

VAT Guidance Manual

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1 INTRODUCTION

The purpose of this guidance is to explain the basic principles of VAT followed by the fundamental rules and concluding with pointers as to what is/is not subject to VAT. To attempt to kaleidoscope a wide-ranging and often complex subject into a few pages will necessarily leave questions unanswered. Therefore, in cases of doubt enquiry should be made of Strategic Finance, current VAT incumbent Roger Sanders (tel MK252528).

MKC staff should not approach HM Revenue & Customs (HMRC) direct with VAT queries as HMRC National Call Centre will not be au fait with CIPFA national VAT concessions nor any VAT agreements between MKC and their VAT inspectors.

2 GENERAL VAT PRINCIPLES

Value Added Tax is the main form of indirect taxation throughout the EU. It applies to both goods and services. It is applicable to all types of organisation: company, PLC, partnership, sole trader, Quango, charity, club, government department, and not least local authority.

The basic concept is that organisations who make taxable supplies must register for VAT with HMRC. The annual total of taxable supplies constitutes taxable turnover. When a certain taxable turnover, currently £70,000 but raised every year, is reached VAT registration is obligatory. Once VAT registered it is then necessary to charge VAT where appropriate upon the goods and services which are supplied then pay this VAT over to HMRC. But VAT registered entities are also entitled to recover from HMRC VAT incurred upon their expenditure.

The basic VAT terminology is VAT due upon income is output tax while VAT incurred upon expenditure is input tax.

MKC is registered for VAT, number (GB) 121 4882 86. This VAT registration encompasses all activities of MKC. MKC submits a monthly VAT Return to HMRC paying over VAT due on income offset against VAT claimed back upon expenditure.

3 RATES OF VAT

There are 3 rates of UK VAT:

- 0% usually termed zero rate. Indicates liable to VAT but @ 0%
- 5% usually termed lower rate
- 20% usually termed standard rate, wef 04/01/2011

Note that standard rate was previously 17.5% albeit reduced to 15% from 01/12/08-31/12/09

The total value of supplies @ the above 3 rates of VAT cumulatively constitutes taxable turnover, i.e. determining the need to become VAT registrable.

There are 2 other categories of 'no VAT':

Exempt of VAT

Beyond the Scope of VAT

BUT these are not rates of VAT, nor is the value of these included in determining the taxable turnover.

In a commercial organisation registered for VAT owing to their taxable turnover it is not permissible to claim back VAT incurred on expenditure where that expenditure is to generate VAT Exempt income. This is because Exempt income does not constitute taxable turnover. Similarly, in a commercial context no VAT is recoverable on expenditure aimed to generate income, which is Beyond the Scope of VAT, again because it is not taxable turnover.

However, a local authority is empowered in VAT law to claim the VAT on expenditure incurred to produce supplies Beyond the Scope of VAT because this entails carrying out its statutory functions.

Via a national VAT concession, a local authority is not totally barred from VAT recovery but is limited as to recovery of VAT incurred on costs when generating VAT Exempt income. This is "Partial Exemption", and it is the duty of the finance function to monitor this to ensure the concession requirements are not breached while maintaining full recovery of VAT wherever possible.

Although rarely encountered there is one further rate of VAT – the Flat Rate Scheme for Farmers. Here in lieu of VAT registration (with consequent loss of ability to recover input tax incurred upon expenditure) farmers may levy a Flat Rate of 4% VAT upon designated sales. The farmer then keeps this VAT as compensation for lost VAT upon purchases. Nevertheless, the customer of the farmer is fully entitled to recover as normal input tax this 4% Flat Rate VAT. Other types of small business may operate a VAT Flat Rate Scheme, but they continue to issue invoices bearing the normal rates of VAT, so they present no VAT issues to the customer.

3.1 SETTING THE RATE OF VAT

It is the responsibility of the VAT registered supplier to determine the rate of VAT for each and every transaction they instigate.

It is important to be aware that each transaction has to be judged in its own right for VAT regardless of what preceded it. For example, when MKC purchases taxi licence plates and badges these bear VAT but in the circumstances in which MKC sells them, namely as an element of a Hackney Carriage Licence fee, the onward supply by MKC is not subject to VAT as it is Beyond the Scope of VAT.

Unusually the VAT legislation does not specify which goods and services are subject to standard rated VAT. Instead, the VAT law specifies what is zero rated (see list at Appendix B), and lists what is Exempt (Appendix C), and what is @ lower rated VAT (Appendix D). The logic, and examples of, Beyond the scope of VAT is laid out in Appendix E.

By a process of elimination (see Appendix A, VAT Decision Tree) once all other options have been excluded all that is left when supplied by a VAT registered entity is subject to standard rated VAT.

It is stressed that the default is to standard rated VAT – everything is subject to standard rated VAT unless reason can be shown as to why not. In this scenario it is clear that there is no need of a list as to what is subject to VAT, all that is necessary is the reason and justification why a particular transaction is not subject to standard rated VAT.

4 SUPPLIES OUTSIDE THE UK

Since the formation of the European Single Market 01/01/93 there is no concept of import/export within the EU. Supplies between member states are therefore subject to VAT, the only question is which country's VAT – that of the originator or that of the customer.

Basically, a non-VAT registered customer (e.g., a private individual) bears the VAT of the country of supply. But a VAT registered customer shifts the VAT to their own country, the purpose being that they are able to reclaim their own domestic VAT via their VAT Return. This procedure is achieved by the customer advising the supplier of their (that is the customer's) domestic VAT number. The supplier then shows this foreign VAT number on the face of the sales invoice in lieu of charging their own nation's VAT. For a UK customer in this situation, it is then their responsibility to identify this process in order to pay the UKVAT directly over to HMRC (called "Reverse Charge"), which in turn entitles them to claim back the UKVAT. This applies to both goods and services, and the same applies for supplies from UK VAT registered bodies to non-UK EU VAT registered customers.

Needless to say, there are forms to be compiled and submitted to notify transactions subject to this process and to enable the tax authorities across the EU to monitor that the procedures are carried out correctly.

5 TIME OF SUPPLY

The time of supply for VAT, the "Tax Point", determines the date for VAT purposes. In normal circumstances these pinpoint upon which VAT Return to account for the VAT. But at the time of a VAT rate change it is critical in deciding which rate of VAT appertains to each transaction.

To establish the "Tax Point" there is a clear set of rules, laid out in detail at Appendix F. Paying VAT due over to HMRC late and/or claiming VAT from HMRC prematurely will incur a VAT Assessment with appropriate supplementary charges per item 6 below.

In the current era of frequent changes to the VAT rate it is important to note that a credit note bears the VAT rate of the originating invoice.

6 ASSESSMENTS + PENALTIES

VAT errors are subject to a VAT Assessment from HMRC. An Assessment merely corrects the amount of VAT in error. However, VAT Assessments are also subject to Default Interest upon the sum of VAT owed and for how long.

From 01/04/09 VAT Assessments have additionally been subject to a new type of VAT Penalty. The minimum Penalty is 15% of the Assessment. If the error is accepted by the inspectors as “carelessness” the Penalty will be in the range 15-30% depending upon its severity, how many times the error has arisen etc. However, if the error is declared as “deliberate” (which would include having been pointed out on previous inspections but not heeded) then the Penalty will be in the range 30-100% of the VAT Assessment. The higher percentages will obviously tend towards what would previously have been prosecuted as fraud.

7 SPECIFIC VAT ISSUES

7.1 Housing

Social housing provided by the Council is Beyond the Scope of VAT. This applies to rents, service charges and sales under the ‘Right to Buy’ terms.

Exceptions to this blanket VAT relief are:

- Service charges to former local authority houses sold freehold are subject to normal VAT rules and rates of VAT
- Repair and maintenance charges to former local authority domestic properties are Beyond the Scope of VAT where the owner has no choice under the terms of the RTB, BUT
- Repair and maintenance charges to former local authority domestic properties where these are optional or are requested by the private householder are subject to normal VAT rates
- Garages: Where the Council lets a garage or parking place to a Council housing tenant in conjunction with the housing rental agreement then the garage rent is also Beyond the Scope of VAT provided that the garage and the house/flat are within reasonable proximity. At MKC it has been agreed with the VAT inspector that “reasonable proximity” is on the same or an immediately adjacent estate. The Council may let up to 2 garages/parking places under this VAT-free concession. BUT garages let separate from a Housing domestic rental agreement or breaching the foregoing terms (i.e., more than 2 parking places; domestic property>garage not within reasonable proximity) are subject to VAT on the garage rental
- Void Works: The charge to a tenant for making good the property after the tenant has vacated it is Beyond the Scope of VAT. But repairs charged to an occupying tenant are subject to VAT

7.2 Invoices

To claim back the VAT incurred upon expenditure it is necessary to hold a document which is valid for VAT purposes. There are 4 types of valid VAT invoice. The content required of each is detailed in Appendix G.

There are some types of document which are NOT valid for VAT recovery:

- Pro Forma
- “This is not a VAT Invoice”
- Reminder
- Statement
- Invitations to attend seminars & conferences

VAT Regulation 13 specifies that a VAT registered supplier must issue a VAT invoice to a VAT registered customer in respect of each supply where VAT is chargeable (either at standard rate or the lower rate). However, where the supplier is a retailer there is no requirement to issue a VAT invoice until and unless the customer requests one. In practice at most national chains the till receipt constitutes a “Less Detailed VAT Invoice” (see Appendix G), but in smaller local establishments it may still be necessary for the customer to request a VAT invoice in order to be able to recover the VAT incurred. Similarly, when purchasing online it is often necessary to tick a box to obtain a VAT receipt, otherwise the e-purchase is likely to bear the additional cost of irrecoverable VAT when posted to MKC accounts.

In the case of payment by Purchase Card it is necessary to obtain a VAT receipt AND to ensure the VAT element is extracted when processing Purchase Card transactions prior to exporting the transactions for SAP upload.

NOTE that it is not permissible to alter a VAT invoice as this invalidates it as a document able to sustain the recovery of VAT. If the invoice is incorrect the supplier should be requested to cancel the original and issue a replacement invoice. However, there may be instances where only part of the invoiced VAT is recoverable by the Council. In this case there is nothing wrong with the supplier’s invoice, it is simply up to the customer to restrict their VAT claim to that which is valid; the VAT legislation only sanctions the facility to claim back VAT on purchases, it does not decree that VAT must be claimed. So, the only restrictions to observe are the timing of the VAT claim, and the fact that it is never possible to claim more VAT than is invoiced.

There are 3 situations in which a supplier cannot, indeed must not, issue a VAT invoice. The inevitable consequence is that the customer is then prevented from recovering the VAT incurred upon the expenditure as no VAT invoice=no legitimate means of claiming the VAT. The first of these entails purchases under TOMS (Tour Operators Margin Scheme). This arises from a combined purchase of travel + accommodation + admissions/events fees, or combined elements thereof. The second scenario is a purchase made under a VAT secondhand goods scheme. Second-hand goods

eligible to be sold under this VAT scheme include cars, motorcycles, horses & ponies, yachts, aircraft, and musical instruments. The VAT hallmark common to all of the foregoing is that the supplier does not levy VAT upon the full value charged to the customer – exceptionally VAT is only charged upon the supplier's profit margin. Consequently, it is not feasible to issue a conventional VAT invoice so normal VAT rules are suspended to acknowledge this unusual position with the consequence that the purchaser has no entitlement to recover any VAT incurred upon the purchase.

The third situation where the purchaser is not in a position to recover VAT on a purchase is set out in 7.20 Anti-Avoidance below.

7.3 Vehicles

VAT is non-recoverable upon the purchase of a car. Consequently, the actual cost of a car to MKC is increased by the irrecoverable VAT incurred upon its purchase. The corollary is that when a car is disposed of no VAT is due upon the sale value.

If a car is leased to MKC then only 50% of the VAT is recoverable upon the lease costs incurred. Lessors are obliged to add to their invoices a breakdown detailing how much VAT is recoverable.

VAT is recoverable upon the purchase of a van or a minibus. However, when the vehicle is later disposed of VAT is due upon the selling price realised. The same applies to trucks and specialist Council vehicles such as dustcarts, industrial grass mowers etc.

The VAT legislation has rather complex definitions as to what constitutes a car distinct from a van.

VAT is recoverable in full upon maintenance costs of both cars and vans.

But there are VAT issues and additional costs concerning fuel use if a Council vehicle is put to private use, which includes travel home <> normal place of work. Furthermore, there are PAYE Benefits-in-Kind issues and costs too.

7.4 Mileage Allowance

When members of MKC staff travel on Council business using their private cars reimbursement should be by Mileage Allowance claim. When the travel claims are submitted to Payroll an element of the basis of the Mileage Allowance rate relates to petrol/diesel utilised, and a portion of this is accepted as VAT. This VAT is recoverable by MKC via Payroll provided that the claim is supported by a VAT receipt for the fuel. Note that the purpose of this VAT receipt is merely to confirm that VAT was indeed included in the fuel purchase price – the VAT recovered by MKC does not directly relate to the sums shown upon the VAT receipt because, as above, the VAT is recovered through the mileage allowance as to the number of business miles travelled.

NOTE that payment to the member of staff directly for the amount of fuel purchased is NOT an alternative to the Mileage Allowance claim. This is because any VAT claimed ex-fuel purchased for use in a private car has to be offset by payment to HMRC of Motoring Fuel Scale Charge, which is a significant sum likely to be considerably greater than the actual VAT claimable on the fuel consumed!

7.5 Discounts

The VAT legislation specifies that where a supplier offers a discount for prompt payment the VAT should be calculated upon the discounted price in the expectation that the terms will be met, and the discount taken. The VAT is NOT to be subsequently altered where the time limit is exceeded hence the discount not taken. However, in paying the full net value linked to the discounted VAT there will clearly be an imbalance of Value<>VAT on the payments system.

7.6 Second-hand Goods

Other than second-hand goods schemes per next paragraph there is no VAT relief upon second-hand goods. VAT is due upon the value of a taxable supply, whether the article is new or second-hand is irrelevant. In other words, disposal of MKC assets is Vatable.

There is a scheme whereby dealers in second-hand goods account for VAT solely upon their profit margin rather than upon the full sale value. However, a condition of the scheme is that the dealer may not issue a VAT invoice nor show the amount of VAT on the sales invoice. Consequently, any purchase of second-hand goods bears an element of irrecoverable VAT within the purchase price.

7.7 Private use of Council property incl. Mobile Phones

Where a charge is made by MKC for personal use of MKC assets or facilities that charge is subject to VAT. The most common instances are private use of telephones, faxes or photocopiers.

For mobile phones there are specific VAT rules. Either there must be a total ban on personal calls from Council mobile phones which must be actively enforced OR there must be a procedure to monitor mobile phone usage to ensure that all personal calls are paid for with VAT accounted thereon. The worst possible scenario arises where controls over usage are not exerted, and employees are making private calls without payment hence no VAT paid over. This jeopardises recovery of the VAT incurred on the mobile phone invoices from the telephone service provider and guarantees a VAT Assessment + Default Interest + Penalty when the inspector visits.

7.8 “Free” Supplies

For both goods and services an item is “free” only where the donor is not obliged to give it and the recipient is not obliged to do or give anything in return. In respect of both goods and services the VAT law regards payments-in-kind also reciprocal supplies, barter or other forms of exchange as a Vatable supply.

For truly “free” supplies the VAT law differentiates goods from services. A free service, i.e., not breaching the criteria in the previous paragraph, is not subject to VAT and is regarded as Beyond the Scope of VAT. However, a supply of goods is subject to VAT even where no payment is made or due from the recipient. The exception is a Business Gift, but this must be of a cost price less than £50 and the only VAT-free gift to that recipient in a rolling twelve-month period. Where goods are given free of charge, or exchanged with no payment changing hands, and VAT is due then a notional but realistic value must be applied in order to account for VAT upon the goods disposed of.

7.9 Contributions, Donations & Third-Party Expenditure

The words “contribution” and “donation” are often used to imply “no VAT”. However, the VAT legislation does not rely upon such semantics of vocabulary. VAT is not due where a gift is unconditional. But if there are conditions attached or if a tangible benefit ensues to the giver then the supply is subject to VAT whatever word is used to describe the payment.

Local Authorities benefit from a national concession concerning purchases of goods made with donated funds. VAT may be reclaimed on such purchases provided that: a) the goods are purchased with a VAT invoice addressed to MKC; b) MKC receives the goods and retains ownership of them; and c) MKC pays for the goods while charging the expense to the donated fund.

In the case of community projects if MKC makes purchases utilising the voluntary group’s funds rather than MKC own funds and then gives the goods/services in question to the voluntary group the VAT incurred on this expenditure is not recoverable by MKC. Beware of this issue becoming more prominent as The Big Society grows and non-VAT registered bodies attempt to recoup their VAT via the Council – it is forbidden.

In respect of other instances of third-party expenditure, it is not permissible for MKC to recover the VAT. For example, in a legal dispute the losing party incurs the winner’s legal costs. MKC is fully entitled to recover VAT incurred upon its own legal costs, but in a losing case MKC must not recover the VAT levied upon the other party’s costs. A similar situation may arise upon insurance claims – MKC is fully entitled to claim the VAT incurred upon any repair work to its own assets, indeed this should usually happen because the insurer cannot recover any VAT – consequently on the insurance repair of an MKC asset the insurance company would cover the net costs incurred (less any excess demanded by the policy), but only MKC can recover the

VAT upon repair of its own assets and equipment, resulting often in a VAT Only invoice incurred by MKC. However, if MKC is responsible for paying for damage to an injured party MKC may not recover any VAT incurred upon someone else’s equipment or fixture. The basic rule is that only costs directly relevant to MKC own facilities and assets are VAT recoverable by MKC.

7.10 Supplies to Other Local Authorities

Historically there was a concession that supplies between local authorities were not subject to VAT. The concession was withdrawn as a result of a VAT Tribunal hearing, but unfortunately some members of staff still misguidedly attempt to apply it.

In its place the following rules currently apply:

All Goods supplied by one authority to another are subject to normal commercial VAT rules hence the normal rates of VAT apply.

For Services supplied by one authority to another these also are subject to normal commercial VAT rules unless made under a statutory obligation and not in competition with the private sector in which case they may be classified as Beyond the Scope of VAT. BUT practice shows that potential competition with the private sector is not always obvious consequently many Authorities have incurred VAT Assessments for failure to charge VAT upon inter-Authority services. Therefore, the safest advice is simply to apply normal VAT rates to all Vatable recharges to other Authorities in the knowledge that they can reclaim any VAT incurred via their own VAT Return.

7.11 Option to Tax

It may seem strange that there should be a choice in a tax, but for transactions involving the sale, lease, rental or letting of property, including a licence to occupy, the supplier/landlord has the choice to turn the natural VAT Exemption into standard rated VAT by taking the 'Option to Tax'. The purpose in doing so is to remove Exempt income (with its potential for restricting the full recovery of VAT incurred upon expenditure) and replace it by income subject to standard rated VAT, thereby creating taxable turnover as described in paragraphs 2 & 3 above. The Option can only be carried out by Finance in conjunction with the relevant budget holder and requires formal written notification, using specified forms, to a specialist unit within HMRC. Once the Option to Tax has been exercised it must stand on all land transactions affecting that property for a minimum of 20 years, with the emphasis on the phrase "all land transactions" – this can stretch from a 99 year lease down to a room hire for 30 minutes. The Option to Tax may not be applied to property in domestic occupancy. The Option to Tax also applies to supplementary items such as service charges and insurance – if the property has been Opted to Tax then such charges are also subject to VAT, but if the property remains VAT Exempt the consequence is that any general service charges and insurance will also be VAT Exempt.

Note that there are certain property transactions which are not subject to the Land & Property VAT Exemption hence are always VAT standard rated such as parking, holiday accommodation (including caravan and tent pitches, also camping facilities), gaming and fishing rights etc.

A list of MKC properties Opted to Tax is held by the VAT Manager and in MKC Property Services.

7.12 Letting of Sports Facilities

The letting of facilities designed or adapted for playing sport or taking part in physical recreation is subject to standard rated VAT unless either of the following two criteria are fulfilled:

- i) the letting is exclusive and for an unbroken period of 24 hours or more, OR
- ii) the letting is for a series of lets which

- a) the series consists of 10 or more sessions
- b) each session is for the same sport or activity and in the same location
- c) the interval between each session is at least one day and not greater than 14 days
- d) the series of lets is paid for and invoiced as a whole, alternatively part payment may be validated by evidence that the series was block booked for at least 10 sessions
- e) the lessee is a club, association, local league or school
- f) the lessee has exclusive use of the let facilities during the sessions Provided that either the terms of item i) above or all the conditions of item ii) above are fulfilled then the letting is Exempt of VAT.

BUT because this VAT Exemption comes under Land & Property the above described Option to Tax may be taken to override the natural VAT Exemption.

Finally, in another exception to the above, there is a second category of VAT Exempt income in sports & leisure – Education. If MKC is mounting any form of training this is VAT Exempt under the Education schedule. In sports terms ‘education’ equates to tuition, for example an aerobics class, a swimming lesson etc. But the Education VAT Exemption does not extend to supervision, e.g., poolside lifeguard. NOTE that this Education VAT Exemption is permanent and cannot be subject to Option to Tax, nor is there any requirement as to the number of sessions etc.

7.13 Waste services

Domestic waste services are Beyond the Scope of VAT. Thus, any specific services which are charged to householders, such as special collection and bulky waste collection, are non-Vatable. Additionally, waste services charged to commercial customers are also non-Vatable wef a national VAT ruling dated 09/02/2011.

7.14 Community Alarm

Community Alarm call system when charged to individuals (e.g., to non HRA tenants who are not in receipt of benefits) is subject to VAT unless the user is registered disabled in which case the charge for the Alarm service becomes VAT zero rated. Also, VAT zero rated is the charge for provision of the service to a charity whose purpose is to make available the Alarm facility to disabled persons for their personal domestic use.

7.15 Regulatory services

Regulatory services are Beyond the Scope of VAT subject to two criteria: 1) they are a statutory function, and 2) they are not operated in competition with the private sector.

In the licensing sector examples of licences which fulfil these terms hence are non-Vatable are for pet shops, hackney carriage & private vehicle fees, street trading, also change of use of a building, planning applications & building inspection fees, etc.

Trading Standards and Environmental Health activities are also mainly non-Vatable. The known areas where there is provision for private sector competition (whether practised or not) are: Building Controls (other than Regularisation Charges), and Pest Control hence these must all bear standard rated VAT. A further area where there has been some commercial liberalisation is in Weights & Measures wherein the evaluation and surveillance of non-automatic weighing instruments is a service operable by both the private sector and local authorities hence must be subject to VAT by all parties.

7.16 Sponsorship

For VAT practical purposes sponsorship is equated to advertising – Both are subject to standard rated VAT.

In further detail sponsorship arises where the sponsor derives a benefit for their donation. This creates a supply subject to VAT. Examples include:

- Naming the event (sporting, theatrical etc) after the sponsor
- Display of the sponsor's name or logo on a shirt worn by a sponsored team
- Prominent display of the sponsor's name/logo in a programme, or on posters or at the venue
- Free or reduced-price admission for the sponsor

However, sponsorship income may be regarded as Beyond the Scope of VAT provided that the sponsor receives minimal or zero benefit, such as merely being named discreetly in a list acknowledging support

7.17 Time limits

With effect from 01/04/2010 the time limit for VAT is 4 years. This applies to everyone – the VAT inspectors cannot Assess errors more than 4 years old, while the VAT registered body such as MKC can only adjust VAT back to 4 years from the date of the invoice/omission/other event. Any earlier VAT whether owed to HMRC or due from HMRC is out of time, lost forever.

Another useful time limit is:

- A supplier must issue a VAT invoice to the customer within 30 days of the “Tax Point” (VAT Regulation 13(5) refers)

7.18 Bad Debt Relief

Acknowledging the commercial norm that VAT on income (output tax) is paid over to HMRC when a sales invoice is raised, i.e., in advance of and in anticipation that the customer will pay, for circumstances where the customer fails to pay there is provision for the VAT already declared and paid over to HMRC to then be claimed back from HMRC as “Bad Debt Relief” subject to a firm set of rules:

- a) No adjustment is permissible until the unpaid debt is 6 months old
- b) The debt must be less than 4 ½ years old. Very old debts may be time expired per 7.17 above – once 4 ½ years (i.e., 4 years after the initial 6 months per #a)) have elapsed the VAT cannot be adjusted and is lost forever.
- c) It is forbidden to issue a credit note to the customer to expunge the bad debt
- d) In place of a credit note there has to be a proper accounting process to write off the bad debt. First the unpaid sum must be posted to a ‘Refunds for Bad Debts’ account. There it may be written off and an associated claim for the VAT made subject to the following records being held detail of the originating invoice(s) + where the VAT was originally declared & paid to HMRC + the £ amounts concerned.
- e) The VAT is claimed from HMRC on the next VAT Return
- f) NOTE that where the original debt has been part paid clearly only the unpaid balance should be written off, and the VAT claimed proportionate to that sum written off

7.19 Leasing

When a local authority purchases goods for the purpose of selling them to a leasing company for leaseback to the council there are potential VAT problems:

- a) Where the authority has an agency arrangement in place then at the time of purchase the authority is merely acting as an agent of the lessor. Consequently, the authority has no right to recover VAT at the time of purchase because the goods in question are not the property of the council so recovery of input tax by the council upon the purchase should be deferred. Later when the council completes the lease drawdown a sales invoice + VAT is raised by the council to the lessor. The output tax upon this sales invoice triggers the right for the council to simultaneously (i.e., upon the same VAT return) now claim the input tax deferred since the original purchase

b) In contrast when goods are purchased by the authority outside the leasing agreement or where there is no agency agreement in place normal VAT rules apply, viz. the originating purchase is by the council with full right to VAT recovery at the time of purchase. Subsequently a decision to dispose of the goods under sale & leaseback will result in a sale + VAT by the Council to the lessor

c) In either set of circumstances following the sale & leaseback process the council will then incur VAT upon the periodic leasing instalments. NOTE that VAT can only be claimed against each instalment over the life of the lease – VAT inspectors have been warned to watch out for attempts to reclaim the VAT in full at the onset of the lease rather than spread over the life of the lease in conjunction with each instalment. NOTE also that some lessors initiate each instalment payment on a “This is not a Tax Invoice” document thereby deferring their own tax point until payment is received from the lessee. In these circumstances the lessee council is inhibited from claiming the VAT coincident with payment of each instalment. Instead, the council must pay the VAT inclusive value of each instalment but defer claiming the input tax upon the lease instalment until the lessor responds to payment with the issue of a VAT invoice. To claim the VAT earlier than the date of the lessor’s valid tax invoice will result in a VAT Assessment + Default Interest + a Penalty for premature and invalid recovery of input tax.

NOTE that MKC has an agency agreement in place thus operates under 7.19 a) above.

7.20 Anti-Avoidance

Over the years successive governments have developed a series of VAT Anti-Avoidance provisions. Their purpose has been to attack the exploitation of clever technicalities (?tax loopholes?) to prevent tax avoidance (as distinct from tax evasion). The current requirement effective 01/08/2004 to enable HMRC to address this is a legal obligation set out in Schedule 9A of VAT Act 1994 to notify HMRC of the use of any VAT Anti Avoidance Schemes “to gain a tax advantage”.

There is one circumstance in which the VAT law goes further still – in order to overcome “carousel fraud” (where a supplier charges a customer vast sums on the sale & resale of small unidentifiable but high value items, viz. computer chips and mobile phones, whereafter the customer claims the VAT while the supplier goes missing or bust never having paid the VAT over to HMRC) normal VAT procedures are suspended in favour of “Reverse Charge”. Here the supplier charges no VAT to the customer, instead the customer pays the VAT due upon the purchase direct to HMRC, i.e., the “Reverse Charge”. Only then is the customer entitled to claim that VAT back from HMRC.

A more common use of ‘Reverse Charge’ VAT has already been outlined for purchases from other EU states per para 4 above.

7.21 Car Parking

Car parking is naturally subject to VAT. However, "On street" parking by a local authority is non-Vatable. For MKC all the surface level parking in CMK is "On Street" non-Vatable because they are all adopted roads per the Road Traffic acts. The only chargeable MKC "Off street" parking, hence Vatable, in CMK is the Theatre multistorey car park. But beware of other Vatable CMK parking by other operators such as HCA, Network Rail which is Vatable.

7.22 Library Income

Charges relating to loans are Beyond the Scope of VAT. This appertains to all loans: books, CDs, DVDs, and all other audio/video plus related fines for late returns and for damage plus any reservation fees. Other activities at the library are subject to normal VAT rules – use of internet, photocopier, fax, telephone etc + all sales.

7.23 Schools

'MKC Schools' are part of the MKC VAT registration thus all transactions with them are internal=Beyond the Scope of VAT, as are supplies between 'MKC Schools'. None of the schools are on MKC SAP thus cannot be treated as Internal Trading on SAP but this should not be confused with their in-house VAT status.

The key issue is that "MKC Schools" includes all MKC Community Schools + Special Schools + Foundation Schools + Voluntary Aided & Voluntary

Controlled Schools. Note also that MK Music Service is part of "MKC Schools". BUT excluded are Academies - It is stressed that Academies are not part of MKC hence are to be treated like any other external body for VAT purposes.

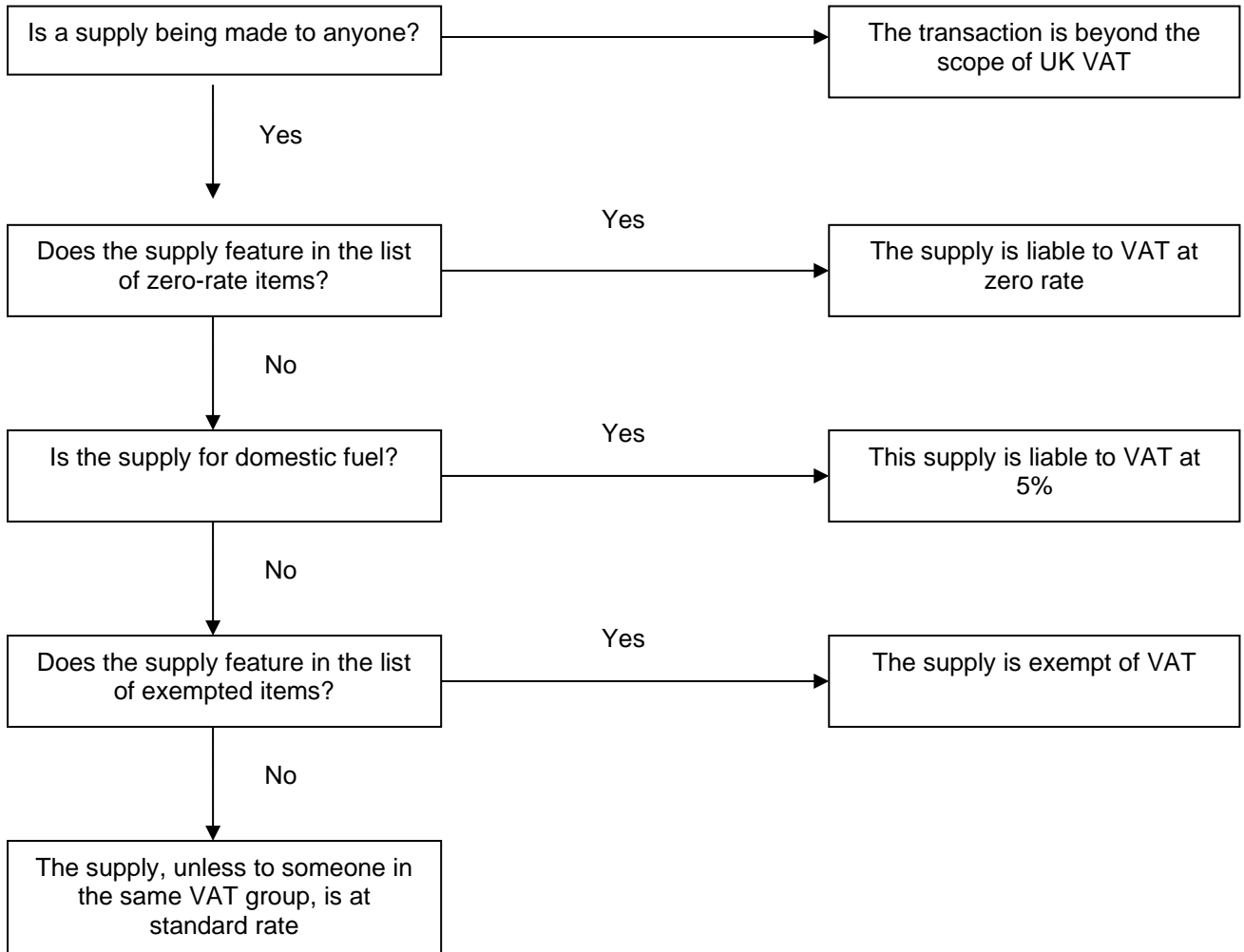
Education provided free of charge per the various Education Acts is Beyond the Scope of VAT. However, where there is a charge (adult education, musical tuition etc) it is Exempt of VAT.

Income to School Fund is normally non-Vatable because it is outside the authority VAT registration, while a School Fund is not VAT registered in its own right because it does not have the requisite £70,000 income in the form of taxable turnover –see paras 2&3 above.

Because of its specialist nature there is a listing of VAT on school's income at Appendix H.

APPENDIX A

Decision tree for setting the rate of VAT



APPENDIX B

Summary Listing of Items which are VAT Zero Rated

The following are zero rated of VAT, i.e., VAT @ the rate of 0%, when supplied by a VAT registered entity. The basis of the Groups listed is the law set out in Schedule 8 of VAT Act 1994. The list below is necessarily brief and cannot go into all the details. In case of uncertainty please ask.

Group 1 Food

Zero rating applies to most food purchased for human consumption right through the food chain. It starts with the live animals themselves which are used for yielding or producing food for humans being zero rated, as also feeding stuff for these animals. The objective is that all supplies of unprocessed food for human consumption are VAT zero rated.

Principal exceptions, hence subject to standard rated VAT, are:

- Chocolate & confectionery
- Chocolate biscuits (but other biscuits + all cakes are 0% VAT)
- Savoury snacks (crisps, roasted/salted nuts, popcorn etc)
- Soft drinks, fruit juices & bottled water
- Ice cream, ice lollies & frozen yoghurt
- Alcoholic drinks including alcohol-free beverages
- Chewing gum & bubble gum
- Carbonated drinks
- Pet food

Catering is treated separately from basic food. For VAT purposes:

- Any food or drink prepared for consumption on the same premises is subject to VAT
- Any hot food or hot drink prepared for consumption off the premises (takeaway) is subject to VAT
- Supplies from vending machines follow these catering rules

- Consequently, the only zero-rated catering is of cold items to be taken away for consumption off the retailer's premises, e.g., rolls and sandwiches, cold pies & cold pasties etc.

Group 2 Water & Sewerage Services

These services are VAT zero rated when supplied to a domestic customer. This refers to mains water supplies distinct from bottled water (cf Group 1 above). Distilled water is subject to VAT.

VAT on supplies to commercial customers is determined by their classification within the Standard Industrial Classification issued by the Central Statistical Office. In practice service industries (offices, shops, schools etc) are eligible for zero rated water supplies, whereas factories, manufacturers and also farms are subject to VAT on their water & sewerage supplies. As in all areas of VAT it is the supplier's responsibility to apply the correct rate of VAT – in this instance a water company will default to standard rated VAT upon supplies of water to commercial customers until the customer claims zero rating by completion of a certificate citing a valid SIC code.

Group 3 Books

The principal point of demarcation is that reading matter is zero rated while stationery is subject to VAT. Included for zero rating are books, newspapers & magazines, maps & charts, sheet music, brochures & leaflets. Exclusions subject to VAT include posters, industrial & architectural drawings & plans, calendars, business cards, greetings cards, tickets, wrapping paper, photographs & photo albums. The VAT zero rating specifies printed matter, consequently all other media are subject to VAT – CDs, DVDs, and all internet/download material.

Group 4 Talking Books & Wireless sets for the Blind

This is a specialist area. The zero rating applies to the supply of specific apparatus and accessories to a charity

Group 5 Construction of Buildings

This zero rating applies exclusively to the construction of new or converted buildings intended solely for domestic or charitable use. This includes homes and institutions providing residential accommodation for children, the elderly, the armed forces, the disabled and the mentally disordered. It does not include prisons, hospitals, nor hotels. Zero rating is claimed via certification, but the terms are onerous – the law alone on this topic takes up over 3 pages of the VAT Act.

Group 6 Protected Buildings

As with the previous item, the zero rating is restricted to buildings intended for domestic or charitable use. In this case the qualifying work must be a reconstruction or "approved alteration" to a Listed or Protected building.

Group 7 International Services

The heading is misleading, this is a specialist and tightly defined criteria for VAT zero rating – goods which are brought into the EU for the explicit purpose of repair and then re-export from the EU. A key condition is that the customer cannot be from within the EU.

Group 8 Public Transport

The zero rating is for public transport whether by road, rail, sea, or air. The one key criterion is that for the transport to be zero rated the vehicle of whichever mode of transport must be capable of carrying 10 or more passengers. This therefore excludes taxis from the zero rating. However, to cover remote locations such as the highlands and islands of Scotland there is an additional zero rating for all scheduled flights whatever the capacity of the aircraft and also for Post Office operated minibuses.

Group 9 Caravans & Houseboats

This is intended to offer zero rating to inhabitants of these as permanent structures with no mobility, distinct from holidaymakers and leisure purposes. Accordingly, the caravans which are zero rated are of a dimension which prohibits them from being towed on the roads. Similarly, the houseboats eligible for zero rating have no means of self-propulsion.

Group 10 Gold

Group 11 Banknotes

These are two self-explanatory and very limited groups for zero rating.

Group 12 Drugs, Medicines & Aids for the Handicapped

This zero rating needs to be read in conjunction with VAT Exemption Group 7 Health & Welfare. Basically, drugs and/or medicine dispensed by a pharmacy are VAT zero rated. Also, zero rated are certain specified aids to the handicapped. These range from specialised means of transport to specialist adaptations to their private residence to facilitate movement or ease living conditions. Also, zero rated are various medical and surgical appliances for use by the handicapped. But the fundamental point to note here is that there is no blanket zero rating for goods & services to the handicapped, only those articles specified in the VAT legislation may be zero rated and then only upon certification by the handicapped recipient.

Group 13 Imports & Exports

This is a very tight specialist group zero rating Imports & Exports in special circumstances such as international defence projects. It is stressed that this Group does NOT offer zero rating generally to Imports nor Exports.

Group 14 is withdrawn Group 15 Charities

The basic supply by a charity which qualifies for zero rating is the sale of goods which were donated to that charity. However, sales of articles conventionally purchased by a charity for resale do not qualify for zero rating. Another source of zero rating for charities is the supply to a charity of press and cinema advertisements. But again, the fundamental point is that there is no blanket zero rating for all charities and charitable activities, much though political folklore would imply otherwise.

Group 16 Clothing & Footwear

There are two categories for zero rating here: articles for wear by young children, and safety wear.

The first zero rates clothing and footwear intended for wear by children aged under 14. This is achieved basically by a series of size criteria. However, because obviously not all children conform to a theoretical average size a secondary determinant is that to achieve zero rating the retailer must clearly promote the articles as childrenswear by means of marketing, labelling, display etc.

The second category zero rates all protective headgear for persons of any age riding a motorcycle or pedal cycle. It also zero rates all protective boots and helmets for industrial use with the exception that an employer may not zero rate sales of protective wear to his own employees. In each case the product must meet BSI standards laid down for the purpose.

VAT Act 1994 section 30

Goods exported from the UK to a destination outside the EU are zero rated provided that there is proof that the goods have physically left EU territory.

Zero Rating Precedence

Occasionally a supply may be eligible for both zero rating and VAT exemption for example a new construction of a house is zero rated per Group 5 above but also Exempt as a property transaction per Group 1 below. In these situations, the zero rating takes precedence over the VAT exemption.

APPENDIX C

Summary listing of items which are VAT Exempt

Reprising the notes in paragraph 3 of this Manual, the significance of VAT Exemption is that Exempt income does not constitute taxable turnover, consequently anyone with wholly Exempt income cannot become VAT registered with the result that they are unable to recover any VAT incurred upon their expenditure.

The following are Exempt of VAT. The basis of the Groups listed is the law set out in Schedule 9 of VAT Act 1994. The list below is necessarily brief and cannot go into all the details. In case of uncertainty please ask

Group 1 Land

This is arguably the most complex area of VAT. The VAT exemption is for the supply of a right over land, which includes structures upon that land, by sale, lease, hire, rental, licence to occupy, wayleave etc. However, access which does not confer sole rights over a specific piece of land (e.g., admission to exhibitions and events, rights of way and tolls) is subject to standard rated VAT. Group 1 legislation includes a list of items which are specified as NOT exempt but are VAT standard rated:

- Parking off street
- Seasonal caravan pitches + pitches for tents/camping
- Holiday accommodation
- Mooring rights
- Fishing licence
- Sporting facilities (unless fulfilling the terms for exemption in para 7.12 above)
- The right to fell & remove standing timber

The natural VAT exemption per Group 1 Land may be overridden by the 'Option to Tax' @ standard rated VAT as detailed in para 7.11 above. Note that Group 1 of Schedule 9 is the sole Group which offers the facility of the 'Option to Tax'.

Group 2 Insurance

The VAT liability of the provision of insurance changed from 01/01/2005. Since that date the supply by the Council of insurance derived from the Council's own block insurance policy is Exempt of VAT.

Group 3 Postal Services

The conveyance by the Post Office of postal packets + associated services is VAT Exempt. This encompasses the supply of currently valid postage stamps at face value, i.e., philately is subject to

VAT. This VAT exemption is restricted to the Royal Mail, other couriers' (TNT, UPS, FedEx etc etc) charges are subject to VAT. Issues of fair competition have recently arisen hence certain business contracts between the Post Office and large organisations entailing the collection and distribution of their mail and parcels at a bulk rate are currently viewed as outside of this Exemption so subject to VAT.

Group 4 Betting, Gaming & Lotteries

This Group Exempts the placing of bets and the playing of any games of chance for a prize, also participation in lotteries.

Group 5 Finance

The issue and transfer of money and securities (which includes stocks and shares, bonds, debentures etc etc) is Exempt of VAT. Also, any credit or hire purchase arrangements are Exempt, as is the operation of any current, deposit or savings account.

Group 6 Education

The provision by an "eligible body" (a local authority is defined in this legislation as an "eligible body") of education or vocational training, also examinations related to that education/vocational training, is Exempt of VAT. There is no effective legal definition of 'education' but for VAT Exemption purposes HMRC regard 'education' as meaning a course, class, or lesson in any subject.

Group 7 Health & Welfare

Supplies of health are VAT Exempt when provided by a registered health professional, i.e., by someone who is enrolled in the appropriate statutory register such as dentists, nurses, midwives, medical practitioners, opticians etc. Welfare services are subject to the same stipulation, that the person(s) providing the welfare are professionally registered. In many cases this is automatic because they are only permitted to provide the service when they have qualified. An example is childcare at a nursery or playgroup where the staff have to be professionally qualified before they are permitted to be employed to provide such childcare facilities.

Group 8 Burial & Cremation

The VAT Exemption is for the disposal of the remains of the dead and the associated making of essential arrangements. Not deemed essential to this disposal, hence subject to VAT, are headstones, memorial plaques/vases/benches, planting memorial trees or bushes, and entries in books of remembrance. A further complication is that while cremation + the return of the ashes in an urn or casket is VAT Exempt in all circumstances, burial services supplied by a local authority are not VAT Exempt but are Beyond the Scope of VAT. Finally, the foregoing relates exclusively to human remains – funerals for pets are Vatable.

Group 9 Subscriptions to Trade Unions & Professional Bodies

This VAT Exemption applies to membership and affiliation fees paid to trade unions and professional bodies. 'Professional bodies' in this context are either a recognised professional qualification (in law, accountancy, various branches of medicine, architecture etc etc) or trade associations (for example Local Government Association, British Medical Association, Society of Motor Manufacturers).

Group 10 Sport, Sports Competitions & Physical Education This VAT Exemption addresses 2 distinct issues:

- 1) The entry fee to a competition where the entire sum of the entry fees is returned to the competitors as a prize(s) is Exempt of VAT. Otherwise the entry fee to a competition would be Vatable
- 2) The supply by a non-profit making non-commercial body of sports and physical education facilities is VAT Exempt For the second item NOTE that local authorities are specified in this part of the VAT legislation as NOT constituting a non-profit making sports body hence are ineligible for this particular VAT Exemption. From a local authority perspective, the only means of applying this VAT Exemption is to transfer leisure facilities from the Council to operation by an independent non-profit making body. But this is beset by VAT practical problems as the operator must be truly independent of the Council consequently the Officers and Members lose control over the detailed operation and pricing structure of a leisure facility outsourced in this manner.

Group 11 Works of Art

This is a specialist VAT Exemption which applies to disposal of works of art under limited circumstances, primarily for disposals to The National Gallery, British Museum etc in lieu of the seller paying Capital Gains Tax, Inheritance Tax or Estate Duty.

Group 12 Fund Raising Events

This Exempts from VAT income (that is admission charges, sale of brochures, sale of advertising space in the brochures, and sale of event memorabilia such as T-shirts) to fund raising events by charities. This Exemption was enacted hastily when Live Aid was mooted, and it was realised that as the VAT law stood at the time VAT would have been payable on admissions etc to Live Aid concert.

Group 13 Cultural Services

This Exempts from VAT the supply by a public body (defined here as a local authority or a government department) also the supply by an eligible body (defined here as a non-profit making body) of admission to a museum, gallery, art exhibition, zoo or to a theatrical, musical or choreographic performance of a cultural nature. Early attempts to define "cultural" collapsed on subjective and snobbery grounds so now any performance which can be classified as artistic qualifies. However, this VAT Exemption is not conferred automatically upon admissions by public

bodies. The hosting local authority/government department must first notify other, primarily commercial, competitors of their intention to claim VAT Exemption for Cultural Services because of potential distortion of competition by the public body offering cheaper (Exempt of VAT) admissions in comparison to the VAT-bearing admissions by a commercial operator. Therefore, in order to claim this VAT Exemption, the public body must notify commercial competitors of their VAT intention, either by writing individual letters to every commercial operator in the area or by taking out advertisements in the local press. Either format must specify a date by which objections to VAT Exemption must be lodged. If no objections are raised by the deadline then VAT Exemption for admission charges may be instigated, but if any objection is raised this must be sent to HMRC to adjudicate. In this scenario VAT Exemption may not take place until HMRC have so instructed.

Group 14 Supplies of goods where input tax cannot be recovered

This is a legal technicality concerning purchases where VAT is irrecoverable

Group 15 Investment Gold

This makes investment in gold Exempt, in effect an extension of Group 5 Finance above

APPENDIX D

The Lower Rate of VAT

Set at 5% the lower rate of VAT primarily applies to domestic supplies of fuel & power. The distinguishing criterion is the quantity of fuel consumed per month. Thus, it is common, and correct, for a small commercial property to also receive fuel & power @ 5% VAT.

Other minor applications of the 5% VAT rate are to contraceptive products, ladies sanitary products, smoking cessation products, children's car seats, installation of energy saving materials in domestic property, and the installation of mobility aids for the elderly.

Per EU Directives the UK zero rated items (see Appendix B above) should be raised to the lower rate of VAT. Currently this EU requirement is in a transitional phase in the UK - and has been so continuously since 1973 !!!

APPENDIX E

Beyond the Scope of UK VAT

All supplies from one unit to another within the same VAT registration are beyond the scope of VAT. This is because in the eyes of the VAT law nothing has happened, only when the VAT registered entity transacts with someone outside of that VAT entity does the VAT legislation apply.

It is therefore necessary to establish whether a unit is a part of MKC: do they have an MKC Budget and Cost Centre? Is their expenditure processed through MKC A/P? Examples of bodies which do not fulfil these criteria hence are to be treated as external for VAT purposes include trade unions, contractors, volunteer groups and charities. Similarly, Independent Trusts are not part of MKC.

Other forms of transaction which are non-Vatable because they are Beyond the Scope of VAT include:

Expenditure

- Supplier not registered for UK VAT
- Invalid document for reclaim of VAT
- Grants
- Statutory costs such as TV licences

Income

- Compensation
- Grants/donations/contributions where the giver derives no benefit
- Statutory services which local government must perform which are not subject to competition from the private sector such as licensing, off-street parking, Trading Standards, Environmental Health, Planning etc

APPENDIX F

Time of Supply – Tax Point

The “Tax Point” determines when VAT is due. Its normal purpose is to pinpoint upon which VAT Return the VAT is to be declared, but at a time of VAT rate change “Tax Point” is crucial in determining the correct rate of VAT.

There are three significant events in the creation of a Tax Point:

- i) The basic tax point which is the date when the goods were delivered OR the date when the service was completed
- ii) The date of issue of a tax invoice
- iii) The date when payment is received

The Tax Point is largely whichever of these three events comes first. Exceptions to this basic rule are:

- a) Provided that an invoice per ii) is issued within 2 months of the basic event per i) then the Tax Point shifts to the date of the invoice. BUT if this period is exceeded then the Tax Point reverts to i) the basic event
- b) Where a service is not completed but remains ongoing, often termed “Continuous Supply of Services”, then item i) does not exist hence the date of the invoice is the Tax Point regardless (unless there is a prepayment per iii)

It will be apparent from the above that in most cases the Tax Point is created hence the VAT is due to HMRC in advance of the customer actually paying. On occasion the customer does not pay at all which is how VAT Bad Debts are created – see para 7.18 above for VAT Relief from Bad Debts.

With regard to purchases there is a VAT Bad Debt prevention device which specifies that where input tax is claimed in advance of paying the supplier if the supplier has not been paid within 6 months of the invoiced tax point then any input tax claimed must be reversed until payment to the supplier is made.

NOTE that on Agresso A/P at MKC VAT is claimed in conjunction with payment to the supplier so the 6 month adjustment provision is not applicable.

APPENDIX G

Documentation for Reclaim of Input Tax

In order to sustain a valid claim to input tax it is necessary to hold documentation which is valid for the recovery of VAT incurred. The four valid styles of VAT document are detailed below. Other than item 4) below a valid VAT invoice must be held at the time of the VAT claim.

In particular certain payments are made which are subject to VAT where there is no valid VAT invoice at the time of payment – see listing in 7.2 Invoices above. The result is that although VAT must be paid to the supplier the VAT cannot legitimately be claimed coincident with this payment. Instead, the VAT claim must be postponed until the supplier later issues a VAT receipt.

1 Full Tax Invoice

This is the main type of VAT invoice and is required to bear the following details:

- An identifying number
- Name and address of supplier
- VAT registration number of suppliers
- Name and address of customer
- Date of supply
- Date of issue of invoice
- Unit price
- Description of the goods or services
- Quantity and charge excluding VAT per line of entry
- Total to be charged exclusive of VAT
- Rate of VAT
- Total VAT payable
- Rate of any discount offered

For Intra-EU invoices it is also necessary for the supplier's EU VAT number to be shown. This is the domestic VAT number preceded by the country code. Also, the recipient's EU VAT number in the country of destination must be shown. MKC EU VAT number is GB121 4882 86. For more details see paragraph 4 in the main body of the VAT Guidance Manual above.

2 Less Detailed Tax Invoice

This is the type of VAT receipt for retailers. Basically, it carries far less detail because in most retail transactions the customer is acting in a private capacity hence has no need of a VAT invoice. Consequently, a retailer is only required to issue a VAT invoice when requested to do so. However, in practice most cash tills driven by product bar codes automatically issue a Less Detailed VAT receipt.

If the total charge is less than £250 a Less Detailed VAT Invoice is valid for full VAT recovery provided that it comprises the following basic details:

- Name, address and VAT registration number of suppliers
- Date of supply
- Description of goods or services supplied
- Total charge including VAT
- Rate of VAT

To summarise the main differences from a Full Tax Invoice are:

- No need to show customer's identity
- Key difference is that retail prices include VAT where applicable, whereas Full Tax Invoice requires net value with VAT shown separately
- No need for the supplier to calculate nor show the actual amount of VAT As the sums shown include VAT if the retailer does not show the £VAT content it is necessary to calculate the VAT yourself. At 17.5% rate of VAT the VAT is extracted from an inclusive price as follows: multiply the gross total by 17.5 then divide by 117.5. @ 15% the VAT extraction is x15 then divide by 115, more speedily apply 3/23 to the gross. Finally, wef 04/01/2011 when the VAT rate rises to 20% the VAT extraction will be gross x20 over 120, more handily apply 1/6 to the gross.

Other points of note:

- Some large chains show their VAT number, name & address on the preprinted back of the till roll rather than on the face printed at the checkout
- If paid by debit/credit card some stores issue two separate receipts, one for the credit/debit card payment and the other for the goods/services supplied. Beware that only the latter is valid for VAT reclaim purposes in this scenario

3 Modified Tax Invoice

This is rather a mongrel VAT receipt combining elements of the previous two above. Basically, it applies to hotels where the total often exceeds the £250 upper limit of a Less Detailed VAT Invoice BUT in law a hotel is in the retail sector therefore its prices must all be VAT-inclusive thus defeating the basic requirements of a Full Tax Invoice. The Modified Tax Invoice seeks to blend these two aspects together. The requirements are:

A summary on the invoice into totals of –

- Total VAT inclusive value of standard rated supplies
- Total VAT exclusive value of standard rated supplies
- Total VAT payable
- Total value of zero rated & Exempt supplies
- In all other, non-£value, respects the Modified Tax Invoice should show the details required of a Full Tax Invoice

4 Authenticated VAT Receipt (AVR)

This is provided by the supplier in lieu of a Full Tax Invoice. As such the content required is that of a Full Tax Invoice

- It is exclusive to the construction industry, viz. restricted to a contract for the construction, alteration, demolition, repair or maintenance of a building or civil engineering work
- It is only permissible in respect of a contract requiring a series of payments
- As a receipt it is provided by the supplier in response to payment
- It is the sole instance where VAT can be claimed at payment when no valid

VAT invoice is to hand, i.e., in anticipation of the supplier issuing an AVR

- It is necessary to ensure in all cases that the builder does indeed issue an AVR within 30 days of payment otherwise the VAT claim is invalidated and becomes Assessable + Penalty + Interest

At MKC there is no facility set up to monitor such payments to ensure that the builder issues the AVR to validate the VAT claim. Consequently, Payments section are under instruction not to claim the VAT when paying suppliers in these circumstances. Technically this results in the total value including VAT being charged against the relevant MKC Cost Centre, but in practical terms Payments should simply reject such payments at all pending a proper invoice.

APPENDIX H

VAT on School Income

Please NOTE that the following list does not purport to be exhaustive, and Also NOTE that all charges to other MKC entities are internal transactions Beyond the Scope of VAT which overrides the VAT guidance below.

Otherwise, the gist of para 3.1 above is reiterated – everything is subject to VAT unless there is reason to justify why not.

Examples of school income subject to standard rated (20%) VAT Catering Income from non-pupils

Private calls made on school phone (mobile or landline)

Payphone receipts

Photocopying charges

Hire of vehicles (other than bus with driver as below)

Energy charged to external caterer operating on school premises. Note that this is distinct from energy charges described below because the school caterer is utilising school facilities rather than a mere tenant.

Printing unless VAT zero rated – see below

Car parking charges

Hire of school equipment

Sale of (secondhand) school equipment

Commission on school photographs where not processed via School Fund

School uniform and sportswear unless qualifying for zero rating

Secondment of staff unless Exempt as described below

Sporting lets, indoor or outdoor, unless terms of para 7.12 fulfilled Admission charges to school concerts, plays, events etc

Examples of school income subject to lower rated (5%) VAT

Metered supplies of energy to an onsite tenant where the electricity is less than 1000Kwh of electricity per month.

Metered supplies of energy to an onsite tenant where the gas is less than 4397Kwh of gas per month

Women's sanitary products, e.g., panty liners, tampons, maternity pads

Examples of school income subject to zero rated (0%) VAT

Hire of (mini)bus with driver where the vehicle is designed to carry not less than 10 passengers.

Books which are not stationery

Printing of completed books, brochures, pamphlets & leaflets, music, maps & charts. But note that posters are VAT standard rated.

School uniform & sportswear eligible for zero rating as Young Children's

Clothing and Footwear (as indicated on your suppliers' invoices) Bus tickets.

Examples of school income Exempt of VAT

Hire of room or hall unless for a sports purpose – see para 7.12 above. Note that the VAT Exemption for room hire would be overridden by an Option to Tax (para 7.11) but to date no MKC school has Opted to Tax.

Service charges upon a letting unless the letting is not Exempt.

Unmetered supplies of energy unless the letting is not Exempt

Adult & further education

Music tuition provided outside the school curriculum.

Provision of sports/recreational courses with an intent to teach/instruct Bank interest

Secondment of teachers not by statutory obligation provided the recipient is an educational or research institution AND where the secondment is for the direct benefit of pupils/students.

Examples of school income Beyond the Scope of VAT

Grants from central & local government + from PTA, School Fund, parents and other benefactors

Compensation and insurance reimbursements

Contributions which are freely given & for which no service is supplied to the donor

Catering provided to pupils in school, including vending machines, either directly by the school/local authority or by an external caterer operating

under contract as an agent of the school

Music tuition provided as part of normal school curriculum

School visits and trips which are integral to the curriculum

Sale of musical instruments, also pens/calculators/rulers etc which are sold at or below cost to pupils by the school/authority AND integral to the education provided AND records must be maintained that the beneficiary was receiving education from this authority AND payment must be made to Local Authority or School (Budget a/c)

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