

Ministry of Finance

VAT Department

VAT Guidance for Charities, Clubs and Associations
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This guidance is provided
on the basis of continuing
public consultation and will
be expanded and revised
as necessary, based on
feedback.



Overview

This guide is intended to provide charities, clubs and associations with additional information on Value Added Tax ("VAT"). It should be read in conjunction with the Value Added Tax Bill 2014 ("VAT Bill"), the Value Added Tax Regulations 2014 ("VAT Regulations"), the VAT Rules, and The Bahamas VAT Guide ("VAT Guide") all of which can be found on the website of the Government of The Bahamas ("Government").

CHARITIES

The VAT legislation outlines certain criteria that have to be met for an organisation to be considered a charity.

The criteria can be found in Part I, section 5 of the VAT Regulations and are follows:

- (1) The Minister may in the Minister's discretion, pursuant to section 58 of the Act approve as a charitable organisation a society, association or other organisation that:
 - a. is carried on for purposes other than profit or gain to a proprietor, member or shareholder of such organisation;
 - b. under its memorandum, articles of association, written rules, or other document constituting or governing its activities is:
 - i. required to utilise any assets or income solely in furtherance of its aims and objects;
 - ii. prohibited from transferring any part of its assets or income directly or indirectly so as to profit a person other than by way of the:
 - A. provision of a charitable assistance;
 - B. payment in good faith of reasonable remuneration to an officer or employee for services rendered to such organisation; and
 - iii. on its winding-up or liquidation, required to give or transfer to another society, association, or other organisation, having similar objects its assets remaining after the satisfaction of its liabilities.
- (2) An organisation approved by the Minister pursuant to subsection (1) must:
 - a) be organised exclusively to carry out, and in fact carry out, relief of poverty or educational, charitable, social welfare, civic improvement, or similar activities, in the public interest;
 - b) not involve itself in partisan political activities;

- c) not receive more than 50% of its funds from one person or organisation or from a group or organisation that does not deal with each other at arm's length;
- d) disburse annually more than 50% of contributions received towards the attainment of activities referred to in paragraph (a);
- e) not make its annual disbursement quota referred to in paragraph (d) by the exchange of gifts between other approved charities, persons, organisations or other legal persons;
- f) be in compliance with any laws in The Bahamas governing charities; and be residing in The Bahamas during the tax year.

Not all non-profit making organizations will be considered charities for VAT purposes, only those that meet the criteria above. If your organization is recognized as a charity in accordance with the above any services you provide that directly relate to the charitable function of the charity are exempt from VAT in accordance with the Second Schedule Part I section 13 of the VAT Bill. If the services are exempt from VAT you do not need to apply VAT to the charge for those services.

What services will directly relate to a charitable function?

Charities will receive income from a wide variety of sources most of which will be considered to directly relate to the charitable function of the charity. Because of the diversity of charitable functions it is not possible to detail all the functions that would be exempt from VAT, however, the following are some examples:

Donations

A donation given freely to charity is not subject to VAT as there are no goods or services provided by the charity in return for the donation. The giving of a small gift of no intrinsic value such as a sticker or badge to those providing a donation will not change the VAT treatment.

A donation can be in the form of goods, services or money. If you are in business and donate goods or provide a service to a charity for nothing in return, and the goods or services you provide would have ordinarily be subject to VAT at the standard rate, you can treat the supply as a deemed supply subject to VAT at the zero rate. However, you must maintain evidence of the donation and the charities status and what the goods or services are to be used for.

If the donor attaches a condition to the donation (for example, that the charity must do something in return for the donation such as provide sole advertising rights) this is not a donation for

VAT purposes. It is possible the charity will be supplying goods or services in return for payment and must consider whether the goods or services they supply are taxable or not. If the donor merely specifies which project the donation should be spent on this would not be seen as a supply by the charity and would still be considered a donation for VAT purposes.

Donated goods that are imported by a charity are not subject to import VAT provided certain conditions are met. For further details, see the section on "Special rules for charities".

Charitable fund raising events

There are many events that could be considered a charitable event. A popular event would be a charity ball, dinner or fair. Normally the charity will charge for attending the event. If the event is organised and promoted as a charitable event and,

- all the funds raised from the event (once the costs have been covered) go to the charity, and
- those funds are to be used for the charitable function of the charity,

then the charge for attending the event will be exempt from VAT.

Charity auctions and raffles

The income from a charitable auction or raffle will be exempt from VAT provided that the goods that are auctioned or the prizes have been given as a donation to the charity. If the goods have been purchased by the charity then the auction or raffle of those goods is a taxable supply made by the charity. If the charity is registered for VAT you would need to declare VAT on the income from the raffle or auction.

Cake, gift, craft and second hand goods sales

Provided the goods sold have been donated free of charge the sale of those goods is exempt from VAT. If the goods sold have been purchased by the charity specifically for resale (for example, greeting cards and branded goods) then the sale is a taxable supply.

Admission to premises

Some charities will charge visitors to visit a place of interest such as a historic park, nature reserve, or historic building. Provided the funds raised directly relate to the charitable function of the charity, the charge is exempt from VAT.

Advertising services

Charities will often have leaflets, brochures, or tickets printed and will ask businesses whether they want to use space on the printed material to advertise their business in return for a payment or a contribution towards the cost of the printing. This is normally a taxable activity by the charity in that it is providing advertising services for a fee; however, if these services relate to a charitable

fund raising event, or if the proceeds of, for example a yearbook will be allocated purely to charitable causes, then the charity can treat these services as exempt from VAT.

Sponsored events

Many charities will organize sponsored events such as sponsored walks or races whereby the participants may raise money for the charity by being sponsored or they may pay a fee for entering a team. These events should be treated as a charitable fund raising event. The income raised is exempt from VAT.

Sponsorship

A charity may receive sponsorship from a business or individual for a fundraising event. Sponsorship payments should be treated as donations and exempt from VAT provided the sponsor is not receiving any substantial benefit in return. The printing of the name of the sponsor on literature advertising the event is not considered a substantial benefit.

Charity shops

Charity shops will often sell a mixture of donated and purchased goods. The sale of donated goods is exempt from VAT whereas the sale of goods specifically purchased for resale will be taxable.

Catering

The supply of catering services is normally taxable; however, where a charity provides catering as part of a fundraising event, it is exempt from VAT. Where catering is provided on a continuous basis, for example a cafe run by a charity, and is in competition with local cafes and restaurants it is a taxable supply.

Catering provided as part of a welfare service on a charitable basis, for example meals provided to the needy or elderly, will be exempt from VAT even if a nominal charge is made for the service.

Training and research

Services that consist of education, training or research provided by a charity are exempt from VAT provided the services directly relate to the charitable function of the charity.

Sea and air rescue services

A charity providing sea and air rescue is providing a service that is exempt from VAT.

Relief aid

Where a charity exports goods to other countries, this is considered an export of goods which is subject to VAT at the zero rate. This means that the charity providing goods to another country can recover the VAT on the costs incurred in relation to the exported goods if it is registered for VAT.

Welfare services

In addition to the exemption from VAT for charitable activities, there is also an exemption from VAT for certain welfare services. The exemption from VAT for welfare services covers services provided directly by a facility to persons in need of care, being persons who are:

- aged;
- indigent;
- infirm;
- disabled; or
- handicapped.

Charities that provide welfare services at significantly below cost, to distressed persons for the relief of their distress, may treat these supplies as non-business and outside the scope of VAT, for example, the provision of hot food and a bed for the night to a homeless person for below the cost of providing those facilities.

Remember, the VAT exemption for charitable activities only applies to charities that meet the criteria for approval. If the charity does not meet the criteria for approval, you must consider whether the charity is considered to be "in business" or not and whether it makes taxable supplies or not. An organization does not have to make a profit to be considered to be "in business".

If you run a charity that does not meet the criteria for charitable status within the VAT Regulations, but is still run on a non-profit basis you should read the section on "Clubs, Associations and non-profit organisations".

Does a charity have to register for VAT?

As can be seen from above a charity can make non-business supplies, supplies that are exempt from VAT and supplies that are subject to VAT.

A charity is required to register for VAT if it:

- makes taxable supplies and the total sales value of the taxable supplies for the previous 12 months has exceeded a specific limit - called the 'VAT threshold' (see below); or
- at the beginning of any 365 day period you consider that the total value of your taxable supplies will exceed the VAT threshold in the next 365 days.

The VAT threshold is currently \$100,000 of taxable supplies for all businesses.

It should be noted that the threshold relates only to the taxable activities of a charity (for example, where a charity may sell merchandise in a gift shop). You should not include all the income of a charity when determining whether the threshold has or will be exceeded. If you are required to register for VAT, an application for VAT registration should be submitted within 14 days of meeting the requirements. The Comptroller of VAT ("the Comptroller") will register the Charity for VAT within 21 days of the receipt of the application. If you are organizing a public event and VAT exemption will not apply to the proceeds (and as such they are a taxable supply) which will take your taxable supplies over the limit you must register for VAT at least 48 hours before the event is promoted.

If the charity does not register for VAT when it should, it will still become a taxable person and may need to account for VAT on any taxable supplies made even if VAT has not been charged.

Charities that make non-business or exempt supplies can voluntarily register for VAT as they may be able to recover some of the VAT they incur on certain costs that relate to their charitable activities (further detail is provided in the section on "Special rules for charities").

CLUBS AND ASSOCIATIONS AND OTHER NON-PROFIT ORGANISATIONS

A non-profit making organization is considered to be an organization that cannot, in accordance with its constitution, distribute any surplus funds either by a direct distribution in the form of dividends or other payment means.

If you operate a club or association or other organisation run on a non-profit making basis, you should not automatically assume that you are not making taxable supplies purely because you do not aim to make a profit.

Your first consideration should be whether your charge for membership is a taxable supply or not. If your charge for membership is a "non-business activity" then it will not be considered a taxable supply.

Memberships that are taxable supplies

If the member receives a direct benefit in return for the payment of the membership fee, the organization is undertaking a business activity and making a taxable supply.

Direct benefits can include but are not restricted to:

- the provision of handbooks, information, periodicals, free entry to events;

- admission to premises or events for free or for a reduced charge;
- provision of catering facilities such as discounted or free food and bar facilities in a club house; and
- entrance to social events such as dances, balls and annual dinners.

For example, being a member of a society will provide free access into certain attractions such as a museum or historical site; or meals and accommodation are provided to members only; or members are entitled to discounted goods or services.

Memberships that are not taxable supplies

If a member does not receive any benefits from the membership other than indirectly benefiting from the organization's activities there is no supply of a service direct to the member and therefore the organization's income from membership is attributed to non-business activity and is not a taxable supply. Membership fees from trade unions and industry bodies often fall into this category.

Some examples would be as follows:

Trade unions, political, industry and similar bodies, learned societies and foundations

If a member of a non-profit organization is not considered to get a direct benefit in return for paying a membership fee the membership income is not considered a supply for VAT purposes, as the services provided in return are considered non-business.

For example:

- An industry body may represent the industry at a political level with the aim to collectively voice industry concerns or to promote the industry in the global market. A member may indirectly obtain benefit from the industry body's activities, but a business that is in the industry being represented but has not paid membership fees to the industry body will also obtain a benefit. Therefore the member will not receive any direct benefit.
- A trade union may represent workers in an industry in general rather than just the members of the union; therefore the member of the industry body or trade union will not receive a direct benefit.
- A foundation provides additional teaching services to children for no charge. The members will not receive a direct benefit unless the teaching services are only available to the members' children.

Professional bodies

Professional bodies that charge a registration fee are also not considered to be "in business". These are organisations of which a professional is required to be a member in order to practice in their profession, for example legal, accountancy, engineering and medical professional bodies.

Sporting or educational clubs and associations

Sporting or educational clubs and associations that operate on a non-profit basis are not considered to be "in business" in relation to the sporting services they provide.

If a sporting or educational club or association is:

- non-profit making;
- governed by its rules and regulations or constitution which precludes the distribution of profits other than on the winding up of the club or association;
- providing sporting services to promote physical activity or educational services; and
- is not run on a commercial basis or subject to commercial influence

the sporting services provided are considered not to be made by way of business and therefore not subject to VAT which means that membership fees and subscriptions will not be subject to VAT.

Sporting services include a large range of activities and are not necessarily required to be physically demanding. Some examples would be soccer, athletics, angling, basketball, board games, horse riding, and yoga.

Sporting services will also include the provision of equipment and facilities, coaching, training, umpiring and judging. Services of associations such as a football association that arranges competitions and leagues will also be considered not provided by way of business.

Educational activities could include sewing clubs or flower arranging or the brownies or scouts movements.

For a club or association to be run on a non-commercial basis it should not be unduly influenced by a business. For example, a flower shop that provided flower arranging classes for its customers by forming a flower club; the club would be unduly influenced by the flower shop.

Also employees' pay should not have any relation to the success or profitability of the club.

Memberships that offer both taxable and non-taxable supplies

If the taxable supply is incidental to the main non-business activity the whole charge for membership can be considered non-business and not taxable. For example, the circulation of annual accounts and an update on activities would be considered incidental. Also refreshments at a meeting of members would be considered an incidental benefit to membership and not a taxable supply.

If an organization provided activities in the public interest but also provided its members with exclusive benefits (for example, a dental association promotes good dental hygiene, it also provides a magazine to its members that provides information on the latest practices and procedures) the membership fee should be apportioned on a fair and reasonable basis between taxable and non taxable supplies.

Other activities that may be undertaken by a non-profit organization

Membership fees or subscriptions may not be the only income a non-profit organization receives. It may receive income from a number of other activities. Each activity should be considered separately to determine whether it is a taxable supply or not.

Some examples are as follows:

Sponsorship

If a club or organization obtains sponsorship from a business and the sponsorship is a donation this is considered a non-business activity and not subject to VAT. If the sponsor makes a request in return for sponsorship, the organization would be supplying a service which would potentially be subject to VAT. Putting the sponsor's name on sports kit would not necessarily be considered a taxable service as it would be seen as incidental to the donation of the sports kit but putting banners around a sports pitch or in the club house would be considered a taxable supply of marketing services made by the club.

Fund raising functions

Fund raising functions purely to raise funds to support the club or association to finance the sporting or educational services or services in the public interest provided are not considered to be undertaken by way of business. If fund raising functions are undertaken on a regular basis and compete with local businesses then they would be considered to be undertaken by way of business and the club or association would be making taxable supplies.

Catering

If catering facilities are provided on a regular basis, for example if the club house has a bar or provides meals to the general public, this

is an undertaking by way of business and VAT registration should be considered if the VAT registration threshold is exceeded.

Providing refreshments at classes or matches is not a taxable supply even if a charge is made provided the funds raised are put to the educational or sporting activity of the club or association.

Hire of assets or facilities

If you hire out assets or facilities this is a provision of a taxable supply. For example, the club house is hired to accommodate a party.

Charge for entrance to premises

If a non-profit organisation makes a fixed charge for entry to premises for use of facilities it is making a taxable supply. If the organisation only requests voluntary contributions and the visitor can choose not to contribute but still enter the premises the contributions are not a taxable supply.

What if the organization is run on a profit basis?

Clubs, associations or any other organizations that are not non-profit organizations are considered to be "in business" whether they make a profit or not. If they are making taxable supplies then consideration should be given as to whether there is a requirement to register for VAT.

Do non-profit organizations have to register for VAT?

If an organization makes taxable supplies above the VAT registration threshold they should register for VAT. Alternatively an organization making taxable supplies below the VAT registration threshold can voluntarily register for VAT.

If an organization is registered for VAT it must account for VAT on its taxable supplies.

An organization that does not make any taxable supplies is not eligible to register for VAT unless it is a charity that can register as an exempt person (see the section on charities).

Further details on VAT registration can be found in the VAT Guide.

Can a non-profit organization or charity recover VAT on purchases?

VAT incurred on purchases relating to "non-business" activities or VAT exempt supplies cannot be recovered (although see section on "Special rules for charities").

VAT incurred on purchases relating to taxable supplies can be recovered if the organisation or charity is registered for VAT.

If a non-profit organization only undertakes non-business activities and does not make any taxable supplies it cannot register for VAT and cannot recover any VAT on purchases. VAT cannot be recovered on goods and services purchased to provide non-business activities. If the organization makes taxable supplies it may be able to recover some of the VAT charged on goods or services it purchases but only to the extent that the costs relate to the taxable supplies. If you make a mixture of business and non-business supplies some of the VAT you incur will need to be apportioned. To determine the amount of VAT that can be recovered you should use the standard method of apportionment provided in the VAT Guide.

Special rules for charities

A charity that complies with the description of a charity within the VAT legislation outlined at the beginning of this guide, can apply for a refund of VAT incurred on "qualifying" goods and services.

The goods and services on which VAT can be recovered are as follows:

- electricity and water supplies to a charity premises;
- construction furnishing and equipping of premises for direct occupancy (capital expenditure); and
- other qualifying goods or services listed in the VAT Rules.

In order to recover VAT on these goods and services a charity must register with the Comptroller under Part VII section 58 of the VAT Bill prior to incurring the VAT on these goods or services. A charity registered for VAT under Part VII section 58 is only registered for the purposes of claiming a refund of VAT. This means that even though you are registered for VAT, you do not need to charge VAT on any taxable supplies you make unless your taxable supplies exceed the VAT registration threshold. If you are required to register for VAT in respect of your taxable supplies you must register for VAT under Part IV section 19 of the VAT Bill.

Exempt import of goods for charities

An import of goods intended as an unconditional gift to an approved charitable organisation, other than for purposes of re-sale by such organisation, is exempt from import VAT, subject to certain conditions.

The first condition is that the Comptroller of Customs must be in receipt of a written notification from the Comptroller of VAT, prior to entry of such goods. A charity must provide the Comptroller of VAT with notification of the expected arrival of the goods with details of what the goods are, and request a written notification which the charity must then provide to the Comptroller of Customs.

Who is responsible for the VAT obligations of a non-profit organisation?

All committee members are jointly responsible for the VAT obligations of a non-profit organisation. A committee member will have joint responsibility for the VAT obligations for the time that they are on the committee. A committee can elect a member to be the contact for matters in respect of VAT.

The Law

You may find the following references to the legislation useful.

VAT Bill

Part I section 2 - provides a definition of "business", "taxable activity" and the definition of "supply"

Second Schedule Part I section 13 - VAT exemption for services provided by a recognized charity.

Second Schedule Part II section 1 - VAT exemption for the importation of a gift by a charity.

Part VII section 58 - persons eligible for a tax refund

VAT Regulations

Part I section 5 - criteria for approval as a charitable organisation

Part VI section 35 - procedure for the claim of a refund by a charity

Contact Us

Further information can be obtained from the Taxpayers Services help desk: 1 (242) 225 7280

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