12 September 2024

Applying VAT to Private School Fees and Removing the Business Rates Charitable Rates Relief for Private Schools

Response from ICAS

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About ICAS

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 24,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. Approximately 11,500 of our members are based in Scotland and 10,000 in England and Wales.

2. The following submission has been prepared by the ICAS Tax Board. The Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community; it does this with the active input and support of over 60 committee members.

3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members into the many complex issues and decisions involved in tax and regulatory system design, and to point out operational practicalities.

General comments

4. We welcome the opportunity to respond to the technical consultation - Applying VAT to Private School Fees and Removing the Business Rates Charitable Rates Relief for Private Schools.

5. We have had limited feedback on the specific questions in the consultation, so we have provided very brief answers to these below.

6. However, we have had a number of queries and practical issues raised with us relating to implementation of the changes and the application of the VAT rules. We are pleased that the consultation (and the Revenue and Customs Brief) indicate that HMRC will be producing detailed bespoke guidance.

7. This is a significant change to the VAT system, affecting one sector. We understand that there will be little experience or knowledge of VAT in many schools because of the current exemption from VAT – although some will have had trading subsidiaries registered for VAT.

8. We have set out below, after our responses to the specific questions, suggestions for areas that could usefully be covered in the bespoke guidance, along with some practical issues raised with us. We would be happy to give further input to HMRC on any of these points if that would be helpful.

Specific questions

Question 1: Does the above definition of private schools capture all private schools across the UK?

9. We have not identified any omissions from the definition.

Question 2: Does this definition inadvertently capture any organisations that this policy does not intend to capture?

10. We have not received sufficient feedback to comment on this question.

Question 3: Does the above "connected persons" test capture the relationships that exist between private schools and third parties?

11. The definition of "connected persons" appears to be comprehensive and clear.

Question 4: Does this "connected persons" test inadvertently capture any relationships that it is not intended to capture?

12. We have not identified any.

Question 5: Does this approach achieve the intended policy aims across all four UK nations?

13. We have no comments on this question.

Suggestions for guidance and practical issues

Capital Goods Scheme (CGS)

14. It would be helpful for HMRC to provide guidance on how CGS will operate for schools registering now, where they have incurred relevant capital expenditure within the last ten years.

Closely related services

15. The consultation explains that the policy intention is only to capture education services and vocational training, not other goods and services 'closely related' to education, such as school meals, transport, and books and stationery.

16. This will be a departure from the normal VAT approach to ancillary services. It would be helpful for HMRC to provide some indication of the range of items that will be treated as exempt closely related goods and services, beyond those specifically mentioned in the consultation. For example, would supplies of clay for art classes be regarded as similar to books and stationery, and hence exempt?

17. Some schools may already charge separately for some of these goods and services, particularly services like transport which might not be relevant to all pupils. However, many will be looking to introduce separate charges, or increasing the number of items subject to separate charges. We assume that this would not automatically be regarded as value shifting, and it would be useful for HMRC to provide guidance on supporting evidence/acceptable methodologies.

18. The consultation specifically indicates that 'boarding' fees will be subject to VAT – but school meals will remain exempt. Presumably, it will therefore be possible for the catering element of boarding charges to be stripped out and charged for separately. Similarly, we assume that day schools will be able to charge separately for lunches, if they do not already do so. It would be helpful for HMRC to clarify exactly what is covered by 'boarding' and 'school meals' and how it anticipates schools will attribute appropriate values.

Partial exemption

19. This will be a significant and complex area for schools – many of them will not have had to deal with it before. Tailored guidance from HMRC would be useful. We understand that the software products most schools use will be able to deal with Making Tax Digital, but if nothing else, it would be helpful for HMRC to highlight that schools will usually need to carry out a separate partial exemption calculation, outside their MTD software.

Other issues

20. We have already received queries about the treatment of bursaries, discounted fees, and other forms of support with fees – provided by schools themselves, or by others (for example, a foundation set up to support a school). The VAT treatment will vary according to the precise nature of the arrangements, but guidance from HMRC on the most common scenarios would be

welcome. It would also be helpful to understand what HMRC's approach will be to the restriction of input VAT/impact on residual VAT recovery where free education is effectively provided to some pupils (ie a non-business activity).

Practical issues

21. We welcome the commitment in the consultation to ensuring a smooth registration process for schools from 30 October. However, HMRC service levels are already the key concern raised with us by members, and we are concerned that HMRC resources will not be able to cope with the volume of registrations, with a negative impact on schools trying to register (or on other taxpayers, if resources are diverted away from other services).

22. Feedback on VAT registration applications indicates that while many are dealt with rapidly via VRS, where there are problems, it can be difficult and time consuming to resolve them. Will support be provided for schools via the normal VAT registration mailbox, or by another route? It will be essential that HMRC is provided with adequate resources to deal with the demand, without adversely affecting other services.

23. We note that the consultation mentions that HMRC will hold support sessions for private schools. Subject to the resources issue mentioned above, this sounds positive. It would be useful if HMRC could also email schools with details of (and links to) any bespoke guidance it publishes, as well as any existing guidance that would be relevant and helpful.

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