DIY builders

Alun Oliver explains the interaction between the DIY VAT housebuilder refund scheme and the community infrastructure levy – an indirect tax on planning and development.

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The VAT reclaim scheme was introduced in 1974 and now sits within VATA 1994, s 35 to encourage private individuals to create new dwellings. When the VAT Act came into force in 1994, this was amended as VAT refunds for DIY builders and converters. In 2009, that scheme was replaced by what we have today – VAT431.

DIY housebuilder scheme – VAT refund

This is, in essence, to 'balance' the difference between buying a new property from a developer where they cannot charge VAT to the home purchaser on the sale of a new build and the unavoidable VAT incurred by most self-builders – in purchasing materials from builders' merchants or retail suppliers of the various component materials, for example wall or floor tiles and lighting.

The processing and submitting of VAT reclaims on new builds under the DIY VAT431 scheme allows those undertaking their own self-build new homes, or conversions of a building from non-residential to become a new dwelling (eg a barn conversion or redevelopment of an old pub) to claim back the VAT they have incurred on an eligible project. These operate at two levels:

- new build using form VAT431NB; and
- conversions using form VAT431C.

There is no limit to the VAT recovery possible, so long as it is incurred on the eligible materials that are paid for by the homeowner. They do not have to be physically building the property themselves and can use a contractor, although many may like to be very hands on. Where a separate 'arm's' length' builder is being used, it is important that they charge the 'correct' VAT – at zero for new build (or 5% reduced rate, where applicable – typically on non-residential conversions or where the existing house has been empty for 24 months or longer). HMRC will not refund VAT that has been incorrectly applied by a contractor, for instance, who has charged a standard rate of VAT (20%) on all works. Hence, it is important to ensure the contractor understands the applicable rules, otherwise the homeowner may lose out financially.

Some self-builders confuse the construction activity of their contractor with their own supply of materials to the contractor. Anyone undertaking a self-build (replacement houses also come under this bracket) where the contractor is VAT registered shouldn't be charged VAT for any labour or materials. For a conversion the contractor should charge a reduced rate of 5%, which can then be reclaimed at the end of the project, along with any qualifying material purchases. Where a contractor is not VAT registered, it is better for the homeowner to directly purchase as much of the building materials as possible, enabling them to reclaim the VAT, so long as the invoices are properly addressed to the individual(s).

Care should also be taken to ensure eligibility under the DIY housebuilder refund scheme, a position that was reinforced by the decision in *Brian Lawton* (TC9309). Mr Lawton had two planning permissions and sought to claim VAT back after both builds. The first claim for a barn conversion to form a dwelling was accepted, but the second claim was denied as it was deemed to be for an extension to an existing dwelling.

Community infrastructure levy

The community infrastructure levy (CIL) was facilitated by the Planning Act 2008 and is a discretionary planning charge that came into effect in 2010 under the Community

Key points

- The DIY VAT431 scheme allows self-builders and converters to reclaim VAT on qualifying construction materials and eligible projects.
- Contractors must apply correct VAT rates, as HMRC will not refund incorrectly charged standard rate VAT on works.
- Community infrastructure levy (CIL) funds local infrastructure through development charges.
- Self-build CIL exemptions can save substantial sums, but strict procedures and deadlines must be followed before commencing works.
- Aligning DIY VAT claims with CIL exemption evidence helps preserve reliefs and avoid losing valuable financial benefits entirely.

Infrastructure Levy Regulations 2010. Local planning authorities (LPAs) across England and Wales have been free to decide whether to adopt CIL as a charge against new property development in their respective area since the introduction.

The levy was spawned from Kate Barker's 2004 *Review of Housing Supply: Delivering Stability: Securing our Future Housing Needs* – initially conceived as a planning-gain supplement that sought to reform the Town and Country Planning Act 1990, s 106 contributions to 'provide more certainty and simplicity'. Section 106 and CIL provide the local authority with important funds to supply the relevant infrastructure that is required from increased development – such as transport, education, health and public spaces. Architects, planners and developers (and their wider advisers) may wonder whether the complex myriad of CIL regulations, now operating in tandem with s 106, are in any way a simplification or the improvement envisaged at the outset.

CIL is now operative in approximately 60% of LPAs throughout England and Wales, with many others in the process of establishing their own CIL regime. London boroughs have the dubious pleasure of both borough CIL (BCIL) and mayoral CIL (MCIL), which effectively uplifts the costs even higher. MCIL is currently allocated to repay the costs associated with Crossrail – up until the early 2040s.

Where CIL is in force, it is applied to new planning applications granted since the effective date and is calculated by reference to the LPA's charging schedule. This sets out the relevant rates for different uses (residential, retail (supermarket and/or convenience), student, hotel, etc) and sometimes there are different rates in different geographic zones (enabling the LPAs to boost certain areas or encourage specific uses). The headline CIL rates range from £nil up to £750/m² (Royal Borough of Kensington and Chelsea (RBKC) – the highest rate in England and Wales) for BCIL, before indexation (the mechanism that uplifts the CIL rates for inflation – from the date of adoption to the date of the planning grant). This is then multiplied by the chargeable area – defined and measured as gross internal area (GIA). This is not 'gross' as opposed to 'net', but a specifically defined method of measuring buildings as determined by the Royal Institution of Chartered Surveyors (RICS) and set out in its *Code of Measuring Practice 6th Edition*. It involves measuring the GIA as the distance between the internal face of the external walls – without adjustment for internal walls, window or door recesses, chimney breast or piers and the like.

Interestingly, while long-term empty buildings might help to reduce the VAT rate applied, in CIL terms the amount chargeable can significantly increase where the existing property has not been an 'in-use building', defined in the regulations as in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development. Where the existing GIA is considered not 'in-use', the full GIA becomes chargeable, not simply the additional net area – just new floor area.

Mayoral CIL is banded into three different categories, with the highest at £80/m², band 2 at £60/m² and the lowest at £25/m². Hence, RBKC's combined highest applicable CIL rate before the inflationary uplift is £830/m².

In 2014, in response to pressure from homeowners and to promote the wider use of self-build, the CIL regulations introduced exemptions from CIL (SI 2014/0385) for projects meeting one of three self-build criteria:

- self-build annex – a separate dwelling within the curtilage of the main home or dwelling;
- self-build extension – an extension of the main home or dwelling; and
- self-build housing exemption – a new house to be used as the main dwelling upon completion.

However, these exemptions are not automatic. There are specific criteria and complex, overly rigid procedures that must be met and actioned to enable the homeowner(s) to enjoy a self-build exemption. These must be applied for before any commencement of works (including demolition), after the planning permission has been granted. Failure to follow the required sequencing can deny any exemption and there are cases where unfortunate situations, such as a wall collapse (see *Nathan Gardiner v Hertsmere Borough Council* [2022] EWCA Civ 1162, [2022] WLR(D) 357), have led to a new retrospective planning being required – creating a CIL liability that had not been an issue to the earlier commencement. Or self-build exemptions being lost and invalidated – leading to the CIL charge being immediately reinstated. There is a growing body of case law building up around CIL that, as well as court cases, includes hundreds of CIL appeal decisions determined by the Valuation Office (VO) and the Planning Inspectorate (PINS), which jointly oversee the LPAs and determine disputed cases under specific criteria.

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Self-build – CIL vs VAT

The CIL self-build housing exemption is controlled by Regs 54A to 54D and applies to the intended main or sole family home being built or commissioned for self-occupation. Within the CIL process, it is necessary to submit form 7, part 1 (7-1) at the outset and agree the exemption with the LPA. To date, E³ Consulting has achieved several self-build exemptions with CIL in the millions, but most are in the range of £50,000 to £500,000, depending on the location, CIL rates and scale of dwelling.

To prove that the property has become the main family home, after completion of the building works and within six months of the building control completion certificate, the owner(s) must submit form 7, part 2 (7-2), together with six other evidential documents under section B of this form 7-2

Example 1

Section B: Submission of evidence
Please confirm below what evidence you are providing to support your claim for self build CIL exemption.

1. Please enclose a copy of **all** of the following items:
 a) A compliance certificate for this development issued under either: ☐
 -regulation 17 (completion certificates) of the Building Regulations 2010 **or**
 -section 51 of the Building Act 1984 (final certificates)

What date was the compliance certificate issued (DD/MM/YYYY)? ____

b) Title deeds of the property to which this exemption relates (freehold or leasehold) ☐

c) Council tax bill or certificate ☐

2. Please enclose two further proofs of occupation of the home as sole or main residence

Please enclose a copy of **two** of the following items **showing your name and the address of the property:**

Utility bill ☐
Bank statement ☐
Local electoral roll registration ☐

3. Please also enclose a copy of one of the following items (and review the notes below):

a) An approved claim from HM Revenue and Customs under ☐
'VAT431NB: VAT refunds for DIY housebuilders'

b) Proof of a specialist Self Build or Custom Build Warranty* for your development ☐

c) Proof of an approved Self Build or Custom Build Mortgage# from a bank or building society for your development. ☐

(see ***Example 1***). The first of these, requirement (R) 1, is to prove that the construction has been completed and who owns the property (title deeds and council tax bill or certificate). Second, at R2, the owner(s) must provide two of three items drawn from utility bills, bank statement and/or electoral roll – to help demonstrate their occupation of the property. Finally, R3 asks for one of three possible options:

- an approved claim from HMRC under VAT431 NB: VAT refunds for DIY housebuilders;
- proof of a specialist self-build or custom build warranty for the development; or
- proof of an approved self-build or custom build mortgage from a bank or building society for the development.

A VAT claim is not always possible (for example, where a 'new home' is simply a major refurbishment of an existing dwelling). There are also potential issues where construction reality is different to the planning – as some LPAs treat an amalgamation (two into one) as a new house. We have found that where the project meets the criteria, the VAT DIY reclaim is the easiest (and most cost effective) to achieve. Now that the digital VAT DIY claim must be submitted within six months of the completion certificate, it is recommended that this is processed first and then, once ratified, used as the R3 evidence together with the requisite items under R1 and R2.

Extract from CIL form 7-2

In contrast, from our experience, most self-builders do not wish to incur the additional costs of a self-build warranty, as they either already have financial recourse to the contractor and design team through various contractual warranties, or indemnities (on the larger projects), and see a separate latent defect insurance as unnecessary. Others see them as simply too expensive. We have had some quotes in the range of £25,000 to £40,000 (or higher) on a £500,000-£750,000 build or conversion of a building. Lastly, we have observed that a very high proportion are building from private accumulated funds, with only a small percentage using self-build mortgages. Hence, these two alternative elements to prove the self-build within R3 can be rather elusive.

CIL is extremely bureaucratic, and there are many cases where homeowners have failed to take appropriate or timely advice, missing out on the available exemptions. Others begin works before realising that they must apply for the exemption – either by not taking advice or receiving poor advice from their architect, planning consultant, LPA or contractor. We have seen all these circumstances, often leading to expensive and irreparable situations where CIL is charged by the LPA, which is empowered to operate the CIL regime once adopted, but with no discretion; underpinned by the decision in *R (oao) Mr Stephen Luck v Bracknell Forest Borough Council* [2025] EWHC 2984 (Admin), [2025] WLR(D) 599.

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Hence, there is an unusual but very beneficial alignment between those seeking the DIY VAT refund and those wanting to obtain a self-build CIL exemption and validate it upon completion of their new house, pursuant to Reg 54C.

Satisfying the CIL process can secure the CIL exemption, although for annexes and housing exemptions there is a three-year clawback period that operates from the date of the completion certificate. Therefore, any sale, or even renting out, of the property can invalidate the self-build, triggering a 'disqualifying event' and the reinstatement of the CIL, which becomes immediately payable.

A self-build extension exemption has no clawback period but necessitates the owner(s) to occupy the property as their main residence at the time of application, denying the relief to those undertaking significant renovation projects before moving in – typically after a probate sale. This unfortunate requirement is, we believe, a factor from poor drafting and catches out many owners who really should be able to enjoy the self-build exemption on their 'dream' or 'forever home' in the same way as it operates for a new house.

More CIL consultation soon

On 29 April 2026, housing minister Matthew Pennycook announced that the government intends to publish a further consultation on CIL before the summer recess. This separate measure seeks to address the disproportionate impact of 'minor' changes that have cost householders and particularly 'self-builders' considerable sums across London and the South East – where CIL housing rates are typically in the region of £100/m² to £500/m² before any uplift for indexation! The parliamentary debate was organised by Sir Jeremy Hunt, MP for Godalming and Ash, located within Waverley Borough Council area and one of the LPAs in the centre of self-build disquiet – due to its main residential CIL rates being £467.92/m² and £568.55/m² after indexation for the 2026 calendar year. Pennycook also confirmed some government action to address those who have been hit by significant CIL charges, promising that 'it was not the case, when it comes to those already affected by this issue, [that] we intend to do nothing'.

Conclusions

While some may not see CIL as a property tax, it is a major cost for developers and homeowners throughout England and Wales, helping LPAs to fund important local amenities. It is by no means perfect and is definitely in need of some reform to make it work better and more fairly – balancing the power between CIL-payers and LPAs.

There is an increasing propensity to retain existing buildings and modernise – not least due to embodied carbon. While this may be helpful for VAT, as we set out above it can potentially deny the offset of the existing GIA – markedly increasing the CIL cost. Furthermore, the zero rating for new builds might 'encourage' demolition and rebuild – saving 20% as well as simplifying the self-build exemption – that might not apply if the owners are not already occupying the dwelling.

Hopefully, the imminent consultations involving CIL might identify some of these issues and help to find resolutions to these inconsistencies – to ensure a better and fairer approach. Both PINS and VO could no doubt lead on the many areas that they see from their respective caseloads – to help focus attention on the most pressing areas of the regulations and to remove the 'trip-wires' to protect self-builders, while ensuring the appropriate funds are able to properly fund local infrastructure.

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In one recent project, the owners were concerned about fulfilling the form 7-2 requirements and they approached the six-month deadline with some anxiety. Upon instruction, E³ Consulting quickly lodged a DIY VAT claim with HMRC for some light fittings bought by the owners as part of the demolition and rebuild – it was a modest VAT claim of just over £500, but sufficient to satisfy the CIL requirements. Upon conclusion of the VAT refund and receipt of HMRC's confirmation, we successfully lodged the form 7-2 together with the other necessary evidence, ratifying their self-build housing exemption in excess of £130,000.

Due to the limited six-month submission period for both the DIY VAT and CIL self-build, there is a material risk to those ill-prepared to comply with these statutory requirements that they potentially might lose their VAT relief, or CIL exemption, if not both. Forewarned is forearmed. ●

Author details

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