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Charities Factsheet

VAT & PROPERTIES - APRIL 2011

The interaction between VAT and property transactions can be complex. The following questions highlight some of the VAT problem areas which affect charities. Please note that the VAT rules changed slightly for new buildings constructed or purchased on or after 1 March 2011. This factsheet deals only with existing charity buildings. For the new rules affecting new charity buildings from 1 March 2011 please see our separate article.

Is your charity thinking of constructing or purchasing a new building to be used by the charity in its activities?

The construction or purchase of a new building which is to be used 'solely' for a 'relevant charitable purpose' can be zero rated for VAT so that no VAT is charged on its construction/purchase costs. To obtain this relief the charity needs to provide a certificate to the builder confirming this use. Note that relevant charitable purpose excludes the building's use as offices or for conducting a business e.g. trading.

Do you own a charity building on which you obtained zero-rating? Are you thinking of redeploying it in the charity's activities?

Was your charity building constructed within the last 10 years? Did you meet the zero-rating conditions for relevant charitable use such that you did not incur any VAT on the construction/purchase costs?

If you did, then you need to be careful you do not change the building's use in such a way that a VAT liability arises. A change in use of up to 5% is allowed before HMRC deem that it is no longer being used 'solely' for a relevant charitable purpose. Note that expanding the office area or starting trading within the building could make the non-charitable use of the building exceed 5%. This will also apply if the building starts to be used or rented by the charity's trading subsidiary company. If you exceed the 5% then some or all of the purchase VAT you saved will be repayable to HMRC. This could require you to register for VAT, if the charity is not already VAT registered.

Are you thinking of renting out a charity property on which you obtained zero-rating?

You need to be careful if the property is within 10 years of its construction as renting out the building will constitute a change in use if it exceeds 5%. The result is that a VAT charge may arise as the conditions for the original zero rating are no longer being met. This could again require VAT registration by the charity.

However, if the tenant is also a charity which is using the building for a relevant charitable purpose i.e. not as an office, there has been no change in its use and so no VAT will be payable. This assumes the charity tenant also meets the condition of less than 5% non-charitable use.

Are you thinking of selling a charity property on which you obtained zero-rating?

Watch out if the property is within 10 years of its construction.

A change in use will normally arise if the charity building is sold on and consequently a VAT charge will result. VAT registration will usually be necessary as the charity will have exceeded the VAT registration limits. The exception to this is if the property is sold to a charity which intends to continue using the building for a relevant charitable purpose. Provided it meets the 5% rule, no VAT charge will arise.

Are you a VAT registered charity with a building used for trading or rented out as an investment property? Are you are thinking of selling it?

We will assume that the property never qualified for zero-rating, otherwise, the above points regarding change in use will apply.

If you have a rental property with business tenants, you will probably have Opted to Tax the property and then registered for VAT. If you are using it for substantial trading e.g. as a charity shop, the shop's turnover may have required you to register.

Have you carried out substantial renovation work to the building of £250,000 or more on any one project? Were you able to claim the purchase VAT on these costs?

If this is the case, and this building work was done in the last 10 years, when you sell the property you may have to repay to HMRC some of the purchase VAT already claimed. How much VAT is payable will depend on how the purchaser intends to use the building. Note that this VAT charge is in addition to any VAT that may arise on the sale.

Are you a VAT registered charity with a property on which an Option to Tax was exercised over 20 years ago?

Rents charged to business tenants are normally exempt from VAT. However, since 1989 it has been possible to Opt to tax a property which allows the landlord to charge VAT on rents to business tenants. Under the option, the landlord is able to claim the VAT on any expenditure directly related to the maintenance of the property.

Once the option has been taken out it cannot usually be revoked for 20 years which means that if you want to sell the property within those 20 years you will normally have

to charge VAT on the sale price. This can make the property more difficult to sell, as only some purchasers will be able to claim the VAT on the sale.

If you are a landlord with an opted property, where the option to tax was taken out on the property over 20 years ago, and are thinking of selling it, it could be to your advantage to revoke the option to tax on the property as this will make the property more marketable to a potential buyer. Not only will you not have to charge VAT on the sale price but Stamp Duty Land Tax will also be lower as this is based upon the VAT-inclusive price.

However, there are conditions which must be met and if you have made substantial improvements with a value over £250,000 within the last 10 years you may have to repay some of the VAT you have claimed on these improvements (see above).

Are you a charity paying rent on a property? Do you pay VAT on these rental payments?

If the charity is using the property for a relevant charitable purpose (but not as offices), the VAT legislation allows the landlord (where he has Opted to Tax the property) to waive charging VAT on these rents to the charity. To obtain the exemption you need to discuss it with your landlord. However, he may not agree to this as it will involve a change in use of the property.

Conclusion

Vat and properties is a complicated area and there are several factors which can affect the way the VAT rules are applied. This factsheet can only touch on these issues, and if any of these situations affect your charity, you should obtain professional advice before taking any action. Please contact our specialist charity team and steve.smith@plummer-parsons.co.uk for further information.

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