

The education sector is facing possibly one of its biggest changes. The next General Election could bring the Labour Party to power on a manifesto of removing the VAT exemption for independent school fees. The likelihood of this outcome occurring, and the precise changes to legislation that would be needed to enact it, are as yet unknown.

Just how much money this change would generate for the public purse is unknown, and we leave others to undertake the detailed economic modelling required. What's clear is that the sector needs to start planning for this potential change and to understand the implications going forward.



Current position

Currently, UK law exempts the provision of education by an 'eligible body'. An eligible body includes an organisation, that's a not-for-profit body, that reinvests any surplus it makes from providing education, back into education – the majority of independent schools sit here. Therefore, charities that are ring-fencing their education operations aren't able to charge VAT on education income; instead it's VAT exempt.

As education income for these organisations is exempt, they can't recover any of the VAT costs that they incur. Although most outgoings will be staffing costs of employees which don't bear VAT, capital expenditure on new buildings and on maintenance of existing buildings bears VAT and this becomes an additional cost to the school.

Assuming that VAT at the current standard rate of 20% becomes due on fees, schools will need to VAT register (if they aren't already) and consider how much of this tax charge to pass on to families.



Future position

As with all other VAT registered businesses, schools will be charging VAT on income and so will be able to recover VAT that is incurred on their related expenditure as well as a proportion of overhead costs (under the partial exemption rules). This means an improvement in the VAT recovery position for capital expenditure for teaching space, overseas services bought in, maintenance costs etc.

It's important to recognise that schools are likely to still have VAT exempt income from, for example, after school provision, examination fees etc, unless any changes made by a new Labour government extend further. Depending on how bursaries are structured and the level at which these are given, fees that are subsidised with a bursary may also be subject to VAT (meaning the bursary needs to increase) or where a full bursary results in entirely free education, the school may need to consider whether it needs to undertake a non-business calculation to restrict the VAT on costs it recovers.

Actions to consider



As well as modelling the financial impact on budgets and fee levels, some schools may wish to encourage upfront payment of fees now before any change in the law takes effect. Probably unpalatable for 100% of families, but this should protect any fees paid ahead of a legislative change under the 'time of supply' rules. Importantly, the fees must be actually paid and the monies available to the school for its use.

It's likely that the terms and conditions in place with families don't mention VAT. If they don't, it would be sensible to think about amending them to allow VAT to be charged as applicable by stating prices are 'VAT exclusive'. The timing of such a change is probably more logically ahead of the start of the 2024 academic year.

Capital projects that can be deferred until after the General Election or more certainty of timing of this change will benefit from better VAT recovery. Where that is not possible, capital expenditure on property projects of £250,000 or more plus VAT, will still benefit from some VAT recovery but this will be given under the 'Capital Goods Scheme' and will not provide full recovery unless the project can be deferred.

Start looking at whether your finance processes and systems can manage VAT including reporting data for VAT returns, applying the correct rate of VAT on all of your income streams, and guidance to staff who need to understand the VAT profile of your school. If you already have a trading subsidiary in place to operate your commercial activities, consider whether you would be better to VAT group register it will the charity, or not.

Next steps

This period of uncertainty is unsettling for schools but taking action now to understand how your school might be affected will enable decisions to be taken as soon as necessary.

Larking Gowen is here to support you through this process, do get in touch with your Larking Gowen contact if you would like to arrange an initial discussion, alternatively our VAT Director, Gillian McGill, is available to you on gillian.mcgill@larking-gowen.co.uk

