



Clauses 47-49

VAT: Removal of exemption for private school fees

Executive Summary

- **Clauses 47-49 remove the VAT exemption on the supply of private school fees, vocational training and, board and lodgings when supplied by a private school or similar institute.**
- **While CIOT does not take a view on what rates of VAT should be applied to any business supplies, we observe that those affected are having to make significant changes to their tax, accounting and operational practices at short notice, to embed several areas of complex VAT rules, which will inevitably increase the risk of errors.**
- **Due to the VAT single and multiple supply rules, in certain circumstances, some therapies for children with special educational needs will become subject to VAT, which may be an unintended consequence.**

Overview and background

- 1.1. Value Added Tax (VAT) is charged on taxable supplies made in the course of business for consideration in the UK. Taxable supplies can be subject to the standard rate of 20%, a reduced rate of 5% or a zero-rate of 0%.
- 1.2. The primary legislation in the UK for VAT is the [Value Added Tax Act 1994](#), which is amended by subsequent Finance Acts. The main secondary legislation setting out detailed VAT rules is the Statutory Instrument [The VAT Regulations 1995](#). Prior to the UK's exit from the EU, the UK's VAT legislation and rules had to be in accordance with the [Principal VAT Directive 2006/112/EC](#).
- 1.3. The Principal VAT Directive lists specific supplies that are exempt from VAT as they are deemed to be activities in the public interest, which includes education. These VAT exemptions are embedded in the UK's domestic legislation at Schedule 9, with Part 1 setting out the index and Part 2 setting out the Groups, of which Group 6 is specifically for education. Since the UK exited the EU, it no longer has to adhere to the Principal VAT Directive.
- 1.4. Clauses 47-49 are introduced to Schedule 9 as Part 3 as exceptions to the whole of Schedule 9 ('Part 3 services'), as opposed to specific exceptions wholly embedded into the exemption for education in Group 6, . Group 6 has minor amendments in items 3(b)(i) and 4 to refer to the Part 3 exceptions to the exemption.
- 1.5. Clause 47 of the Bill sets out that supplies of Part 3 services made on or after 1 January 2025, change from being exempt from VAT, to being a taxable supply charged at the standard rate of 20%. It excludes (and so continues to exempt from VAT) the teaching of

CIOT Representation - Finance Bill 2024-25 – Clauses 47-49 (VAT on school fees)

English as a foreign language, education in a nursery class, and higher education courses from the scope of the changes.

- 1.6. Clause 47 also contains the notes to Part 3 that provide further details as to the intended meaning of the legislation, defining a ‘private school’, an ‘institution’, an ‘independent training or learning provider’, a ‘relevant contracting authority’, ‘nursery class’, a ‘higher education course’, and referring the reader to the existing definitions of ‘vocational training’, ‘compulsory school age’, ‘pupil’, ‘school’ and ‘school age’.
- 1.7. The notes to Part 3 also set out the impact of supplies via connected parties.
- 1.8. Clause 47 has administrative changes for insertion at section 31 (exempt supplies) to the VAT Act 1994, section 8 (reverse charge on services received from abroad) and section 43 (groups of companies). These are solely to refer to the updated rules and do not otherwise disturb the meaning of the existing VAT legislation.
- 1.9. When a VAT registered business makes taxable supplies, it can be entitled to recover VAT on its business expenses, subject to the usual recovery rules. If a business only makes VAT exempt supplies in the UK, it is not eligible to register for VAT nor recover VAT on its business expenses. Where a business makes a combination of taxable and exempt supplies in the UK, it may be obliged to register for UK VAT though it must apportion the amount of VAT it recovers on costs as follows:
 - VAT on costs directly attributable to taxable supplies may be recovered in full,
 - the VAT incurred on costs incurred in the making of wholly exempt supplies is irrecoverable, and
 - the VAT incurred on costs for use in the making of both taxable and exempt supplies must be apportioned to reflect the shared use. This VAT apportionment calculation is referred to as ‘partial exemption’. As a result of the changes to the VAT liability, almost all schools will become partially exempt for VAT purposes.
- 1.10. Clause 48 of the Bill provides for anti-forestalling rules; that is, it seeks to ensure VAT is charged on any payment for Part 3 services made in the period on or after 29 July and before 30 October 2024, and that this VAT must be accounted for from the later of 1 January 2025 or the first day of that term. It excludes non-maintained special schools from the new VAT rules.
- 1.11. Clause 49 of the Bill provides for the commencement of the changes; that is, that clauses 47 and 48 come into force from 30 October 2024, and Part 3 services that will be provided from 1 January 2025 will become subject to VAT. This means that if a private school issued an invoice to a parent on, say, 15 November 2024, for private school fees for the upcoming term commencing in January 2025, VAT would be due from the date of the invoice.

CIOT comments

- 1.12. CIOT does not take a view on what rate of VAT, if any, should be applied to business supplies, including education. Those are decisions for ministers.
- 1.13. In its response to the government’s consultation, [VAT on Private School Fees & Removing the Charitable Rate Relief for Private Schools](#), the CIOT expressed our view that the new VAT rules should be delayed to take effect from the start of the next school year, that is from August 2025 onwards, in order to give affected businesses the time to understand the scope of the changes and prepare accordingly.

1.14. The CIOT observes that as a result of the VAT liability change, many private schools will have to undertake a complete review of their income and expenses, including several complicated steps; this is in a very short space of time and their staff are likely to have little or no VAT experience. This anticipated complexity was the reason for the CIOT's request in its consultation response that the measure be delayed until after the end of summer term 2025. Review points include:

- Selecting software compatible with Making Tax Digital in order to submit VAT returns to HMRC; the MTD obligations also require that all VAT accounting software have digital links and that records are all kept digitally.
- Calculate what pre-registration input VAT (VAT on costs) can be claimed in the first VAT return.
- Review all supplies and determine which are subject to VAT as a result of the change in legislation and which remain exempt. Although private school fees, boarding and additional education (e.g. school holiday clubs, after school lessons) will be subject to VAT, other supplies 'related to education', such as school meals, books, transport and stationery, where billed as separate to the school fees themselves, will remain exempt.
- Determine whether breakfast and after school care are 'welfare services' and exempt from VAT, or additional education that is subject to VAT.
- Consider the VAT liabilities of building and facilities hire to external parties.
- Determine whether other types of income are subject to VAT such as donations, grants or bursaries.
- Determine what, if any, supplies are subject to the VAT single or multiple supply rules; where there are several components to a supply, these rules consider whether there is still only one supply subject to a single VAT rate or whether the component supplies must be billed at their individual VAT rates (multiple supply). HMRC provide an example of this in the VAT & private schools [guidance](#) relating to the provision of therapy/healthcare services (normally VAT exempt) supplied to children with special educational needs. Due to the single supply rule, in some circumstances therapies/healthcare may be subject to VAT when supplied as part of the provision of education by the school. If the invoice is issued to a local authority for a child with an Education and Health Care Plan (EHCP), this VAT can be recovered; if the fee is issued to a parent of a disabled child without an EHCP, they will bear additional VAT, possibly an unintended consequence of the VAT measure.
- Determine whether any supplies of school trips fall within the VAT Tour Operators Margin Scheme – this can be a complicated scheme to administer as businesses may not recover input VAT on costs and should only charge VAT on the profit margin, not on the entire supply.
- Consider whether a special partial exemption method would be appropriate. This must be agreed with HMRC in writing and the process can take several months (sometimes years for large and complex businesses) to complete.
- Set up a partial exemption calculation template to assist in completing the quarterly VAT return.
- Consider whether any assets or building projects in the last ten years fall with the Capital Goods Scheme and if so, prepare a calculation of what input VAT may be claimed upon registration. The documentation relating to the expenses would need to be found for the ten year period, though HMRC only require the retention of records for [six years plus current year](#). The businesses may have difficulty finding records for years after the retention period.

1.15. HMRC published its [VAT on private schools guidance](#) on 10 October. Since then, there have been several updates, two of them providing additional technical guidance on

30 October and 18 November 2024. The [VAT registration for private schools](#) guidance has had seven technical updates since publication, the latest being on 22 November 2024. For affected businesses, this leaves little time to get their VAT position finalised prior to the Christmas period closure.

The Chartered Institute of Taxation

- 1.16. The CIOT is the leading professional body in the United Kingdom concerned solely with taxation. 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. 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.
- 1.17. 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. The CIOT’s comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.
- 1.18. The CIOT’s 20,000 members have the practising title of ‘Chartered Tax Adviser’ and the designatory letters ‘CTA’ and ‘CTA(Fellow)’, to represent the leading tax qualification.

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The Chartered Institute of Taxation
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