



## ***Opening Schools for Community Use – Summary***

We have been asked to prepare a report for Sport England addressing the common misconception that opening school sports facilities for community use results in a significant VAT cost for either the school or the Local Authority (LA).

This document is a summary of the issues LAs, Academies and Free schools and VA schools face when opening their facilities for community use. **It should not be taken as a substitute for obtaining specific VAT advice in relation to the relevant circumstances.**

### ***Key Points***

Fees charged by a school to the users of its sporting facilities will normally be subject to VAT at the standard rate. However, the following supplies are exempt from VAT when the user is a club, association, school or organisation representing affiliated clubs:

1. The club etc purchases a series of 10 or more sessions where all of the following are satisfied:
  - i. Each session is for the same activity (i.e. hockey) to be played at the same location<sup>1</sup>.
  - ii. There must be an interval of between 1 and 14 days between each session;
  - iii. The fees are payable by the club in relation to the 10 sessions and this is evidenced by a written agreement; and
  - iv. The customer (i.e. the club) has the exclusive use of the court or pitch; that is no one other than the club can use the allocated court or pitch during the period of the booking.
2. The club etc has use of the facilities for a period of continuous use exceeding 24 hours. In order to obtain the VAT exemption the club must have continuous access to the facilities for the 24 hour period, if the facilities are locked over night during which time the club does not have access the facilities, the sale will be subject to VAT at the standard rate.

If the school has opted to tax its sports facilities the above VAT exemptions are no longer available<sup>2</sup>.

If a school qualifies as an “eligible body” for the purposes of sporting services<sup>3</sup> then a number of other sporting supplies that it makes will be exempt from VAT.

### ***Other Sporting Services***

Other sporting services which can qualify for exemption from VAT, when made by an eligible body, include entry fees for a sporting competition (for example a badminton competition) and the supply to an individual of services closely linked with the sport in which the individual is taking part, for example, the use of changing room facilities or use of necessary equipment (i.e. badminton rackets).

### ***Academy Schools and Free Schools***

The potential VAT exposure for Academy and Free schools is dependent on whether they have, or will, incur the capital costs relating to the school and sports facilities.

For Academies that have not incurred the VAT on the capital costs (i.e. it was incurred by the LA) the nature or level of the use of the sports facilities will have no impact on the school nor will it impact on the level of the VAT recovered by the LA.

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<sup>1</sup> See HMRC Notice 742 paragraphs 5.1-5.4

<sup>2</sup> See appendix D of the main report for an explanation of opting to tax a property

<sup>3</sup> See section 5 of the main report



Any VAT consequences for the school will be limited to the VAT incurred on the day to day operating expenditure.

For Academies that have incurred VAT on capital costs or incur VAT on a unitary charge, the introduction of VAT exempt sports use could result in some level of irrecoverable VAT cost. VAT exempt use for an Academy includes:

- Block booking of sports facilities;
- Fee paying education;
- The provision of sports services (playing and coaching) to individuals and not for profit clubs if the Academy meets the definition of an “eligible body”<sup>4</sup>; or
- The letting of rooms.

The 2011 Finance Act introduced a mechanism, which enables an Academy to recover the VAT it incurs on the provision of its non business supplies. A non business supply is anything done for free<sup>5</sup>. An Academy can choose to register for VAT which would enable it to recover the VAT incurred on expenditure relating to its taxable business income, for example, its sports income, unless this is exempt from VAT per the above.

By registering for VAT the Academy would then have to charge VAT on the taxable sports supplies (and any other taxable sales) it makes, thereby increasing the cost of its supplies to its users<sup>6</sup>.

The VAT which relates to the VAT exempt use of the school and sports facilities will be irrecoverable, however, with careful consideration this cost can be minimised<sup>7</sup>.

## ***Local Authorities***

Local Authorities (LAs) are able to recover VAT on costs attributable to their non business activities. Non business activities for a LA are essentially any activity they carry out in their capacity as the LA such as education or road maintenance. LAs are different from other types of business entity, as VAT on costs associated with non business activities is not typically recoverable for any other VAT registered business<sup>8</sup>.

For a LA a potential problem can arise if there is any VAT exempt use of the sports centres for example, the block booking of sports facilities as described earlier, subject to their deciding to opt to tax the property. The problem arises as the presence of exempt activities, without proper management of the VAT, can impact on the amount of VAT the LA can recover.

Even where VAT exempt activity is present, it will not necessarily result in a problem and in most cases can be satisfactorily managed. The LA taxation manager should be consulted in respect of any VAT exempt use<sup>9</sup>.

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<sup>4</sup> See Appendix I of the report

<sup>5</sup> Appendices E and F of the main report explain the refund scheme for Academies in more detail

<sup>6</sup> Case study 3 in Appendix J of the main report considers the implications of VAT registration for an Academy in more detail

<sup>7</sup> See Section 8 of the report together with case study 3 in Appendix J

<sup>8</sup> Section 7 of the report covers this aspect in more detail

<sup>9</sup> Section 8 and case study 1 in Appendix J of the report covers the ways in which VAT exposure can be mitigated



## ***VA Schools***

Unlike LAs or Academies there is no facility by which a VA school can recover any VAT incurred in relation to a non business activity, such as the free provision of education.

The only scope to avoid the VAT cost of capital works is to issue an appropriate certificate to the contractor thus enabling the works to be zero rated. Certificates can only be issued in respect of new buildings or self contained annexes (subject to certain conditions).

In order to issue a certificate, the building/annex must be used at least 95% for non business purposes (typically this means non-income generating). Furthermore, this condition applies for 10 years from the completion of the building. The problem for VA schools is that the majority of community use is classed as business use for VAT purposes and thus its introduction on anything other than a very small scale is likely to prevent a certificate being issued or invalidate an existing certificate.

The inability to issue a zero rating certificate and the lack of a non business VAT refund scheme means that introduction of community use, such as the provision of sports facilities or room hire, can result in a significant VAT cost for the Governors of the school. With appropriate care there is some scope to mitigate the VAT cost<sup>10</sup>.

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<sup>10</sup> See Section 8 and case study 2 in Appendix J of the report.

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