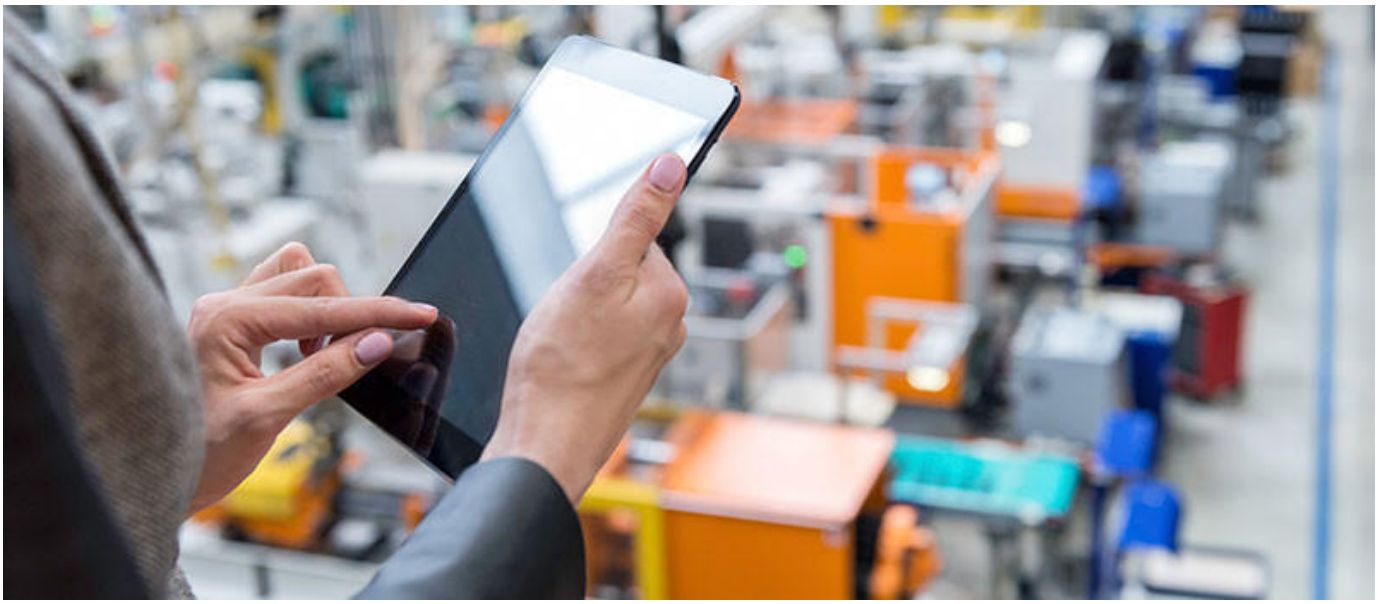
From exempt to taxable: adding VAT to private school fees

Indirect Tax



24 October 2024

The CIOT and the ATT submitted responses to the UK government's proposal to introduce VAT on private school fees from 1 January 2025. Both responses highlighted concerns related to the timing, complexity and impact of the VAT changes on the sector.

The proposal to remove the VAT exemption (Item 1, Group 6, Schedule 9 to the VAT Act 1994) on private school fees was announced in the Labour Party's election manifesto in 2019, and repeated in 2024. After the new government was elected, draft legislation on 'VAT on Private School Fees and Removing the Charitable Rates Relief for Private Schools' (tinyurl.com/a5b8rnet) was released for consultation. The consultation had a limited scope, only asking five questions specifically about the draft VAT legislation, with no questions about broader VAT issues or the proposed changes to business rates.

Draft legislation for the VAT changes

The five consultation questions focused on definitions used in the legislation. The CIOT raised concerns that some words and phrases were not defined, such as ‘other consideration’ and ‘institution’. They commented that it would be clearer if exceptions to the word ‘institution’ were listed to remove possible unintended impacts by Note (1a)(ii) to the draft legislation. Further, we would prefer that the legislation provides a full list of institutions in Note (1)(a)(ii), rather than providing only one example, to provide clarity and certainty. Although the consultation questions had a narrow focus, both the CIOT and ATT still raised broader issues in their submission responses.

Timing concerns

In their submissions, both the CIOT and the ATT recommended postponing the date of implementation from 1 January until at least September 2025, to provide sufficient time for private school and HMRC readiness. At the time of submission, there was uncertainty as to whether the draft legislation would be updated as a result of consultation. There was also a lack of clarity for schools and advisers as no technical VAT guidance was available. (At the time of writing, neither the final legislation, the consultation outcome nor the guidance are published.)

Closely related services

The ATT highlighted concerns of increased complexity by retaining the VAT exemption on ancillary services like meals, transport and extracurricular activities, meaning that private schools would be partially exempt from the outset. They also highlighted that having a combination of VAT liabilities increases the risk of value shifting and that, even where this has not occurred, it will become a focus for future VAT compliance reviews.

Business rates

The CIOT noted that the policy design for business rates focused on the removal of Local Government Finance Act 1988 s 43 mandatory charitable rates relief for private schools. However, it was not clear whether the policy intent also impacted the scope of the local authority’s discretionary relief under s 47. At the time of writing, confirmation on this point is still awaited.

Summary

Ultimately, the uncertainty around the draft legislation and the implementation date should be clarified in the Autumn Budget (which had not taken place at the time of writing).

The CIOT and ATT are able to submit feedback to HMRC on the VAT guidance for private schools once published, so if members have circumstances not already addressed in either the private school specific or existing VAT guidance, do let us know by contacting technical@ciot.org.uk or atttechnical@att.org.uk.

The submission responses can be found on the CIOT (tax.org.uk/ref1362) and ATT websites (www.att.org.uk/ref466).

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