

Making The Best Of VAT

Confused about VAT? Uncertain about exemptions? Some of the tax rules can work to the advantage of arts charities, so don't miss out, says **Mahmood Reza**.



Some galleries can claim back VAT incurred granting free admission to their collections

Photo:

[Visual hunt](#)

The fundamental principles of VAT are on the surface quite straightforward: VAT registered businesses charge output VAT on the products and services they supply to their customers, and they pay input VAT on the products and services they buy from their suppliers. If they have collected more VAT than they have paid, they must hand over the difference between the two to HMRC; if they've paid more than they've collected, they can claim the difference.

Basic principles

There are, however, some caveats. VAT is only chargeable where the supply is made in connection with a 'business activity': the goods and services must be provided as part of an exchange for value, and the transaction must be conducted on sound and recognised business principles. So, a dance company may provide tickets for a performance in exchange for the free use of studio space. The tickets would qualify as a supply, and the appropriate level of VAT must be paid.

Also, the products and services being supplied must be taxable - not exempt or outside the scope of VAT.

Taxable goods and services are standard-rated, reduced-rated or zero-rated. The standard rate (currently 20%) is charged on most goods and services, while the reduced rate (currently 5%) is charged on certain goods and services such as children's car seats and domestic fuel and power. The zero rate applies to goods such as food and books.

Some activities, however, are outside the scope of VAT. A typical example would be employees' wages, or a donation, where the donor receives nothing in return for their money. When charities sell advertising space in their brochures, programmes, annual reports and similar, that is deemed to be a business activity and is normally standard-rated. However, if 50% or more of the total adverts in a publication are clearly placed by private individuals, the charity can treat all the sums received as donations and outside the scope of VAT.

Exemptions

An exempt supply is one where no VAT is charged to the customer, but neither can any VAT incurred in creating the product or service be claimed. A number of activities that are relevant to many arts charities may fall into this exempt category:

Cultural admissions

Eligible bodies may be able to treat admission to museums, galleries, art exhibitions and theatrical, musical or choreographic performances as exempt from VAT.

For these purposes, an eligible body is a non-profit-making organisation that applies profits from admissions to the continuance or improvement of its facilities and is managed and administered on an essentially voluntary basis. The scope of this exemption is currently being examined in relation to whether or not sales of admission tickets to films shown at the National Film Theatre and at various film festivals could fall within the exemption.

Education and training

Educational services provided by an eligible body are also exempt from VAT. In these circumstances, an eligible body is a not for profit enterprise that uses the educational profits for the continuance of education services. The education services cover any subject and any type of delivery such as lectures, seminars, workshops, online and distance learning.

Fundraising events

If a charity fundraising event qualifies for exemption, the charity (or its trading subsidiary) does not have to account for VAT on the entrance fee income. The sale of advertising space in brochures or programmes is also exempt from VAT.

To qualify for the exemption, the event must be organised by a charity or its trading subsidiary primarily to raise money for the charity. It must not be continuous trading and no more than

15 events of the same kind can be held at a single location in any year. This 15-event limit does not apply to fundraising events, such as coffee mornings, where the gross takings are no more than £1,000 per week.

Rates and reliefs

A charity must pay VAT on all standard-rated or reduced-rated goods and services it buys from VAT-registered businesses, but may be entitled to VAT relief for specific items. To take advantage of these reliefs, the charity must provide its suppliers with eligibility declarations certifying that the conditions have been met for that relief (as well as evidence that it is a charity).

Advertising

When charities buy advertising this can be zero-rated. The zero-rating covers advertisements on any subject, including staff recruitment. Charities can also purchase pre-printed collecting boxes, envelopes and appeal letters at the zero rate. The same is true of low-cost lapel stickers, emblems and badges that a charity gives in acknowledgement of a donation.

If a printer produces a package of printed material for a charity, some of which is zero-rated and some of which is standard-rated, the printer may be able to zero-rate the entire package.

Aids for disabled people

Certain goods and services which charities buy for personal or domestic use by disabled people can be zero-rated.

Charities providing talking books or newspapers for blind and severely visually impaired people can obtain zero-rating for purchases of sound recording and reproduction equipment that has been designed or specially adapted for recording or reproducing speech on magnetic tapes for their benefit.

Construction

The construction of buildings (and certain works to protected buildings) intended to be used solely for non-business purposes, or as a village hall or similar, can be zero-rated, subject to certain criteria being met.

In certain circumstances a charity can also benefit from zero-rating for the construction of a ramp, widening a doorway or passage, or providing, extending or adapting a washroom or lavatory.

Museums and gallery entry

Museums and galleries offering free access are not regarded as being engaged in a business in relation to this activity. As it's not ordinarily possible to recover the VAT incurred on goods

and services purchased to support non-business activities, VAT incurred in connection with the free admission of the public is not normally recoverable.

But Section 33A of the VAT Act 1994 is a VAT refund scheme aimed at supporting the provision of free access to museums and galleries. Introduced in 2001, the scheme allows eligible museums and galleries to claim back VAT incurred on most goods and services purchased in order to grant free rights of admission to their collections.

In March 2016 the eligibility criteria for the scheme were broadened in that claims are no longer restricted to national and university museums and galleries only.

Corporate sponsorship

Unlike a donation, where payment is freely given and the donor receives nothing in return, corporate sponsorship delivers significant benefits to the organisation making the payment, such as having its logo displayed at an event or receiving free or preferential rates on tickets to an event. It will therefore be within the scope of VAT.

When a charity receives corporate sponsorship, VAT is due unless the sponsorship is part of a fundraising event. Charities should therefore ensure that any agreement allows VAT to be charged in addition to the agreed payment.

If a donation is given in addition to the sponsorship payment, this may be excluded from the taxable amount, provided that it is clear from any agreement that the donation is entirely separate from the payment for the sponsor's rights.

Sale of art

It is quite usual for art galleries to sell art works on commission as agents of the artist. The VAT position can depend on whether the artist or the gallery are VAT registered and whether the gallery is acting as a 'disclosed' or 'undisclosed agent'.

If the artist is VAT registered then VAT must normally be added to the selling price of their work whether the gallery is registered or not. The artist is required to account for the VAT.

If the gallery is VAT registered and acts as an undisclosed agent, then VAT will be added to the commission fees charged to the artists when the work is sold. The invoice is raised by the gallery to the customer, and the customer buys from the gallery, not from the artist. Even though the gallery is not making any purchase from the artist, it must treat the transaction for VAT purposes as though there is a (VAT-exempt) supply to it from the artist and a corresponding but taxable supply by it, to the customer.

Artists who are not VAT registered can structure their sale agreement with the gallery to ensure their contract stipulates that no VAT is due on the selling price of their work, even if the gallery is registered. In this case, the contract will be such that the gallery is acting as a

disclosed agent and the artist invoices the customer directly. Then the only supply that the gallery makes for VAT purposes will be the provision of its services to the artist.

Historical claims

Finally, it is worth noting that historical VAT can be claimed within four years of the due date of the VAT return for the prescribed accounting period in which the VAT became chargeable.

This article, sponsored and contributed by Pro Active Resolutions, is part of [a series](#) sharing insights into accountancy issues in the arts.