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APPLYING VAT TO PRIVATE SCHOOL FEES

Response by Association of Taxation Technicians

1 Introduction

- 1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to comment on the draft legislation and technical note published by HM Treasury regarding *VAT on Private School Fees & Removing the Charitable Rates Relief for Private Schools*¹.
- 1.2 The primary charitable objective of the ATT is to promote the education and study of tax administration and practice. We place a strong emphasis on the practicalities of the tax system. Our work in this area draws heavily on the experience of our members who assist thousands of businesses and individuals to comply with their taxation obligations. This response is written with that background.
- 1.3 The technical note poses five specific questions, mainly focusing on the definition of ‘private school; and ‘connected persons’ in the draft legislation. However, we believe that, in the absence of any previous consultation on this measure, these five questions are too narrow in focus. As a result, instead of addressing these questions directly, our comments below focus on our two main areas of concern – the commencement date (section 2), and the proposed treatment of ‘closely related’ goods and services (section 4). We have then added our further observations on the technical note and draft legislation in section 5.
- 1.4 Overall we believe that:
- The proposed commencement date of 1 January does not give sufficient time for schools or HMRC to adequately prepare and deliver the proposed changes. Commencing part way through an academic year could also introduce additional difficulties for schools and pupils. Consideration should be given to deferring commencement to September 2025.
 - The proposal that ‘closely related’ supplies of goods and services could remain exempt should be revisited. This introduces additional complexity, is not in keeping with established HMRC practice on single vs multiple supplies and opens the potential for value shifting.

¹ [VAT on Private School Fees & Removing the Charitable Rates Relief for Private Schools - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/vat-on-private-school-fees-and-removing-the-charitable-rates-relief-for-private-schools)

2 Commencement date

2.1 It is currently proposed that the VAT changes covered by the draft legislation and technical note will take effect for any fees paid from 29 July 2024 in respect of a term starting on or after 1 January 2025. As set out below, commencing these measures so soon, and part way through an academic year, will lead to practical problems for both schools and HMRC.

2.2 Many schools are not currently registered for VAT, and their level of knowledge of the VAT system is limited. For example, they may be unfamiliar with record keeping requirements, and even simple things like making sure they receive properly addressed VAT invoices could be a new concept. Although there was a statement of intent pre-election to impose VAT, the details of the changes have only been available for a few weeks over the summer. Applying the general statements made in the technical note to the particular circumstances of a school will take time and VAT technical expertise, things which many schools will lack.

2.3 Further stress will also be placed on schools by having to change software systems during an academic year. Although schools will have software systems in place, these tend to be specialist or bespoke to deal with bookings, timetables, etc and have not been developed with VAT compliance in mind. As VAT has never been a concern for the vast majority of schools, existing software may not allow VAT to be easily recorded/calculated and so either the software providers will need to redesign and develop (which is unlikely to be attractive given the size of the market), or ad hoc programmes will need to be bolted on to cope.

2.4 Further issues arising for schools, and pupils from the proposed commencement date include:

- Schools set their fees far in advance and are concerned about having to go back to parents to ask for more money, and potentially not receiving these extra amounts.
- Many schools will buy equipment at the start of the academic year for use throughout that year, and the ability to recover pre-registration input tax on such equipment is unclear.
- Students whose parents can no longer afford fees face having to find a Local Authority place – something which can be challenging, and will be more so if a move is needed part way through the academic year and on short notice. In particular, there appear to be no safeguards for students in their GCSE and A Level years whose parents cannot afford an increase in fees, and who may as a result have their exams disrupted.

2.5 We are also concerned that HMRC will be unable to cope with the spike in new VAT registrations resulting from this measure. In recent years we have seen significant delays in VAT registration processing. Will HMRC be provided with additional resource to cope with not just the increase in registration applications, but also to support schools registering for the first time?

2.6 Overall, we believe that the proposed commencement date of 1 January should be revisited. Normally, a major change to legislation such as the one proposed would take place over a longer period to allow for consultation and preparation. As it stands, we do not believe that schools or HMRC will be able to successfully implement this change in the time available. We would recommend that a new commencement date of no earlier than September 2025 be considered.

3 Treatment of ‘closely related’ goods and services

3.1 Under the proposed changes, from 1 January 2025, all educational services and vocational training supplied by a private school, including boarding, will be subject to VAT at the standard rate. However the technical note goes on to say at paragraph 2.13 that:

“The government recognises that other goods and services “closely related” to education, such as school meals, transport, and books and stationery, are integral to children accessing education. As a result, other “closely related” goods and services other than boarding (i.e. goods and services that are provided by a private school for the direct use of their pupils and that are necessary for delivering the education to their pupils) will remain exempt from VAT.”

3.2 We believe that this exemption of goods and services closely related to the supply of education (apart from boarding fees) introduces unnecessary complexity, increases the risk of value shifting and does not fit with existing HMRC practice regarding the treatment of single vs multiple supplies.

3.3 HMRC’s position is set out in their VAT Supply and Consideration Manual as follows²:

“.....HMRC’s general approach is that, in cases where a transaction consists of more than one element, there is likely to be a single supply in the majority of situations because most elements of a transaction are either ancillary to a dominant element or are working together to create a whole.

So when making a decision you should consider all the facts and ask whether there is one dominant element to which the other elements are ancillary or whether the elements are so closely linked that they cannot be realistically separated. If so, then there is a single supply.”

3.4 It is unclear how this aligns with the treatment of closely related supplies proposed in the technical note. It is difficult to see how these supplies could be considered as anything other than ancillary to the main supply of education, or so closely linked that they cannot be realistically separated. For example, school lunches and books can only be provided to students because they are already at the school to receive a supply of education. If the education is standard rated then the closely related services should also be standard rated.

3.5 This departure from established principles of composite supplies also adds further complexity and requires detailed technical expertise, which many schools are lacking.

3.6 We believe that allowing ‘closely related’ supplies of goods and services to remain exempt opens up the risk of value shifting. Para 2.13 of the technical note indicates that the Government considers the risk of value shifting to be low. However, our members already report seeing schools attempt to carve out a wide range of supplies.

3.7 We would therefore recommend revisiting this treatment. Whatever approach is taken, HMRC also need to publish detailed guidance as soon as possible to provide certainty and reduce the scope for value shifting.

4 Other comments

4.1 The proposed changes incorporate anti-forestalling measures targeting pre-payment of school fees. Section 2(2) of the draft legislation states that, where fees are paid on or after 29 July 2024 and before 30 October 2024, the provision is treated for the purposes of the charge to VAT as a supply taking place on the later of:

² See VATSC1113 <https://www.gov.uk/hmrc-internal-manuals/vat-supply-and-consideration/vatsc1113>

- 1 January 2025; and
- the first day of the term to which the advance payment relates.

It is unclear whether this means that the output VAT on advance payments falls due on a term by term basis so that if, for example, a year's fees were paid in advance the VAT falls due at the start of the spring and summer terms. Or is the VAT arising due all at once?

- 4.2 The technical note mentions at paragraph 2.18 that “...*the hiring out of facilities by a private school to a third party has always been subject to VAT (if the school was VAT registered). This will not change as a result of this policy.*” This statement is incorrect in so far as it relates to sports facilities (where the series of lets rule applies) or the hire of a hall (where an Option to Tax would need to be in place).

5 Contact details

- 5.1 We would be pleased to join in any discussion relating to this consultation. Should you wish to discuss any aspect of this response, please contact atttechnical@att.org.uk.

The Association of Taxation Technicians

6 Notes

- 6.1 The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.
- 6.2 Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government, and academia.
- 6.3 The Association has more than 10,000 members and Fellows together with over 7,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.