.00	£8.00	£48.00
Totals	£168.00	£41.60	£249.60
Total payment from DMC to accommodation provider:			£249.60
Remitted to Local Authority by accommodation provider:			£8.00
Remitted to HMRC (VAT) by accommodation provider:			£41.60

When this approach is taken, the DMC should make it clear to the visitor that the total price is inclusive of the visitor levy.

Where accommodation bookings are made by a third party, the accommodation provider remains the liable person and is responsible for ensuring the visitor levy is correctly calculated, collected, and remitted.

In this example, the DMC has already collected the levy from the visitor and there is no agreement in place to allow the DMC to pay the visitor levy directly to the local authority. Therefore, the visitor levy should be returned to the accommodation provider as the liable person, and the accommodation provider will then need to return the visitor levy to the local authority.

Worked Example 2: Third party bookings (tour operators contracting via DMC)

A tour operator has purchased a five-night trip that includes accommodation, guided tours, meals and transport from a DMC.

When the DMC originally contracted accommodation on a room only basis from two accommodation providers across five nights, the net rates were £100 per night for a hotel (VAT registered) for three nights, and £120 per night for a B&B (non-VAT registered) for two nights. The local authority has set a visitor levy of 4%.

At the contracting stage with the DMC, each accommodation provider calculates the cost of accommodation, including the visitor levy as follows:

Hotel (VAT Registered, 3 Nights at £100/night)

Item	Net Price	VAT (20%)	Gross Total
Accommodation	£300.00	£60.00	£360.00
Visitor Levy (4%)	£12.00	£2.40	£14.40
Totals	£312.00	£62.40	£374.40
Total payment from DMC to accommodation provider:			£374.40
Remitted to Local Authority by accommodation provider:			£12.00
Remitted to HMRC (VAT) by			£62.40

accommodation provider:			
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B&B (non-VAT Registered, 2 Nights at £120/night)

Item	Net Price	VAT (20%)	Gross Total
Accommodation	£200.00	£0.00	£200.00
Visitor Levy (4%)	£8.00	£0.00	£8.00
Breakfast	£40.00	£0.00	£40.00
Totals	£208.00	£0.00	£248.00
Total payment from DMC to accommodation provider:			£248.00
Remitted to Local Authority by accommodation provider:			£8.00
Remitted to HMRC (VAT) by accommodation provider:			£0.00

In accordance with the contractual arrangements, the DMC should pass on the levies collected to both accommodation providers who must then return each amount as calculated above to the local authority. Where accommodation bookings are made by a third party, the accommodation provider remains the liable person and is responsible for ensuring the visitor levy is correctly calculated, collected, and remitted.

In this example, the DMC has already packaged the accommodation (and visitor levy) with guided tours, meals and transport, and sold the package to the tour operator. The tour operator subsequently can sell the package to the visitor, highlighting that the total cost of the package is inclusive of a visitor levy.

Worked Example 3: Third Party Bookings (group bookings with refund/reimbursement scenario)

A DMC has contracted 10 rooms for a one-night group visit. The agreed price per room is £150 (room only) in a hotel (VAT registered). The local authority has set a visitor levy of 3%.

At the contracting stage, the accommodation provider calculates the visitor levy based on the chargeable transaction for the accommodation portion of the 10 rooms.

To calculate the visitor levy, the visitor levy rate is applied to the net rate.

Room Breakdown

Room#	Outcome	Levy due?	Notes
1–6	Occupied by paying visitors	Yes	Visitor levy paid by DMC to accommodation provider.
7	Occupied by visitor with disability exemption	It is at the local authority's discretion to determine whether the visitor levy for those in receipt of UK disability benefits listed in the Act is not payable or is to be reimbursed. It is likely that a reimbursement process will be carried out by the local authority. If this is the case, the levy would be liable with the visitor eligible for a reimbursement as set out by the local authority.	Reimbursement process applies (see below).
8	Resold by DMC to another party	Yes	In this case, levy paid by DMC to accommodation provider.
9	Empty (no visitor arrived)	Yes, at the point of contracting it will not be known that the visitor will not occupy the room. However, if a visitor does not take entry to the accommodation, a refund will be due. The visitor levy is always refundable if the visitor doesn't stay in the accommodation, irrespective of the cancellation policy of the accommodation itself.	If the visitor has already paid for their package inclusive of a visitor levy to the DMC, the DMC would refund the levy to the visitor. In this scenario, if the DMC has already paid the accommodation provider the visitor levy, they would need to make arrangements with the accommodation provider to refund the visitor levy payment.

			If the DMC had contracted the accommodation inclusive of a visitor levy but not yet sold it to the visitor, the accommodation provider would refund the DMC if a payment has already been made.
10	Provided free to coach driver	Yes, if there has been a financial transaction for the room between accommodation provider and third party, even if third party offers room free of charge to coach driver subsequently.	If a financial transaction has occurred, the visitor levy is paid by the DMC to the accommodation provider. Where no financial transaction has occurred, no levy is liable.

Calculation Breakdown

Item	Net Price	VAT (20%)	Gross Total
Accommodation	£1500.00	£300.00	£1800.00
Visitor Levy (3%)	£45.00	£9.00	£54.00
Totals	£1545.00	£309.00	£1854.00
Total payment from DMC to accommodation provider:			£1854.00
Remitted to Local Authority by accommodation provider:			£45.00
Remitted to HMRC (VAT) by accommodation provider:			£309.00

Reimbursement process (disability exemption):

- Room 7 was occupied by a disabled visitor, who is exempt from the visitor levy under the Visitor Levy (Scotland) Act. In this case the local authority is administering the exemption on a claim-based reimbursement process.
- It is strongly recommended that the local authority administers any reimbursement due to the visitor based on eligibility, not the accommodation provider or third party.
- The Visitor Levy (Scotland) Act states that the levy is not payable or is to be reimbursed in a case where the visitor or any other person utilising the right to reside in the overnight accommodation is in receipt of benefits, payments or allowances for a disability. This doesn't apply for international visitors. For further information, see Chapter 17 *Exemptions*.
- If the visitor seeks a reimbursement, where their bill doesn't state the specific amount of the visitor levy, the local authority will need to provide clarity to the visitor and to the accommodation provider/third party on the process for how the reimbursement will be administered.
- The visitor (or their representative) must submit the appropriate reimbursement claim to the local authority, via a process clearly stated by the local authority.
- The local authority assesses the claim and if eligible, process the claim and reimburses the visitor directly.

**Need to include VAT implications for visitors seeking refund once confirmed by HMRC*

Commented [NC1]: HMRC to clarify

Worked example 4: OTA marketing/facilitating accommodation on behalf of accommodation provider

An OTA contracts with a B&B (not VAT registered) to market and sell their rooms direct to visitors. The OTA uses flexible pricing and the accommodation provider receives funds net of commission. The visitor is charged £250 for two nights room only and the accommodation provider receives £200 for the accommodation. The local authority has a visitor levy set at 5%.

The OTA has not purchased the accommodation from the accommodation provider and the third-party exemption will not apply as the sale through the platform is the first sale.

In this example, the OTA has opted to include the commission it receives from the accommodation provider in the accommodation cost it will use to calculate the levy.

Item	Net Price	VAT (20%)	Gross Total
Accommodation including commission	£250.00	£0.00	£250.00
Visitor Levy (5%)	£12.50	£0.00	£12.50

Totals	£262.50	£0.00	£262.50
Paid by Visitor:			£262.50
Remitted by OTA to accommodation provider			£212.50
Remitted to Local Authority by accommodation provider:			£12.50
Remitted to HMRC (VAT) by accommodation provider:			£0.00

Worked example 5: OTA purchasing accommodation direct from accommodation provider

An OTA purchases accommodation direct from a B&B (not VAT registered) for £120 per night (room only), and then subsequently the OTA sells it on to the visitor at a cost of £140 per night (room only). The visitor levy can therefore be charged on the cost agreed with the accommodation provider; the first sale price.

The local authority has a visitor levy set at 5%.

In this scenario the OTA has collected the visitor levy from the visitor, and will pay the B&B, who will remit the visitor levy payments to the local authority.

In certain circumstances, it may be appropriate for a third party to remit and pay the visitor levy directly to the relevant local authority with prior consent. For further information, see *Chapter 13 Liable Persons*.

Where bookings are made through a third-party platform, the accommodation provider remains the liable person and is responsible for ensuring the visitor levy is correctly calculated, collected, remitted and paid.

Item	Net Price	VAT (20%)	Gross Total
Accommodation	£120.00	£0.00	£120.00

Visitor Levy (5%)	£6. 00	£0.00	£6.00
OTA mark-up	£20.00	£0.00	£20.00
Totals	£146.00	£0.00	£146.00
Paid by Visitor:			£146.00
Remitted to Local Authority by accommodation provider:			£6.00
Remitted to HMRC (VAT) by accommodation provider:			£0.00