

Consultation Response

VAT on Private School Fees
& Removing the Charitable
Rates Relief for Private Schools

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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Tax Law sub-committee welcomes the opportunity to consider and respond to HM Treasury's consultation included within its Technical Note: *Applying VAT to Private School Fees and Removing the Business Rates Charitable Rates Relief for Private Schools*.¹ It has the following comments to put forward for consideration.

General Remarks

Please note that our comments are limited to points relating to legal policy and prospective legislative changes, in line with the remit and expertise of our membership. We do not look to comment on political or wider policy considerations.

We also have not commented on the proposals to remove the charitable rates exemption from schools in England, noting that schools in Scotland no longer benefit from the charitable rates exemption.

We have the following specific comments regarding the draft legislation.

Closely related goods and services

The current exemption from VAT applies to both school fees, boarding school fees and closely related goods and services. The draft legislation proposes that standard rating will only apply to school fees and boarding school fees, and that "closely related goods and services" will remain exempt from VAT.

We highlight the complexities that this approach involves, and note that this could also bring some schools into partial exemption.

We note that the general approach of VAT to supplies which are ancillary to a larger supply is to treat them as being part of the main supply; and that the proposals are not reflective of this approach. Consideration could be given to whether removing the exemption for closely related goods and services would be more consistent with the general approach of the VAT legislation in this area.

¹ [VAT on Private School Fees & Removing the Charitable Rates Relief for Private Schools](#)

Payments made after 29 July 2024

The draft legislation provides that payments made after 29 July 2024 which relate to terms starting on or after 1 January 2025 are subject to VAT. It is not clear at what the tax point is for these payments (i.e. when schools will have to account for the VAT on these fees).

For example, if a payment is made after 29 July 2024 which relates to both the Spring and Summer terms of 2025, is the tax point for the VAT on both terms' fees the start of the Spring term in 2025? Or is the VAT on the Spring term fees payable at the beginning of the Spring term, and the VAT relating to the Summer term fees payable at the beginning of the Summer term?

We recommend that the draft legislation should be amended to make this clear.

Pre-registration input tax

Generally businesses registering for VAT can claim input tax on goods acquired in the four years prior to the date of registration, provided the goods have not been consumed, and on services provided in the 6 months prior to the date of registration.

It is not clear whether these rules will apply to schools registering for VAT as a result of the new rules. We would recommend that the draft legislation should be amended to make this clear.

Delays in the VAT registration process

We are aware that there are currently delays in the VAT registration process. It is important that schools seeking to register for VAT will be able to do so in time to obtain a VAT registration number to allow them to issue VAT invoices when required by the changes, e.g. before the start of the Spring term 2025. Consideration should be given to ensuring that there are the necessary resources available to support the VAT registration process for the required number of schools at the same time.

Approach to penalties

We note that many schools will have no experience of preparing and submitting VAT returns, keeping appropriate records for these purposes, and issuing VAT invoices. Accounting systems may not also be VAT compliant, as since that has never previously been a requirement. We recommend that HMRC provides clarity on its approach to issuing penalties under the proposals, and considers whether a “light-touch” approach should be adopted in the initial period.

Publication of guidance

We welcome that detailed guidance is to be published by HMRC to help schools who need to register for VAT as a result of these changes. Based on the queries which have been raised with our members, we would recommend that the guidance should cover the treatment of bursaries and scholarships, as well as fee discounts

for members of teaching staff. It would also be helpful for guidance to address the VAT implications of sponsorship as compared with donations.

Questions

Questions 1-5

We refer to our comments above.

For further information, please contact:

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