

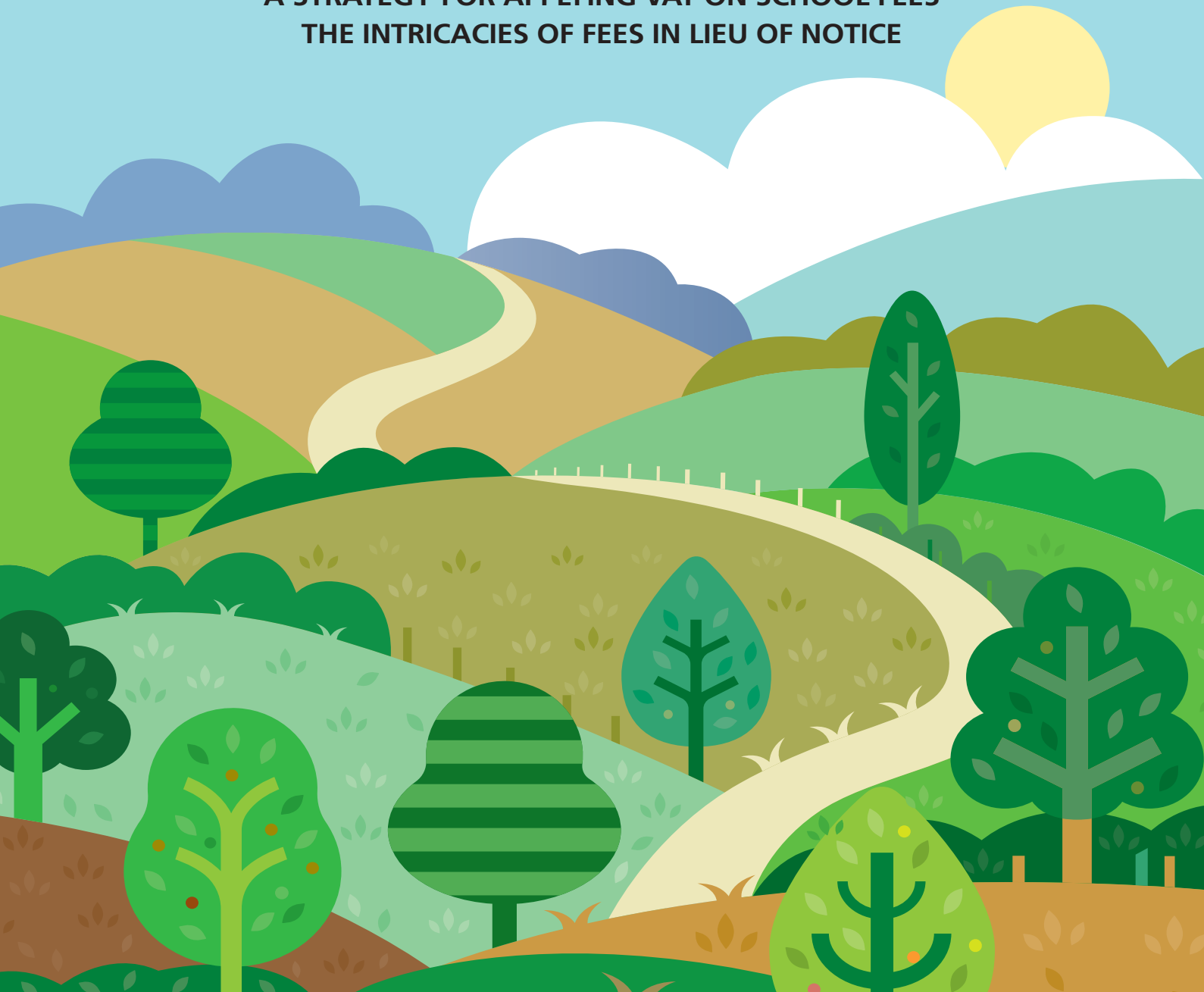
THE BURSAR'S REVIEW

Summer 2024

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NEW GOVERNMENT BRINGS A NEW LANDSCAPE FOR INDEPENDENT SCHOOLS:

A STRATEGY FOR APPLYING VAT ON SCHOOL FEES
THE INTRICACIES OF FEES IN LIEU OF NOTICE



Don't miss our special sustainability and estates supplement included with this issue (starting on page 54)

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A business of Marsh McLennan

Welcome to the Summer issue

...from ISBA's chief executive, David Woodgate.

While we wait to hear the detail of how the new Labour government will implement their manifesto commitment to impose VAT on school fees and remove mandatory business rates relief from independent schools with charitable status, we would like to reassure you that ISBA is continuing its efforts to represent the interests of our members at the highest levels.

We have been analysing the data from our recent VAT survey (thank you to all who participated) and are using this in discussions with HM Treasury and the Office of Budget Responsibility together with the ISC as legislation starts to be drafted.

Well informed counsel is being taken on the options available to the sector to respond to the new legislation. Press speculation about aspects like how this might be done in this regard is unhelpful but we will be working closely with the new government to form a positive and productive relationship and one which will need to have the long-term interests of both the sector and education in the UK at its core. Beyond these comments I would not want to put in the public domain what our approach with the new government might be but I trust members will accept my reassurance that we will be doing everything that we are realistically able to do. We will of course also consider our approach to various other legislation announced in the King's Speech which may impact on independent schools.

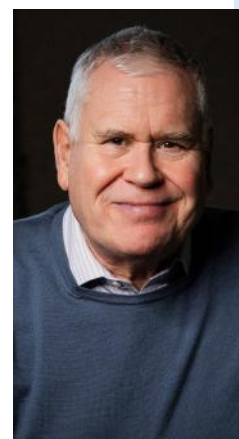
In this issue of the Bursar's Review you'll find more information on the support ISBA will be providing to member schools (page 4), followed by an article on page 12 by Kieran Smith of Crowe focusing on the financial actions independent schools should consider taking, all while acknowledging the present uncertainties. On page 18, the ISC's chief executive, Julie Robinson, also undertakes some myth busting of the Labour policy. Don't forget there is a wealth of guidance in ISBA's reference library including our continuously updated VAT on Fees FAQs plus recordings of webinars we have held over the summer on the subject.

And to give you some respite from the topic which seems only fair (!) we've also included an estates and sustainability supplement within this issue. Following our hugely popular annual conference session which more than 170 of you attended in Wales in May, Nigel Aylwin-Foster discusses how to go green without going into the red on page 54. Masterplanning (page 60), sustainable estate management (page 64), the new biodiversity net gain (BNG) regulatory framework (page 70) and energy saving (page 72) are also subjects covered in the supplement.

For those who weren't able to make this year's ISBA annual conference, we've included some event highlights together with a selection of session write-ups beginning on page 74 – why not see if you can spot yourself in the photos! Next year's annual conference will be held in Manchester from 19-21 May 2025 so please do put the dates in your diary now.

Finally, we are running a series of in-person regional strategy sessions in the autumn term to support bursars, heads and governors in planning for the future and ensuring that their schools are fit for business. This is a valuable opportunity to take a step away from the day job to hear from expert speakers, network with colleagues and reflect on your school's strategic direction. Visit <https://members.theisba.org.uk/cpd/courses-and-webinars/> to book your place and we look forward to seeing you out on the road.

As always, please don't forget the ISBA team is here to support you. For any query – big or small – please email us at advicet@isba@theisba.org.uk



David Woodgate
Chief executive

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Plan for the worst and hope for the best

David Woodgate, ISBA's chief executive, and John Murphie, ISBA's chief operating officer, analyse the King's Speech and set out the changes that the new Government's policies will bring to our sector.

As this edition of the Bursar's Review goes to print His Majesty the King is just finishing his King's Speech at the state opening of Parliament. This confirms that the new Government will bring forward legislation to implement VAT on independent school fees. There was, however, no mention of mandatory business rate relief but we think that remains likely to be abolished in line with the manifesto commitment. Otherwise, we still do not have any further detail on how Labour's policies will be implemented or on timescales. It is probably fair to say that there is perhaps more likelihood of VAT being introduced from September 2025 although there remains a possibility that this would follow the fiscal year and come in from next April. Our best advice remains to plan for the worst, and hope for the best and develop assumptions based on a central planning scenario of April albeit there is now a reasonable chance that there will be a period of grace until September 2025.

It is also reasonable to expect there will be implications on schools of new legislation changing employment terms conditions and specifically possible changes to the dismiss and re-engage rules. Similarly, changes to the minimum wage and a possible ban on zero hours contracts will impact as will reforms to the Mental Health Act. However at this stage we have no further details but we will of course keep you updated as policy and draft legislation become clearer. We will also respond at association and sector level to any consultations as appropriate.

Our working assumption remains that more detail of the specific VAT legislation and implementation will come forward in the new chancellor's first budget which we continue to assume will be at the end of September. As we wait for that expected budget and more details on how Labour intends to honour their manifesto commitment to impose VAT on school fees and remove mandatory business rates relief from independent schools with charitable status,

ISBA and the ISC are taking a number of steps to create effective dialogue with the Government and best represent the interests of member schools. We continue to keep under review all options in facing up to these challenges on behalf of our members.

There are, however, actions schools can take in the meantime (including financial steps which are outlined in the article which follows on page 12) and the ISC has produced a **guide for schools on contacting politicians** as well as a **template letter** for schools to contact newly elected MPs. We would urge schools to engage with their newly elected MPs and to share with them the economic impact that your school has on their constituencies.

Focusing on what we know now, and concentrating on VAT on fees, the following acts as a summary, and as an aide memoire:

What will ISBA be doing to influence policymakers as they begin to draft legislation?

Considering VAT on schools first, we will be working closely with the ISC to:

- analyse the data we have collected in our recent VAT survey to outline the effect on the sector as a whole and present this in discussions with HM Treasury;
- provide this information to the Office of Budget Responsibility which is scrutinising Labour's financial plans;
- ensure that newly elected MPs visit independent schools in their constituencies and hear, at first hand, the very positive effects they have on the local economy;
- monitor and influence how fees from SEN pupils with EHCPs (Sir Keir Starmer specifically mentioned them) will be treated;
- actively monitor how state boarding schools are treated when it comes to VAT as there has been mention of an exemption for them; and

- continue dialogue through 'back channels' with stakeholders and opinion formers in respect of the negative impact of the proposed policies.

What about the loss of business rates relief?

This is a specific Labour manifesto commitment which has been abolished in Scotland and there is a consultation happening in Wales.

It can happen very quickly, but we need to look at the legislation as it emerges; if there is a consultation, which there is likely to be, then we will make the sector's case. We will also be encouraging each charitable school to respond to that consultation.

What about the timing of each of these major changes?

The central planning assumption is April 2025. Why then? This is the beginning of the financial year, and it gives time for HMRC to organise themselves for the collection of a new tax and local authorities to levy business rates.

It has been said that VAT on fees could start in September 2025 but that would be a consideration we are not sure we can rely on.

We feel reasonably sure that business rate relief will not extend into the 2025-26 tax year, so the relief will end in April 2025.

However, the position remains that there is very little detail around Labour's policies and the best advice remains to plan for the worst and hope for the best. As detail emerges, we will of course keep members fully abreast of developments, but it may be that we have little definition before the budget which is currently assumed to be happening towards the end of September.

Where will anti-forestalling fit into the changes?

Anti-forestalling is a legal mechanism that can be used to put in place measures that stop pre-payments when a tax change is due. If the mechanism is to be used, and when it would be timed to start, are two open questions currently. That said, historically, anti-forestalling measures have been introduced to counter avoidance and not to bring forward the implementation of new taxes.

Anti-forestalling measures could be introduced from as early as today until a budget that contains the formal VAT on fees measures. It is perhaps more likely that anti-forestalling measures would only be introduced later, at the time of any budget, pending full implementation of the new tax, or by way of a ministerial statement.

What detailed advice is available now for schools?

In the ISBA reference library there are **recordings** of all the webinars on fees in advance and VAT that we have run over the past few weeks, and the questions and answers that have arisen from them. We are regularly updating our comprehensive FAQ documents – **FIA schemes FAQs** and **VAT on fees FAQs**.

The suppliers of school finance systems will need to step forward now and start advising schools on the software changes that need to be made. Schools themselves are encouraged to look at their internal organisations to make sure they can account for both input and output VAT accurately and reliably.

Any final points?

We will be producing training for finance teams and bursars following a member survey to identify training needs. We will publish the draft legislation and the 'so what' points that emerge from it.

We are running a series of strategy days around the country in the autumn. The dates and locations are as follows:

- **9 October – London – London and Southern**
- **20 November – Cambridge – East of England**
- **27 November – Haynes – West of England**
- **3 December – Bradford – North of England**

Please book your place at any of these events here: <https://members.theisba.org.uk/cpd/courses-and-webinars/>

ISBA, HMC and AGBIS have also developed an important new series of online briefings for heads, governors and bursars, focused on different aspects of running independent schools as businesses. These sessions will be offered online and are free of charge to members of the three associations. Topics have been selected based on what you have told us is most urgent for heads, governors and bursars, and further sessions will be added over the course of the 2024-25 academic year.

The sessions will begin in September 2024, and places can be booked using the following links:

- **TPS consultation and pension options** – 17 September 2024, 14:00-15:00
- **How to develop a financial strategy for your school, including financial modelling and scenario planning** – 19 September 2024, 11:30-12:30
- **Staff re-structures and reviews of pay and benefits** – 24 September 2024, 14:00-15:00
- **How to compile the school's strategic plan** – 25 September 2024, 09:30-10:30
- **Working with teaching unions and union recognition agreements** – 7 October 2024, 14:00-15:00
- **School mergers and acquisitions** – 8 October 2024, 09:30-10:30
- **Managing cyber risks and security, including deep-fake imagery and ransom attacks** – 12 November 2024, 11:00-12:00
- **Top tips for increasing efficiency and scrutinising costs** – 28 November 2024, 14:00-15:00
- **Diversifying income streams** – 5 December 2024, 10:00-11:00

We aim to help to make sure schools are fully ready for these permanent and fundamental changes. If you require any guidance please contact our advice team at: advicet@isba@theisba.org.uk

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Cover story: The new government brings a new landscape for independent schools, so in this issue, we aim to help to make sure schools are fully ready for these permanent and fundamental changes.



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TOP TIPS

Out of all the articles in this issue of the Bursar's Review, we have flagged up some of the most critical topics for you to think about:

12 Applying VAT to independent education

- Schools that are not currently VAT registered will need to register for VAT soon after the new VAT legislation becomes effective, as the limit for compulsory VAT registration is only £90,000
- If multiple VAT registrations are currently in place, then this should be reviewed as consolidation into a VAT group may reduce administration

22 Planning for a sustainable future

- Find out what current parents value and prioritise about your school
- Open communication with stakeholders will be essential for effectively navigating any potential changes

26 Fees in lieu of notice

- Encourage an open-door policy where parents feel comfortable approaching school administration with any queries regarding FILON
- Make it explicit that the FILON policy is applied uniformly to all parents, regardless of their status or relationship with the school

34 Is your school ready to communicate effectively in a crisis?

- Poorly prepared crisis communications can seriously damage a school's reputation
- Communicating calmly and appropriately in a crisis plays a vital role in alleviating concerns

40 Surviving subject access requests from colleagues

- Organisations which fail to respond to SARs promptly, or at all, can be fined
- Schools have one calendar month to respond to SARs

46 The issue with safeguarding training

- A DSL that hasn't been properly trained can feel vulnerable
- While each school will have a DSL, safeguarding is a capability that is essential for all staff

54 How to go green without going into the red en route

- Improve the fabric of the buildings where possible
- Ensure that mechanical components are well maintained and running efficiently

60 Masterplanning

- Base your masterplan on evidence and considering the holistic needs of the school
- A simple retrofit plan for each building can identify the main opportunities and constraints and summarise the actions needed

64 Sustainable estate management: less harm, more good

- Planning policy is becoming increasingly driven by environmental criteria
- Where schools own rural land, now is the time to start thinking about how it is used

70 Biodiversity net gain: the significant new requirement for developments in England

- There is now a mandatory legal requirement for most planning applications to provide a 10 percent increase in biodiversity
- The biodiversity net gain (BNG) regulatory framework came into effect in England on 12 February 2024

72 Energy market trends and ways to save

- Solar panels generate clean, renewable energy from sunlight, reducing electricity bills and decreasing reliance on fossil fuels
- Energy is amongst the top three largest costs to schools

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ISBA honours the Armed Forces Covenant



Neil Cufley, former ISBA chair, and Commander Carolyn Jones RN

On the Tuesday evening of the ISBA conference, Neil Cufley, former ISBA chair and former soldier, was a signatory to the Armed Forces Covenant with Commander Carolyn Jones RN, the Commanding Officer of HMS Cambria, representing the covenant director.

The Covenant reflects many of the actions ISBA already have in place: promising to acknowledge and understand that those who serve or have served in the Armed Forces and their families be treated with fairness and respect in the communities, economy and society they serve with their lives.

The two key principles of the Covenant recognise that those who have served in the military, whether regular or reserve and their families should face no disadvantage compared to other citizens in the provision of public and commercial services and that special consideration is appropriate, especially for those who have given most such as the injured and the bereaved.

ISBA further plans to join the Defence Employer Recognition Scheme (ERS) and

help encourage schools to support and inspire others to do the same particularly in employing reservists, armed forces veterans (including the wounded, injured and sick), cadet instructors and military spouses/partners. The scheme encompasses bronze, silver and gold awards.

Any school or group that also wishes to honour the Armed Forces Covenant may find further information at

<https://www.armedforcescovenant.gov.uk/>



The Armed Forces Covenant signing took place at ISBA's annual conference at the ICC, Wales

Is the independent school sector on the verge of a staffing crisis?

New research¹ from specialist education insurer, Ecclesiastical, has revealed that the independent school sector is on the verge of a staffing crisis.

Of those surveyed, 62 percent (of 250 UK independent school leaders) reported their school is struggling to retain staff and 61 percent said their school is struggling to recruit staff.

Independent schools are also facing an increase in staff mental health issues. Half have seen an increase in teacher anxiety (48 percent) and stress (47 percent) during the past 12 months. Two in five (40 percent) have also reported an increase in teacher depression and the top contributing factors to teacher mental health challenges are financial pressures (38 percent), increased workloads (32 percent), the pressure to deliver good results (30 percent) and taking more work home (30 percent).

Thankfully, the survey discovered that seven in 10 (70 percent) independent schools are currently providing mental health support for their teachers.

Ecclesiastical Insurance's **Independent Schools Risk Barometer 2024** explores the top risks within the education sector and focuses on key areas of concern including pupil and teacher mental health and safeguarding.

1. The survey was commissioned by Ecclesiastical Insurance and conducted by OnePoll with 250 UK independent school leaders 8-14 February 2024

Cheltenham College International and Edumaax to open new school in Malaysia

In partnership with the Malaysian company, Edumaax Sdn Bhd, Cheltenham College International is delighted to announce that it will be opening its third partner International School, based in Kuala Lumpur, Malaysia this year.

Cheltenham College in Kuala Lumpur will be a day school that caters for boys and girls from four to 18 years and will welcome its first pupils in September 2024. The school will deliver an all-round education based on the experience and values of over 175 years of education at Cheltenham College. Qualifications will be based on the IGCSE and A Level curriculums.

The school will be owned by the Malaysian company, Edumaax, which was founded by the Old Cheltonian and businessman Tunku Dato' Yaacob Khyra, executive chairman of the MAA Group Bhd. Cheltenham College has links with Malaysia going back over 50 years and speaking on behalf of Cheltenham College, head, Nicola Huggett, said: "We are looking forward to working alongside staff in KL to develop the highest quality education and pastoral care for their pupils".



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Registering early for VAT would mean that VAT would be suffered on some peripheral income streams *earlier than necessary*

Training of staff is likely to be required so this *should not be underestimated*

When VAT becomes applicable to fees, *recovery of VAT will significantly improve* and so systems will need to be able to identify VAT incurred from suppliers

Applying VAT to independent education

The change of government has now taken place and so we can anticipate that in the coming months, the Labour Party will announce that VAT will be applied to independent education.

Whilst we can be relatively sure that the government will be in a position to make the legislative changes to introduce VAT, we still have little detail about the date of implementation as well as the application.

This article focuses on the recent developments and the actions that independent schools should consider taking, despite the current unknowns.

1. Budgeting/modelling

The imposition of VAT is likely to add to independent schools' costs because in most instances the cost cannot be passed on to the parent. The cost of VAT will vary from school to school because of differences in the level of VAT-bearing costs, VAT recovery under the Capital Goods Scheme (see below) and the ability to increase fees to parents. Consequently, there is no 'one size fits all approach' and it is important that the impact is considered and acted upon before the new legislation is implemented.

The results of the modelling can be used by management to make decisions around fee increases, cost savings and even highlight some potential areas of opportunity.

Finally, some schools that have already undertaken modelling exercises may have seen a recent upturn in the take up of fees in advance schemes. In these instances, it is important to re-visit models, because if exempt education is provided to a significant amount of the pupil population, this could have an impact on the VAT recoverable on costs. VAT legislation is already in place, that can be used by HMRC to deal with instances where the income received in a VAT year is **not reflective of the use of VAT-bearing costs**. For instance, if an annual income-based apportionment calculation gives a 95 percent recovery but 25 percent of pupils are still benefitting from exempt education because of FiA, it would be possible to reduce recovery to 70 percent in that year.

If financial modelling has been undertaken prior to fees being received in advance the model will need to be revisited as input VAT cannot be claimed for those pupils for whom fees in advance have been received. ●►





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2. VAT recovery and VAT incurred pre-registration

For most newly VAT registered organisations, VAT incurred on goods and services pre-registration can be recovered (subject to certain conditions) under the pre-registration input tax rules. However, for schools, the VAT that has been incurred on pre-registration goods or services would usually relate to an onward exempt supply of education in that year. As such, we expect VAT recovery under the pre-registration input tax rules to be minimal for schools, so we would advise that this is excluded from any budgeting/modelling.

While schools may not benefit from pre-registration input tax recovery, we do expect them to be in a position to recover a proportion of VAT incurred under the Capital Goods Scheme (CGS). CGS applies to any VAT-bearing capitalised building project which is greater than £250k (net of VAT) and which has been incurred in the last 10 years.

Under CGS, VAT will be recoverable over the remainder of the 10-year CGS period where the asset is used for taxable educational purposes. Consequently, schools should review their asset register to determine whether there are any projects which are subject to the CGS, as this will impact any budgeting/modelling work that is carried out.

CGS claims are disclosed on the quarterly VAT returns after the end of a 'VAT year'. Therefore, before making a claim under the CGS, schools should ensure that the appropriate evidence is held to support the claim. As such, schools should spend this time ensuring that they hold the relevant VAT invoices from contractors to support claims under the CGS.

3. Registering for VAT and review of structure

Schools that are not currently VAT registered will need to register for VAT soon after the new VAT legislation becomes effective, as the limit for compulsory VAT registration is only £90,000.

HMRC can impose financial penalties where VAT registration is notified belatedly, so it is important that schools submit applications soon after we are aware of when the new rules apply. For instance, if an October 2024 budget announces that VAT will be imposed on school fees from 1 September 2025, schools should ensure that HMRC are notified in advance of that date, but to be effective from the implementation date.

While schools could potentially wait for thresholds to be breached, the savings would be minimal and would be outweighed by the risk of penalties in the event an application was sent late.

Registering for VAT is an online process and sometimes delays are experienced with HMRC. In some instances, HMRC will ask questions before issuing a VAT registration number. Currently, a VAT registration usually takes about six weeks to process, however given the number of applications from schools, we may experience delays.

Once a VAT registration certificate is issued, schools are required to create a business tax account and link this to the new VAT registration number – this will provide details on when the first VAT return is due. Schools should ensure that systems are updated to ensure that VAT is charged (where necessary) at the point of registration.

Registering early for VAT would mean that VAT would be suffered on some peripheral income streams earlier than necessary, e.g. recharges to subsidiaries, meals to non-pupils and shop sales, as well as services acquired from overseas, e.g. overseas agents' fees and Facebook. Furthermore, schools' main supplies of education under current rules are still VAT exempt, so any benefit of VAT recovery on costs will be minimal.

Schools that operate through more than one entity, whether they are already VAT registered or not, should consider whether the current structure will work under the new rules. Thought should also be given to whether a VAT group is beneficial as there may be entities within the group that are no longer required.

If multiple VAT registrations are currently in place, then this should be reviewed as consolidation into a VAT group may reduce administration.

4. Accounting for VAT – systems

Many schools are not VAT registered and even schools that are VAT registered do not post VAT separately on costs, as currently the VAT is largely, if not, fully irrecoverable. When VAT becomes applicable to fees, recovery of VAT will significantly improve and so systems will need to be able to identify VAT incurred from suppliers. ➤

Schools that are not currently VAT registered will need to register for VAT soon after the new VAT legislation becomes effective, as the limit for compulsory VAT registration is only £90,000.

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Systems will also need to be able to attribute costs to different activities and for many, cost apportionments will also be required. The apportionments will need to factor in exempt use of costs, e.g. nursery and lettings and free places (or close thereto), which in VAT terms are non-business and therefore prohibits recovery.

With the above in mind, it is important to note that VAT return information must be compliant with Making Tax Digital (MTD) regulations. Broadly speaking, this means that information must be provided digitally to HMRC (rather than manually inserting numbers into an online return) and there must be digital links from the VAT return declaration to the figures that support it. There must be no 'hardcoded' figures within the audit trail.

Very few systems adequately deal with all the different processes required for a school to accurately complete its VAT return. As a result, spreadsheets are often used to apply the adjustments required, particularly to arrive at the amount of VAT recoverable on costs. Therefore, schools must be aware that whilst a system may include an MTD solution, this will probably not accommodate all of the school's needs. Numerous excel-based solutions are available at low cost that can be used to address the various adjustments required, whilst also complying with MTD. The initial implementation stages could be a labour intensive process and training of staff is likely to be required so this should not be underestimated.



5. VAT and cashflow

Once VAT applies to school fees, it will be possible to raise a VAT invoice (currently invoices are not VAT invoices as supplies are VAT exempt).

If a VAT invoice is raised in advance of a service being provided, the invoice will create a tax point and VAT will fall due in the relevant VAT return.

For instance, if a school sends a VAT invoice for fees on 15 July for the next school term, and its VAT returns are for the periods ending on 31 August, 30 November, 28 February and 31 May, the VAT will fall due in the 31 August VAT return. This return will be due for payment by 7 October, whether or not the parent has paid the fees.

This can cause cash flow issues where HMRC must be paid the VAT in advance of the funds being received by the school.

The 'cash accounting scheme' allows for VAT to be accounted for on a payment date basis. However, this is likely not to be available to schools, as the turnover limit for using the scheme is only £1,350,000.

We will need to wait for the new rules, however based on those currently in place schools could potentially mitigate this problem by issuing a request for payment (not a VAT invoice). This could succeed in achieving the VAT only falling due when the payment is received. The process is used by several taxpayers, but schools will need to determine whether this would work practically for them. ◀●



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