

## CHARITIES AND VAT

Whether a charity is registered for Value Added Tax (VAT) or not, there are some aspects of this tax that a charity should be aware of.

For example:

- Can a charity obtain advertising without paying VAT?
- Can charities purchase new premises from a builder without paying VAT?
- Is VAT payable on fundraising/donations received from supporters?
- Is VAT payable on grants received from local authorities?

### ZERO RATED SUPPLIES TO CHARITIES

Certain expenses incurred by a charity may be zero rated if the charity provides their supplier with a certificate. An example of the certificate in the required format is available in HM Revenue & Customs (HMRC) Notice 701/58 or from Thomas May & Co. Examples of expenses to which this apply include advertising, certain property transactions, aids for the disabled, goods used in connection with collecting monetary donations and medical products.

### Advertising

This relief covers all types of advertising on any subject, including staff recruitment.

The advertising must be to the general public and not to "selected" individuals. General groups such as readers of a trade or religious magazine are not considered to be "selected"

Direct mail (by post, fax and e-mail), telesales or advertising on a charity's own website cannot be zero-rated. Direct mail and telesales are excluded as they are considered to be marketing and advertising to selected, as opposed to general, groups and individuals.

The important factor is that the advertisement is placed in someone else's time and space, which is the reason that advertising, for example, on a charity's own greeting cards or the purchase of pens with the charity's logo, does not qualify for zero-rating and remains subject to VAT at 17 ½%.

### Property

A builder can zero-rate services in the course of construction of a new building, or the supply of a new building itself, where a charity is to occupy it for non-business purposes. By concession, HMRC disregards any business use of a building where it is less than 10% of the total use. Where a building is used as offices for administering for example the collection of donations, this would be classed as a non-business purpose. If it administers fund-raising events where an entrance fee is charged this would be deemed to be a business activity.

Until recently the building had to be used for non-business purposes for 10 years otherwise HMRC imposed a "change of use" charge. Subject to certain conditions this requirement has now been removed. It is now possible, if a charity has paid such a charge in the last 3 years, to obtain a refund. Please contact Thomas May & Co. if you feel you may qualify.

It is also possible for the building of a village hall (or similar building) and a children's nursery to qualify for zero rating where it is run by a non-profit making organisation, even if a hire or attendance fee is charged.

It should also be remembered that where a charity rents an office for non-business purposes and the rent would normally include VAT, if a certificate is given to the landlord, no VAT is payable.

## **BUSINESS or NON BUSINESS ACTIVITY**

A charity can unexpectedly find they have incurred a large VAT liability if they have started to carry on a business without realising it.

For VAT purposes an activity, even if run by a charity, may be classed as a business if a charge is made on a regular basis for the supply of either goods or services.

Current legislation requires an entity to register for VAT if the goods / services supplied by the business exceed £64,000 per annum.

## **Fund-Raising / Donations**

The basic rule is that the income received from any event held out as fundraising by a charity is exempt as long as the income is exclusively for the charity's own benefit. There should however be no more than 15 of the same kind of event in the same location in its financial year. For example 20 dinner dance fundraising events would qualify for the exemption if 10 say were held in one town and 10 in another. If 16 were held in one town and 4 in another, the income from the 16 would be subject to VAT (so if the first 15 were treated as exempt, output tax would become due with a potential interest charge). It also follows that it is possible to have 10 dinner dances and 10 car boot sales in the same location and still qualify for the exemption. Frequent small-scale events producing total gross income of less than £1,000 per week can be ignored when considering the 15 event limit.

Examples of the publicity material, tickets etc used for fund-raising should be retained to support the claim for exemption. These should clearly refer to fund-raising such as "in aid of", "help us to raise", or some similar statement.

Donations of money are outside the scope of VAT. This is because they are freely given and nothing is received in return for the payment. Sponsorship is not a donation if a significant benefit is received by the sponsor in return. If this is the case the payment will attract VAT. Significant benefits will include free advertising, free tickets etc.

HMRC accept that where the benefit is insignificant such as naming a sponsor in a list of supporters this is insignificant and zero rating may be applied.

## **Grant Funding**

One of the most difficult areas for a charity is when grant funding is received. Whether this is business income and potentially attracts VAT, is dependent upon whether the local authority, or other organisation, receives something in return for the grant. For example where the charity provides a service which the local authority itself is legally bound to provide. As a general rule, obligations to provide reports to justify how the money has been spent would not be classed as a supply of goods or services for VAT purposes.

## **Concessions on Business Activities**

There are a few extra statutory concessions on the recognition of an activity as a business where therefore there is no requirement to charge VAT:

- certain supplies of welfare services by charities where the cost is subsidised by at least 15% may be treated as non-business.
- a charity that charges for advertising in a publication, where more than 50% of the adverts are placed by private individuals, may treat the whole of the advertising income as non-business and therefore not subject to VAT.

These are only some of the many current issues that confront a charity in respect of VAT. If you are about to undertake a large project, or even many small ones and are unsure of the correct VAT procedure, or have any other questions arising from this bulletin, then please contact either John Calow, Partner or Elizabeth Smith, Manager at

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