

# VAT

made simple



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## Introduction

VAT is a sales tax charged by registered businesses on certain goods and services they provide. You have to add VAT to your customer invoices ('output VAT') and pay this VAT over to HM Revenue & Customs ('HMRC'). However, you are allowed to deduct the VAT you incur in making your VATable sales and only pay over the net amount. Deducting VAT charged by suppliers is referred to as 'recovering VAT' and the VAT incurred on business purchases is referred to as 'input VAT'.

For VAT purposes activities are divided into the following broad categories:

### Non-business activities (outside the scope of VAT)

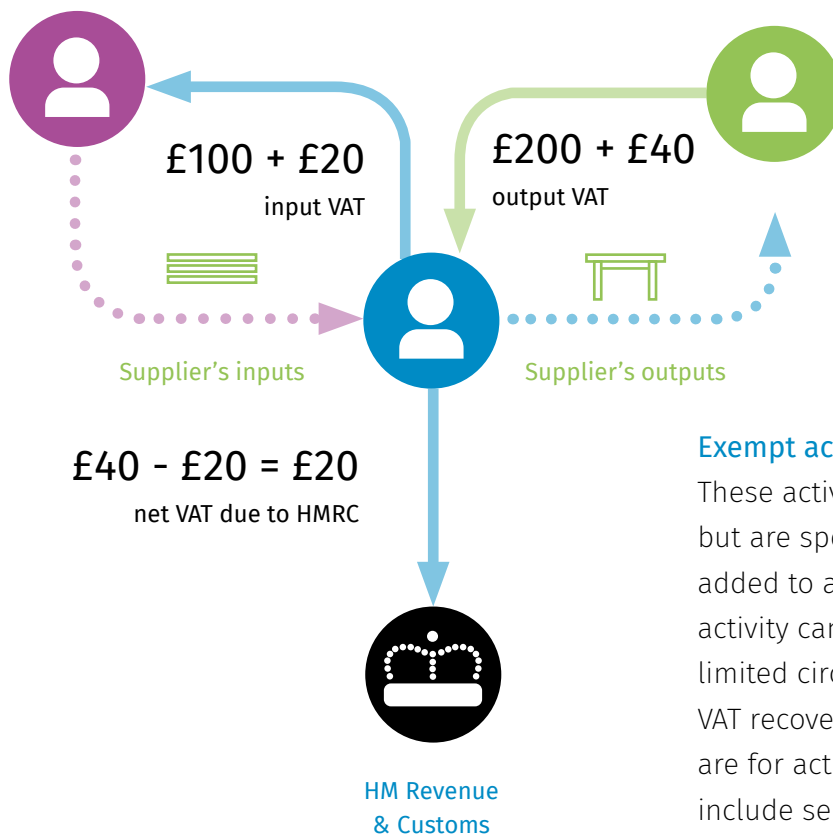
VAT does not apply to these activities. VAT is not charged, but the VAT incurred by the activity cannot be recovered.

### Business activities (within the scope of VAT)

The VAT rules apply to these activities though only some are actually subject to VAT or taxable.

#### Taxable activities

These activities are subject to VAT. VAT is added at the appropriate rate and input VAT incurred by the activity can be recovered. The UK currently has three rates of VAT, the standard rate (20%), the reduced rate (5%) and the zero rate (0%). It is important to note that zero-rated activities are taxable, they just carry VAT at a zero rate. No VAT is added to any charges but VAT incurred by the zero-rated activity can be recovered.



#### Exempt activities

These activities are within the scope of VAT, but are specifically exempted. VAT is not added to any charges, but VAT incurred by the activity cannot be recovered, except in very limited circumstances (see the section on VAT recovery below). Many of the exemptions are for activities in the public interest and include services commonly provided by charities such as health, welfare, education, sport and admissions to cultural events

## Registering for VAT

You must register for VAT if the turnover on taxable activities exceeds the VAT registration threshold. This threshold is increased annually in the government's budget. The VAT registration threshold from 1 April 2015 is £82,000.

You must register for VAT if you meet either the past turnover test or the future turnover test:

### Past turnover test

At the end of any calendar month, the value of taxable supplies in the last 12 months has exceeded the VAT registration threshold. You must notify HMRC within 30 days of the end of the month and will be registered from the first day of the second month. However, you can be exempted from VAT registration if HMRC is satisfied your taxable turnover in the next 12 months will not exceed the VAT de-registration threshold. This is normally £2,000 less than the VAT registration threshold and is from 1 April 2015 £80,000.

### Future turnover test

At any time, there are reasonable grounds for believing that the value of taxable supplies in the next 30 days alone will exceed the VAT registration threshold. You must notify HMRC within 30 days of becoming aware that the threshold will be exceeded. The registration is effective from the date you became aware.

HMRC may also permit an organisation to be exempted from VAT registration if it makes mainly zero-rated supplies, so that it would normally recover VAT from HMRC rather than pay it. An organisation can also register voluntarily as long as it makes or will make some taxable supplies. You have to provide evidence of an intention to make taxable supplies.

You register by completing form VAT 1 or online. Once you are registered, you must provide your customers with proper VAT invoices and complete regular VAT returns.

### Pre-registration VAT

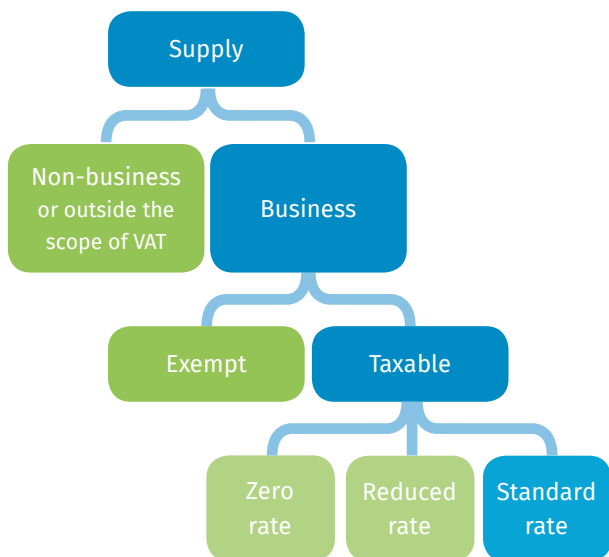
You can recover input VAT on pre-registration purchases for:

- Goods that have been purchased for taxable activities and are still on-hand at the date of registration (for example, as stock), providing they were not purchased more than four years prior to registration. However, if goods have been used before registration, HMRC will reduce the amount of VAT to be claimed to allow for depreciation.
- Services supplied up to six months prior to the date of registration. The services must have been supplied for a taxable activity and not re-supplied before registration.

# VAT categories of activity

## Outside the scope and non-business activities

For a transaction to be subject to VAT, it



must normally meet both of the following conditions:

- It must be a supply of goods or services.
- The supply of goods or services must be 'in the course or furtherance of a business activity'.

A supply is an exchange transaction in which goods or services are provided in return for consideration. Consideration is usually monetary but can also be by way of barter, provided the barter amount is capable of valuation. Consideration does not have to be paid by the recipient of the supply, it can be paid by a third party, for example, a local authority paying for a care contract.

A transaction is not a supply if:

- A payment is made but nothing is provided in return. For example, a donation is a payment but without any goods or services provided in return.
- There is no consideration. For example, goods or services are provided for free.

- Goods or services are provided but any consideration is voluntary. For example, a street musician solicits donations from passers-by.

Business activities are defined to include:

- Any activity of producers, traders or persons supplying services, including mining and agricultural activities and activities of the professions.
- The exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis.

UK case law has established the business tests to help determine if an activity is business. The business tests ask if the activity is:

- A serious undertaking earnestly pursued?
- Pursued with reasonable continuity?
- Substantial in amount?
- Conducted regularly on sound recognised business principles?
- Predominantly concerned with the making of supplies to consumers for consideration?
- Such as consists of supplies of a kind commonly made by those who seek to make profit from them?

The tests are not intended as a checklist but more as a series of questions to ask about an activity in order to gain a general impression of its nature. The fifth 'predominant concern' test does not relate to the subjective aim or purpose pursued, but to the inherent or objective nature of the activity. If that inherent nature is business or economic, then it is a business activity. However, if that inherent nature is no more than something else, then it is non-business.

## Exempt activities

Exempt supplies are business and within the scope of VAT, however no output VAT is charged and they do not count towards the VAT registration threshold. Many activities undertaken by charities are exempt including:

- The provision of medical care by hospitals and medical centres.
- Supplies of education by an eligible body. Eligible bodies include recognised schools, colleges and universities. They also include non-profit making bodies (such as charities) which provide education on a ring-fenced basis. This means any surplus from the educational supplies is re-invested in the continuation or improvement of educational supplies.
- Supplies of welfare services. These are services which are directly connected with:
  - the provision of care, treatment or instruction designed to promote the physical or mental welfare of elderly, sick, distressed or disabled persons. For example, the provision of care in a care home. The exemption includes ancillary accommodation, catering and other services.
  - the care or protection of young persons. For example, services provided by a children's home, nursery, playgroup, after school club or fostering service.
  - the provision of spiritual welfare by a religious institution as part of a course of instruction or a retreat, but excluding courses or retreats designed primarily to provide recreation or a holiday.
- Admission charges to cultural activities including admission charges to a museum, gallery, art exhibition, zoo or to a theatrical,

musical or choreographic performance.

The admission provider must be non-profit making and managed and administered (at the trustee level) on an unpaid basis by persons who have no financial interest in its activities.

- Supplies of services by cost sharing groups. Organisations that carry out a substantial level of non-business and exempt activities can join an independent membership entity and receive supplies of services (potentially of any nature but excluding supplies of goods) from that entity that are exempt from VAT.
- Renting out property is generally exempt, but with many exceptions. Property transactions are considered further below.
- Fundraising events (considered further below).

The above list is not exhaustive, but highlights activities common in charities.

## Zero-rated supplies

Zero-rated supplies are taxable, but the rate of VAT is 0%. This is in many ways the ideal situation if your customers are unregistered or using the supply for non-business or exempt activities. All your input VAT is recoverable, but the price to customers is not increased by VAT.

Some supplies are always zero-rated including:

- Printed books, booklets, leaflets, brochures, newspapers, journals and periodicals
- Children's clothing or footwear. Very broadly, under 14's sizes are accepted as being children's clothing
- Certain foods and drinks for human consumption and animal feed, but



excluding all supplies in the course of catering. Supplies in the course of catering include supplies for consumption on the premises on which they are supplied (for example, restaurant meals) and supplies of hot food for consumption anywhere (for example, hot takeaway food).

- Supplies of passenger transport in vehicles designed or adapted to carry not less than ten passengers.

Some supplies are zero-rated when supplied by a charity. Examples include:

- Sale of donated goods. The goods must be available for sale to the general public or more than one disabled person or person in receipt of specified benefits.
- The export (to a country outside the EU) of any goods. The export is treated as a zero-rated supply, even if the goods are given away for free, for example, as aid.

Some supplies are zero-rated when supplied to a charity. Here the charity does not have to be registered for VAT to benefit from the zero-rating, but should give the supplier a certificate confirming eligibility for zero-rating. Various goods and services qualify for zero-rating, each with specific conditions attached. Examples include: advertising, collecting tins, aids for disabled people, medical goods and services, and construction of new buildings (see property below). See VAT Notices 701/1, 701/58, 701/6 and 701/7 for more details.

## Reduced-rate supplies

Reduced-rate supplies include:

- *Qualifying* supplies of fuel and power. These include fuel for domestic use, use below certain de-minimis levels, use for a relevant residential purpose (children's and old people's homes, residential hospices etc.) or use for a charity's non-business activities. If a supply is partly qualifying, then provided 60% or more of the supply is for qualifying purposes, the whole supply can be considered qualifying.
- The supply and installation of certain energy saving materials in a qualifying building. Qualifying buildings include dwellings and residential accommodation. The materials are only reduced rate when supplied by an installer that also provides a supply of installation services. Purchases of materials by DIY builders are not covered. The Court of Justice of the EU has recently decided that this reduced rating is too broad and must be restricted so changes may be made to the legislation.
- Renovation or alteration of certain residential premises if the premises have not been lived in for two years or more. Qualifying residential premises include single and multiple occupancy dwellings, such as bedsits, and certain relevant residential buildings such as children's homes and residential hospices.
- Conversion of premises into one or more single household dwellings, a multiple occupancy dwelling such as bedsits, or premises intended for use solely for a relevant residential purpose
- Supplies of welfare advice or information by a charity or state regulated private

welfare institution. For example, the sale of DVDs giving information on the health risks of taking illegal drugs to young people are subject to reduced rate VAT. The advice or information must directly relate to either:

- the physical or mental welfare of elderly, sick, distressed or disabled persons; or
- the care or protection of children and young persons.

However, advice or information relating to a particular individual is excluded as are dual-purpose goods (e.g. t-shirts printed with welfare advice messages).

- Contraceptives and certain smoking cessation products.
- Supply and installation of certain mobility aids when installed in domestic accommodation occupied by a person aged 60 or over. The reduced rate does not apply to installations in residential care homes and similar.

## Standard-rated supplies

Business supplies that are not exempt and do not qualify for zero or reduced rating are standard-rated. Common standard-rated supplies include:

- General management charges from a charity to its trading subsidiary
- Royalties
- Fees for consultancy services
- Supplies of electronic publications in the UK

Standard-rated, reduced-rate and zero-rated supplies together comprise taxable supplies. If the total (VAT exclusive) turnover from taxable supplies exceeds the VAT registration threshold you must register for VAT.

## Recovering VAT

A VAT registered business can recover the VAT it incurs on purchases that are used in making taxable supplies. It recovers this *input VAT* by deducting it from the VAT it charges to customers (*output VAT*) and paying over the balance to HMRC. If recoverable input VAT exceeds output VAT it receives a repayment from HMRC.

To recover input VAT you must be VAT registered. There are certain special VAT refund schemes for national museums and galleries, listed places of worship, memorials, academy schools, hospices and search and rescue charities but these schemes refund VAT and are not VAT recovery in the usual sense.

Where an organisation has a mix of non-business, exempt and taxable activities it cannot usually recover the VAT incurred by the non-business or exempt activities. If your organisation only has non-business and exempt activities, it cannot register and cannot recover VAT on purchases.

### Calculating the recoverable VAT

For businesses with a mix of taxable and exempt or non-business activities, calculating the VAT on purchases that can be recovered is a two-step process.

#### Step 1 – direct attribution

The VAT on purchases must first be directly attributed to the VAT types of activity (taxable, exempt, non-business) as far as possible. The VAT on a purchase is directly attributable to a type of activity if the purchase is entirely used or for use in that type of activity. For example, if you hire a piece of equipment solely for use in an exempt activity, the VAT charged on the equipment hire is directly attributable to the exempt activity.

#### Step 2 – apportionment

Some purchases may be used across different activities. Any VAT on the purchases cannot be directly attributed to one activity and is referred to as *residual VAT*. Typically, VAT on overheads such as gas, electricity, telephone bills and central function costs is residual. The residual VAT must be apportioned to the different types of activity (taxable, exempt and non-business). However, there are strict rules as to how this apportionment must be carried out.

- VAT that is directly attributed (step 1) and apportioned (step 2) to non-business activities is irrecoverable.
- The VAT that is directly attributed (step 1) and apportioned (step 2) to business activities (taxable and exempt) is referred to as input VAT.
- The input VAT attributed and apportioned to taxable activities is recoverable.
- The input VAT attributed and apportioned to exempt activities is referred to as *exempt input VAT*. Exempt input VAT is irrecoverable unless it meets the *de-minimis test*. If exempt input VAT is *de-minimis* it can be recovered.

#### The de-minimis test

Exempt input VAT is *de-minimis* if any of the following three tests is met:

- Total input VAT is no more than £1,875 in a VAT quarter and the turnover on exempt activities is no more than 50% of the turnover on all business activities
- Total input VAT less input VAT directly attributable to taxable activities is no more than £1,875 in a VAT quarter and the turnover on exempt activities is no more than 50% of the turnover on all business activities

- Exempt input VAT is not more than £1,875 in a VAT quarter and not more than 50% of total input VAT.

### Example

Local Advice Organisation (“LAO”) has £20,000 income and incurs £1,000 VAT on purchases in the VAT quarter commencing 1 July 2015. LAO uses the levels of income as the basis for the apportionment of residual VAT.

	Business activities				Totals
	Non-business activities	Exempt activities	Taxable activities	Residual activities	
Income in VAT quarter	£10,000	£4,000	£6,000		£20,000
Percentage of total income	50%	20%	30%		100%
Step 1: directly attribute VAT on purchases as far as possible. Any remaining VAT is residual VAT	£500	£200	£100	£200	£1,000
Step 2: apportion residual VAT between non-business, exempt and taxable	50% of £200 = £100	20% of £200 = £40	30% of £200 = £60	(£200)	
VAT directly attributed and apportioned to activities	£600	£240	£160	–	£1,000

LAO meets the first two of the de-minimis tests for the VAT quarter as:

- **Test 1** total input VAT ( $£400 = £240 + £160$ ) is less than £1,875 and exempt income (£4,000) is less than 50% of total business income ( $£10,000 = £4,000 + £6,000$ )
- **Test 2** Total input VAT less input VAT directly attributable to taxable activities ( $£300 = £400 - £100$ ) is less than £1,875 and exempt income (£4,000) is less than 50% of total business income ( $£10,000 = £4,000 + £6,000$ )

Test 3 fails as exempt input VAT (£240) is less than £1,875 but is not less than 50% of total input VAT (£400). However, as at least one of the other tests is met this does not matter and LAO is de-minimis for the VAT quarter.

In practice it would not be necessary to apply all three tests – as soon as a test is met you are de-minimis for that period.

LAO can therefore recover all £400 input VAT incurred in the VAT quarter. The VAT attributed and apportioned to non-business activities (£600) is irrecoverable.

### Apportioning residual VAT

By default the apportionment of residual VAT between taxable, exempt and non-business activities must be carried out in the following order.

#### The business/non-business method

If you have no non-business activities then all residual VAT goes into the partial exemption calculation. If you have non-business activities, the residual VAT must first

be apportioned between business and non-business activities. There is no prescribed apportionment method, but it must be fair and reasonable, reflect the extent to which the residual purchases are used by business and non-business activities, and be capable of being checked independently. The residual VAT apportioned to non-business activities cannot be recovered. The residual VAT apportioned to business activities goes forward into the partial exemption calculation. Business/non-business methods are commonly based on the levels of business and non-business income, the numbers of or cost of staff working in each type of activity, floor area or direct expenditure.

### **The partial exemption method**

If you have no exempt activities, then all residual VAT apportioned to business activities (from step 1) is recoverable. If you have exempt activities, the residual VAT (including the residual VAT from step 1) must be apportioned between exempt and taxable activities. You must use the standard partial exemption method unless this does not produce a fair and reasonable result. You may obtain permission from HMRC to use a special partial exemption method. The standard method uses the VAT exclusive turnover on exempt and taxable activities as the basis of apportionment. Special methods are commonly based on the number or cost of staff working in the different types of activity, floor area or expenditure.

### **Combined methods**

From 1 January 2011 a business can apply to HMRC for approval of a combined method. This is a method that apportions residual VAT between taxable activities and non-

taxable activities (exempt plus non-business activities) in one calculation. The main advantages of a combined method are that it is simpler and the business does not need to distinguish between exempt and non-business activities. The main disadvantage is that the de-minimis allowance is not available if a combined method is used.

### **Annual adjustment**

For partial exemption purposes, you have to apportion residual VAT each quarter, then again annually using whole year figures. This is the *annual adjustment* which allows for changes and seasonal variations in activity. Any resulting adjustment can be made in either the last VAT return of the current VAT year or the first VAT return of the following year. For the annual adjustment, the £1,875 quarterly limit for the purposes of the de-minimis test is replaced with a £7,500 annualised limit.

### **Use of provisional recovery rates**

For the standard method apportionment between taxable and exempt activities in step 2 above, you can use the partial exemption recovery rate determined in the previous year's annual adjustment. This saves having to calculate the levels of taxable and exempt activity anew each quarter. At the end of the year, actual (annual) levels of taxable and exempt activity must be used to determine the true recovery rate for the year. This rate can then be used on a provisional basis during the following year. A similar approach should normally be acceptable for the business/non-business apportionment provided it is fair and reasonable.

### **Annual de-minimis test**

From 1 April 2010, a business can assume, for the purposes of its quarterly VAT calculations,

it is de-minimis if it was de-minimis in the previous year's annual adjustment. This is then corrected in the annual adjustment by applying the above de-minimis tests, using an annualised £7,500 limit.

### **The Children's Society case**

Before this case it was generally assumed that VAT incurred in generating donations was attributable to a non-business activity of generating donations and so irrecoverable. Examples of such costs include campaigns to generate committed givers, legacy generation and the costs of generating core grant funding. However, the 2005 High Court case Church of England Children's Society has changed this view. The court held that VAT recovery on the costs of generating donations does not depend on the link between the costs and the non-business donations, but instead depends on the extent to which the donations are used for taxable activities. If and to the extent that they are, the VAT on the costs is deductible.

In Business Brief 19/05 HMRC accepted that VAT on costs of generating donations depends on how the donations are used:

- If they are used to support the general purposes of the charity, the VAT is residual.
- If they are used wholly to support taxable activities, the VAT is recoverable in full.
- If they are used wholly to support exempt activities, the VAT is irrecoverable subject to the de-minimis test.
- If they are used wholly to support non-business activities, the VAT is irrecoverable.

In the 2015 case University of Cambridge, the Upper Tier Tribunal found that the Children's Society treatment applied to VAT incurred on investment management fees for the University's endowment fund. The endowment fund was used to support the general business and non-business activities of the University and as a result the VAT on investment manager fees was residual. However, HMRC have appealed this decision so the final position on investment management costs is not yet clear.

### **Practicalities**

If you have a mix of taxable, exempt and non-business activities, your accounting systems will need to be able to identify purchases directly attributable to each type and residual purchases. The usual approach in a computerised accounting system is to set up separate VAT codes for purchases by taxable, exempt, non-business and residual activities.

## Fundraising events

All income in connection with a *qualifying* fundraising event is exempt from VAT (and income or corporation tax). To qualify as an exempt fundraising event, it must be an event organised by a charity and the primary purpose of the event must be to raise money, and promoted as such. The exemption covers admission charges, sponsorship for the event, the sale of goods, food and drink at the event and advertising in brochures.

The exemption also covers events organised by a wholly owned subsidiary of a charity provided the subsidiary has agreed in writing to transfer its profits from whatever source to a charity, or the subsidiary's profits from whatever source are otherwise payable to a charity.

You can hold up to 15 events of the same kind in the same location in one year. If you go over the limit, none of the events qualify. However, small scale fundraising events, where the gross takings do not exceed £1,000 per week, do not count towards the 15 limit. This means VAT exemption applies to any number of small scale events.

### Challenge events

Events where accommodation is provided to participants are not usually covered by the exemption for fundraising events. If an event includes a package of both travel and accommodation or bought-in accommodation or more than two nights' accommodation from a charity's own resources (for example, in a building owned by the charity) then the event does not qualify as a fundraising event. Most charities are acting as agents for a tour operator and just pay VAT on the commission they receive for recruiting participants to the event.

Problems can arise with events organised by for-profit companies such as the London Marathon. They do not qualify as VAT exempt fundraising events so fees for places in the event are standard-rated. This means that where charities charge registration fees or require participants to raise a minimum amount of sponsorship for such events, any such charges by the charity are standard-rated. HMRC do, however, accept that where participants pledge to raise a specific amount this is not binding and so can be treated as a donation, which is outside the scope of VAT. It is, however, usually beneficial to charge participants a small mandatory registration fee as this will ensure the event is a taxable activity for the charity and any VAT incurred in purchasing places and assisting participants is recoverable.

## Membership subscriptions

The VAT status of members' subscriptions can be a problematic area for membership charities. The VAT status of the subscription depends on what, if anything, is supplied in return. The package of membership benefits often changes over time and even when a charity has an agreement with HMRC on the VAT status of its subscriptions, this can quickly become out of date.

Where nothing is supplied in return for the subscription, it is effectively a donation to the charity, and so outside the scope of VAT. Nominal benefits such as the right to vote at an AGM and receive the annual report do not affect this.

There is a specific exemption for non-profit public interest bodies such as professional associations, learned societies, trade associations, trade unions and organisations of a political, religious, patriotic, philosophical, philanthropic or civic nature. For the subscription to qualify for exemption from VAT, the only benefits should relate to the aims of the organisation and be available on payment of the subscription. Benefits such as discounts are therefore excluded from exemption. Also excluded are any right of admission to any premises, event or performance to which non-members are admitted for a consideration.

HMRC extra statutory concession 3.35 (ESC 3.35) permits all non-profit making membership bodies to apportion their subscriptions between the benefits provided. For example, if a membership charity provides its members with printed and electronic publications, the subscription can be apportioned between a zero-rated component for the printed publications and a standard-rated component for the electronic publications. The apportionment can normally be undertaken on a cost basis. The subscription fee is assumed to include any VAT due on the standard-rated benefits. HMRC also accept that a part of a subscription can be treated as an outside the scope of VAT donation provided either:

- all the substantive benefits provided are available to non-members at no charge or more cheaply than the subscription. Nominal benefits such as membership badges, flags or stickers, and listing of names in a programme or on a theatre seat or entrance can be ignored; or
- some or all of the substantive benefits are exclusive to members and you are able to demonstrate that the amount paid is higher than the amount that the subscriber would normally have to pay for similar goods or services.



## Property

The VAT rules for property transactions are especially complex. Property here comprises land, buildings and civil engineering works. Property transactions include purchasing, selling, renting, constructing, extending and renovating property. Given the amounts involved, charities are advised to take professional advice before entering into substantial property transactions.

### Qualifying use

Special VAT rules apply where a charity's use (or intended use) of property is for the following.

#### Relevant charitable purpose

This means use for a charity's non-business activities or use by a charity as a village hall or similarly in providing social or recreational activities for a local community.

#### Relevant residential purpose

This means use as a children's home, a care home, a residential hospice, residential accommodation for students or members of the armed forces, a monastery, nunnery or similar and an institution which is the main residence of 90% or more of its residents. However, use as a hospital, prison, hotel or similar is excluded. In some situations, use as a hostel is considered to be similar to use as a hotel.

#### Dwelling

Residential property designed as a dwelling or number of dwellings.

### Recovering VAT on property transactions

Where a charity incurs VAT on a property transaction, the charity's ability to recover that VAT depends on how the property will be used by the charity. If the property will be used:

- wholly for taxable activities, the VAT can be recovered
- wholly for exempt or non-business activities, the VAT cannot be recovered (unless exempt use is de-minimis).
- for a mix of taxable, exempt and non-business activities, the VAT must be apportioned and only part can be recovered. There are special rules setting out how the apportionments must be carried out. Where a property is used for a mix of taxable and exempt or non-business activities and VATable costs exceed £250,000, the capital goods scheme must be used to determine how much VAT can be recovered. The capital goods scheme applies a set of rules over a ten-year period after the completion of the building works. Further information in VAT notice 7062.

## Buying, selling and renting property

By default the sale or renting of property is VAT exempt. However, there are several important exceptions:

- A person with an interest in a property can *opt to tax* the property. This means that supplies of that property by that person then become, by default, standard-rated. If a landlord has opted to tax a building and rents it out, the landlord adds VAT to the rental charges. However, the option to tax can be dis-applied when the property is to be used for a relevant residential purpose or a relevant charitable purpose (other than as an office for general administration). This means the supply remains VAT exempt. Disapplying an option to tax can help a charity reduce its irrecoverable VAT. However, the charity must inform the landlord before the transaction takes place that it will be disapplying the option to tax. This may be a disincentive to the landlord or vendor as this might affect their VAT recovery position. Consequently, many commercial leases contain clauses that treat the stated rent as gross of any VAT chargeable. In such a situation it may be better to not disapply the landlord's option to tax.
- The first sale by a property developer of the freehold or a long lease (21 years or more in England and Wales, 20 years or more in Scotland) in a new building is zero-rated if the purchaser will use the building for a relevant charitable or relevant residential purpose. This applies even if the purchaser is not VAT registered. Before the transaction takes place the purchaser must give the developer a certificate confirming the intended use.
- The first sale of the freehold or a long lease in a substantially reconstructed listed building is zero-rated if the purchaser will put the building to a qualifying use (as defined above). Substantial reconstructions are restricted to where the reconstructed building incorporates no more of the original building than the external walls, together with other external features of architectural or historic interest.
- The freehold sale of a new or uncompleted commercial building or civil engineering work is standard rated. A building is new within three years of completion and *commercial* means the building is not intended for use for a relevant residential or relevant charitable purpose or designed as a dwelling. It does not matter who the vendor is or if the freehold has been sold previously.
- The renting of hotel accommodation, holiday accommodation, parking and sporting facilities are all standard-rated by default though there are some important exceptions.
- The renting of property for the storage of goods (e.g. renting of a warehouse) is standard-rated. However, this excludes renting to a charity for its non-business activities and renting to a tenant who sub-lets the premises to a third party who uses the property for the storage of goods.

## Constructing, renovating and extending property

Where a charity purchases services from builders, architects etc. in order to construct, renovate or extend property, those services are normally standard-rated and VAT recovery depends on the intended use of the property, as explained above. However, there are a few special rules:

- If a charity contracts for the construction of a new building and it intends to use that building for relevant charitable or relevant residential purposes, it can zero-rate most of the construction costs. The charity must provide the main contractor with a certificate confirming the intended use. Costs that cannot be zero-rated include professional fees (architects, surveyors, engineers etc) and certain materials and fittings such as carpets.
- If a charity constructs an annexe that it intends to use for a relevant charitable purpose, it can zero-rate most of the construction costs as for a new building. To qualify as a zero-rated annexe it must have minimal physical integration with the existing building, it must be capable of functioning independently from the existing building, and the existing building and annexe must each have their own main entrance.
- If a registered housing association converts a non-residential building into dwellings or into a building intended for relevant residential use, it can zero-rate the conversion costs though, as above, professional fees, carpets etc. are excluded from zero-rating.

## Access works for the disabled

Charities can zero-rate certain works they carry out to facilitate use of a building by disabled persons (including persons who are chronically sick). The charity does not have to be VAT registered to qualify and it does not have to give the contractor a certificate of eligibility though many suppliers will request a zero-rating declaration to confirm eligibility. Qualifying works include:

- The construction of ramps, including raising floor levels, reducing the angle of a slope, creating a slope, demolition and clearance, connecting services and making good.
- The widening of existing doorways and passages (but not the creation of new doorways and passageways). Can include external paths and gates in some situations.
- The creation, extension or adaptation of washrooms and lavatories. Covers materials, equipment, installation, demolition and clearance, connecting services and making good.
- The creation, extension or adaptation of washrooms, lavatories and bathrooms in residential accommodation or a day-care centre where at least 20% of the individuals using the centre are disabled persons. Covers associated goods and installation.
- Lifts. The purpose of the lift must be to facilitate the movement of disabled persons between floors. The lift must be in either a permanent or temporary residence of one or more disabled persons, or a day-

care centre where one or more disabled persons receive care. Covers installation, repair and maintenance and associated goods (such as the lift and lifting gear).

## Conclusion

VAT is a complex tax, especially for charities as they often have activities in all categories of VAT – taxable, exempt and non-business. If you are currently unregistered for VAT, you will need to monitor the turnover from potentially taxable activities to ensure that you do register at the right time if you do go over the threshold.

It may be possible to arrange your affairs to plan for VAT to a certain extent. You will certainly need to consider VAT even if you are unregistered. For example, when budgeting, your costs have to include VAT where it applies. You may also have to consider a new activity for its VAT consequences and new premises should always trigger a review of your VAT position.

All charities can benefit from the many special zero-rating concessions for charities when purchasing goods and services. Check that all relevant staff in the charity know about the concessions and how to get them when placing orders.

VAT registered charities cannot usually recover all the VAT they incur on purchases and must attribute and apportion this VAT. It is worth considering the best method for your charity and, if necessary, agreeing this with HMRC. You then need to keep this under review as your activities may change and affect the VAT position.

Legally, a charity is responsible for managing its tax affairs in the same way as any other person or entity, so ignorance of the law is no excuse if you get it wrong. And, as it is difficult to put things right for VAT after the event, it is better to ensure that you think about it at the planning stage.

## Further information

### Government website – gov.uk

HMRC used to have its own website but this has now largely been transferred to a single government wide website gov.uk. The simplest way to find HMRC specific information is to use a search engine, for example to find the HMRC VAT Notice for charities search for 'HMRC VAT Notice charities'. Useful HMRC guidance on gov.uk includes:

- Public Notices and Information Sheets: most of the VAT rules are covered in the VAT Public Notices. VAT Notice 701/1 is specifically for charities and is a good starting point for anyone new to charity VAT.
- Revenue & Customs Briefs: these announce new developments and changes in HMRC policy, often following court cases
- What's New: a daily listing of new developments and changes for HMRC: [www.gov.uk/government/latest?departments%5B%5D=hm-revenue-customs](http://www.gov.uk/government/latest?departments%5B%5D=hm-revenue-customs)

### HMRC charity enquiries

**0300 123 1073**

This is a dedicated helpline for charities on all aspects of tax. You are given a menu of options – select VAT reliefs for charities for advice on all aspects of charity VAT.

### Charity written enquiries

More complex VAT queries and requests for rulings should be made in writing to: HMRC Charities, St John's House, Merton Road, Bootle, Merseyside L69 9BB.

### National Advisory Service

**0845 010 9000**

This is a more general VAT advice line for all UK businesses. The address for written enquiries is: HMRC National Advice Service, Written Enquiries Section, Southend on Sea, Alexander House, Victoria Avenue, Southend, Essex SS99 1BD. Written enquiries from charities are usually referred to the specialist charities unit in Bootle and it is usually fastest for charities to write directly to Bootle.

### A practical guide to vat for charities

Kate Sayer and Alastair Hardman

Published by the Directory of Social Change (new edition due in 2016).





## Made simple guides

Made Simple guides are aimed at finance professionals and other managers working in charities. They cover technical areas such as tax and VAT treatments as well as information management areas and aim to provide practical guidance to busy managers and trustees in charities.



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