

VAT

The funding for capital works in VA schools is the responsibility of the governing body. DfE assist governing bodies by awarding them up to 90% of the costs of capital works, which is paid inclusive of VAT to take into account the fact that, unlike local authorities, governing bodies may not reclaim VAT. There is a flow-chart overleaf to show who may recover VAT.

However, if buildings are to be provided entirely for non-business purposes, the work can be zero-rated. Building consultants must ensure they receive appropriate advice from VAT specialists before making such a claim.

What are the conditions for zero-rating?

In order for the construction of a building to qualify for zero-rating, the following criteria must be met:

- the governing body must be a charity (all Church school governing bodies are charities);
- the governing body must intend to use the building solely for a non-business purpose;
- the governing body is the recipient of the supplies of construction services; and
- the governing body must provide a certificate (available in Notice 708 VAT: Buildings and construction) to the supplier of the construction services attesting to the above 3 points **before** construction starts.

It is only the need to use the building solely for non-business purposes which must be carefully considered.

Examples of non-business purposes

School buildings that are intended to be used solely to provide:

- education funded from central government via the local authority, with no charge for fees to students for their education;
- breakfast and after school clubs even though there may be fees;
- facilities to others for their non-business purposes, free of charge;
- tuition to 'community classes' if the tuition is provided free of charge;
- crèches and pre-school nurseries if they are run by charities at a less than commercial rate and the facilities are made available to those charities at a less than commercial rate.

However, a small amount of use for a non-business purpose can be disregarded. Provided that a building is intended to be used at least 95 per cent for a non-business purpose, the building's construction would qualify for zero-rating. If the use for a business purpose is restricted to a particular part of the building and the rest of the building is intended to be used solely for a non-business purpose, the construction of the latter part would qualify for the zero-rate. The calculation of use should be carefully undertaken by an appropriately qualified consultant.

Examples of business purposes

The following are examples of business use which can disqualify buildings from zero-rating:

- Additional tuition provided for a fee such as music or sports instruction;
- Facilities used by 'community classes' where the tuition is provided for a charge;
- Facilities used by the wider community for a charge, even if not for profit.

Change of use

If a building has been zero-rated and it does not comply with use for non-business purposes, the school will have to pay the VAT that should have been paid in the first place. This applies for ten years after the building's completion (reduced to reflect the proportion of those ten years where use qualified for zero-rating).

A further exception

Although governing bodies may not reclaim VAT, if an LA decides to spend its own funds (excluding the delegated budget), by placing an order directly with a supplier on work at a VA school for which the GB would normally be responsible then, under certain circumstances, it may recover VAT. See over the page.

