

## VAT on Private School Fees and Removing the Charitable Rates Relief for Private Schools

### Response by the Chartered Institute of Taxation

#### 1. Executive Summary

- 1.1. The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 20,000 members, and extensive volunteer network, in providing our response.
- 1.1. The CIOT is pleased to comment on the draft legislation published by HM Treasury with the accompanying technical note, *VAT on Private School Fees and Removing the Charitable Rates Relief for Private Schools*<sup>1</sup>.
- 1.2. We consider that the draft legislation will broadly meet its aims, though have some concerns on unintended consequences due to a lack of clarity with the definitions of ‘institution’ and ‘other consideration’.
- 1.3. We are concerned that neither HMRC nor the private schools will be ready to implement the change in VAT liability effectively with a commencement date of 1 January 2025. As there is currently no Tax Information and Impact Note (TIIN) or published guidance, with an implementation date of 1 January 2025 that is effectively shortened by schools closing mid-December, we recommend that the implementation date be delayed accordingly.
- 1.4. We note that the consultation questions are very narrow in scope and limited to the definitions of private schools and connected parties, whether either definition captures unintended relationships and if the approach achieves the policy aims across the four UK nations. However, our members have provided feedback on a much broader basis, highlighting concerns with increased VAT complexity, unintended consequences, increased bureaucracy and decreased certainty.
- 1.5. We provided initial member feedback about the changes to the VAT liability of private school fees to HMT via the email [independentschools@hmtreasury.gov.uk](mailto:independentschools@hmtreasury.gov.uk) on 9 August 2024, and we would like the feedback provided to also be considered by the policy team.
- 1.6. Principle 4 in the technical note states that in designing the policy the aim was to ‘*Minimise administrative burdens for taxpayers and HMRC, whilst ensuring these policies are not open to abuse.*’ We do not agree that

this principle is met as the VAT liability change will significantly increase the VAT administrative burden for private schools and will place pressure on HMRC resources too.

## **2. About us**

- 2.1. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.
- 2.3. The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.
- 2.4. Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

## **3. Introduction**

- 3.1. In the government's pre-election manifesto, the Labour Party confirmed that if elected it would remove the exemption from VAT and business rates for private schools. The draft legislation, 'Removal of VAT exemption for private school fees' sets out how this policy will be achieved in the VAT legislation.
- 3.2. Our stated objective for the tax systems include:
  - A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
  - Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
  - Greater certainty, so businesses and individuals can plan ahead with confidence.
  - A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
  - Responsive and competent tax administration, with a minimum of bureaucracy.
- 3.3. We consider the measure will have Equality, Diversity and Inclusion (EDI) impacts, though we note that no TIIN has been published with the technical note setting out the outcome of reviews undertaken, which is disappointing. Whilst the VAT changes will ultimately impact the children who must change schools part way through the school year due to the fees becoming unaffordable for their parents, it may disproportionately affect modest income families with a parent working in the public sector, where the costs of private boarding schools are funded in part by employers due to their work requiring overseas travel eg armed forces/diplomatic service. The employee must make some contribution to the school fees, and that contribution cost will increase due to added VAT. We note that the technical note indicates that the Spending Review may consider amendments to the employer funding scheme to address this issue.

#### **4. Technical Note Consultation Questions**

##### **4.1. Question 1: Does the above definition [paras 2.6 – 2.10 of the technical note which summarise the relevant draft legislation paragraphs] of private schools capture all private schools across the UK?**

4.2. We agree that the Note 1(a)(ii) definition of private schools will capture all private schools across the UK.

4.3. It is not clear what the phrase ‘other consideration’ will include in Note 1(b) and there is no definition in the notes. This may cause ambiguity on whether an institution is deemed to be a private school or not eg if the school’s income is derived solely from donations rather than fees, which is an example received from member feedback.

##### **4.4. Question 2: Does this definition [of ‘private schools’] inadvertently capture any organisations that this policy does not intend to capture?**

4.5. Note 7 provides the legislative sources of the meanings of several words used in the legislation. However, the word ‘institution’ is not defined.

4.6. We have concerns that Note 1(a)(ii)’s use of the word ‘institution’ risks expanding the definition of a private school to parties that should not be affected, for example, an institute providing higher education for persons of compulsory school age, or over compulsory school age but under 19, whether full or part time. Whilst the most common entry age for entry to a university in England, Wales and Northern Ireland is 18, or 17 for Scotland, there are occasions where exceptional placements are provided to gifted secondary school children of compulsory school age.

4.7. We would like to see Note 3 include an exception as to what is a private school listing institutions that may otherwise be unintendedly affected by Note (1a)(ii), for example, higher education institutions, if that is what the policy intends. This will provide clarity and certainty for such institutions.

4.8. Note (1)(a)(ii) only provides an example of a sixth form college though we would prefer to see the types of institutes that the government knows will be affected to be listed in full here to provide clarity and certainty for such similar establishments; we anticipate the list to be fairly short.

4.9. In Note 1(a)(ii), it is not clear how a privately funded further education college may be impacted as they may have a combination of persons over compulsory school age that are either under 19 or over 19 at the commencement of studies. Also, there may be exceptional reasons why a student of age 19 commences their studies at a private sixth form later than their peers, for example an unexpected long-term absence due to medical reasons.

##### **4.10. Question 3: Does the above “connected persons” test [para 2.8 of the technical note which summarises the relevant draft legislation paragraphs] capture the relationships that exist between private schools and third parties?**

4.11. We consider the connected persons test will capture the relationships between private schools and third party eligible bodies.

##### **4.12. Question 4: Does this “connected persons” test inadvertently capture any relationships that it is not intended to capture?**

4.13. We have not received any feedback that identifies unintended consequences for the connected persons test.

##### **4.14. Question 5: Does this approach [in the draft legislation] achieve the intended policy aims across all four UK nations?**

- 4.15. We believe the draft legislation will achieve the policy aim of removing the VAT exemption from private schools across the four nations of the UK, though as currently drafted we consider there to be risks of capturing unintended relationships that we have set out in response to question 2.

## **5. Further feedback**

- 5.1. Although this consultation's questions are narrow in focus, we have previously submitted additional member feedback on issues arising in the technical note to HMT by email on 9 August 2024 and request that these wider policy issues are considered by the policy team.
- 5.2. Business rates impact: We note the policy design for business rates appears to focus on the removal of Local Government Finance Act 1988 section 43 mandatory relief for private schools. Is it the policy intent that the scope of discretionary relief under section 47 will be retained? In other words, clarification is requested as to whether a local authority will be able to exercise their discretion to award up to 100% relief to a qualifying private school in the local authority area that satisfies the requirement of benefiting the local community.
- 5.3. Readiness: We have concerns about readiness for 1 January 2025, both for HMRC and the private schools being ready for 1 January 2025.
- 5.4. As private schools close in mid-December at the end of the autumn term, that is only 13 weeks away. It is likely increased numbers of HMRC staff will also want to take annual leave in December. Combined with some pupils taking formal exams in the summer term, it would appear pragmatic to implement the VAT liability changes after the end of the summer term to provide enough time for HMRC and schools alike, as well as not causing the a possible change in school for pupils partway through the school year and in some cases during their exam years.
- 5.5. Limited consultation has taken place with VAT specialists to address the arising complex VAT complications, and the scope of this engagement is too narrow to capture all of the arising VAT complexities that are raising concerns for advisers. There is also very limited time for HMRC to engage with private schools directly, particularly at a time when their VAT resources are already under pressure.
- 5.6. For private schools that are registering for VAT for the first time, it is unlikely that they will have staff that are experienced in VAT and they will have some complex VAT issues to address from the outset (eg but not limited to: capital goods scheme, pre-registration input VAT, prepayments tax points etc, partial exemption, single and multiple supply issues, integrating Making Tax Digital software with their current accounting software).
- 5.7. We have concerns that the general guidance (gov.uk webpages and/or VAT public notice) and technical guidance (eg VAT manual or bespoke manual) may not be ready or sufficiently comprehensive ahead of 30 October 2024, as stated in the technical note; the timeline appears too tight for stakeholders to highlight VAT complexities, provide meaningful input and the likely subsequent review and redrafting time for HMRC.

## **6. Acknowledgement of submission**

- 6.1. We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

13 September 2024

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<sup>i</sup> HM Treasury <https://www.gov.uk/government/publications/vat-on-private-school-fees-removing-the-charitable-rates-relief-for-private-schools>