



## Charity property transactions

Welcome to Kingston Smith's monthly VAT series, designed to provide charity finance professionals with all the latest developments from the VAT world.

### In this issue...

#### **Charity property transactions: the practical approach**

When a charity is involved in a property transaction (and this could be in any number of ways) there is no blanket VAT relief available. The VAT reliefs that do apply to charities are specific and have conditions that must be met. This means charities, in the main, are dealing with the 'normal' VAT rules when they enter into any land or property-related arrangements.

Due to the value of these types of deals or projects, it is vital that the full VAT consequences are highlighted at an early stage to ensure that all potential risks and opportunities are identified. The default position is that a 'supply' for VAT purposes is subject to VAT at the standard rate. This could be concerning the expenditure incurred by a charity (and a significant proportion of charities are unable to recover all or any of the VAT that they incur), or income that is to be received. If a property transaction has been costed on the basis of VAT not being a factor (i.e. not going to be incurred or not going to be due on the supply), then an unexpected VAT liability could give rise to a significant cost that had not been budgeted for.





If a supply of property is made (e.g. a building is sold, or a lease or sub-lease granted) and the contract is silent on VAT but it later transpires that VAT is due on the supply, the VAT needs to be funded out of the net proceeds received. Consequently, the prudent approach is to always express any payment terms in a contract as ‘exclusive of VAT’.

There are certain property transactions that are subject to VAT at the zero rate, the reduced rate of 5% and exempt from VAT. These reliefs are specific and may require a process to be followed to qualify for them. Zero rate would require meeting a ‘Relevant Charitable Purpose’ test, which means there would need to be at least 95% non-business use. Charities carry out their primary purpose trading but this can still be business for VAT calculations. Even a nominal or low-value charge can be business. It is important to understand what type of land or property transactions are being considered at the earliest opportunity, and to establish the overall intention of the parties. By doing this, it may be possible to implement certain VAT efficiencies through putting into place a particular structure or structures which still deliver the overall objectives.

### In conclusion

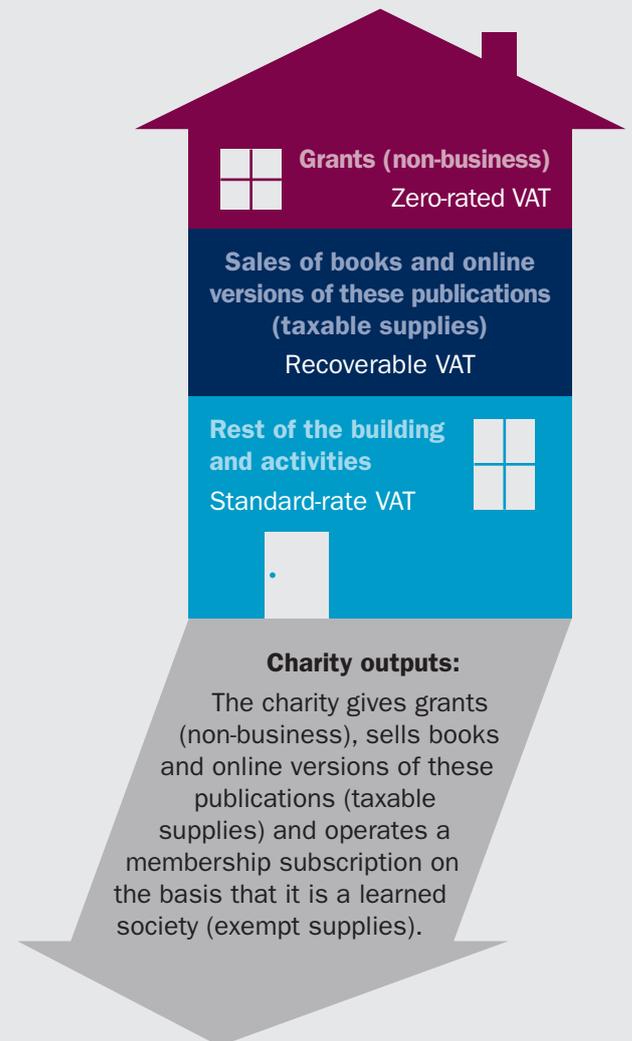
There are too many rules around VAT and property to cover here, but the approach to a land and property-related transaction should be the same:

- Plan early! Get the full facts of the parties’ motivation and intention and the key deliverables
- Review the VAT positions for potential risks and opportunities to get the most efficient result.

The more prepared your charity is, the more likely you are to avoid significant cost and, in principle and practice, save money.

As an example, a charity is looking to acquire the freehold of a newly constructed building to house some of its activities, as its current accommodation is too small. The charity gives grants (non-business), sells books and online versions of these publications (taxable supplies) and operates a membership subscription on the basis that it is a learned society (exempt supplies). The charity is considering which activities can be moved to the new building. The building supplier will charge standard rate but, if the charity is going to use part of the building solely for the grant-related activities, it is possible that this area can be zero-rated. The rest of the building is subject to standard rate VAT.

If the taxable business activities are moved over, the VAT relating to this use is recoverable. Also, the initial use needs to be compared to the ongoing use of the building, as change-of-use provisions could create a liability if the building use were to change.



## Which VAT topics would you like to hear about?

Our leading VAT specialists have helped a wide range of organisations of all sizes address VAT concerns, save VAT and avoid pitfalls.

Our VAT series covers a variety of 'need to know' VAT topics. However, we are also happy to hear directly from you about what you would like to know about VAT, to ensure you get the most out of the series.

Please send any topic requests to [damoo@ks.co.uk](mailto:damoo@ks.co.uk)

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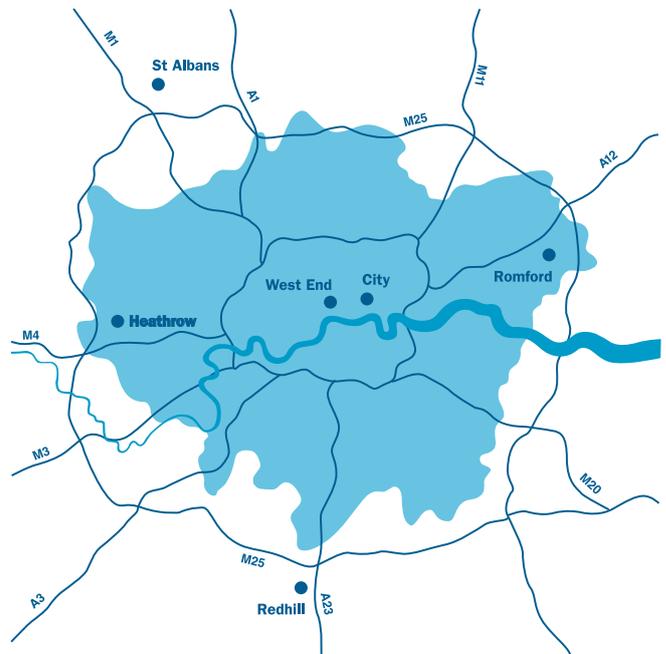
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