



information

No. 62

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This Information Sheet tells you something about each of the taxes that may be levied by HM Revenue and Customs upon those managing Community Buildings.

Community Buildings & Taxation

1. INTRODUCTION

As managers of a community organisation, the Management Committee must consider its liabilities to pay rates, taxes and other charges to several bodies: HM Revenue and Customs, the local authority; and the privatised suppliers of fuel, power and water. These payments go under the headings of corporation tax, income tax, capital gains tax, value added tax, the climate change levy, business rates, fuel, power and water and sewerage charges. If you have paid employees you will also have to make payments to Revenue & Customs for the employees' income tax and both employees' and employer's national insurance contributions.

In addition, if the organisation engages in trading activities, questions may arise not only in relation to rates, tax and utility charge requirements, but also in relation to charity law.

This Information Sheet is one of a series that deal with concerns around trading by community associations and around taxes, rates and utility charges, particularly in relation to the management of community buildings. There is inevitable overlap in coverage, and the different sheets in the series need to be read in conjunction with each other. As far as possible, cross-referencing has been included in each sheet.

The complete series consists of:

- Information Sheet no 15, *Rates*
- Information Sheet no 62, *Community Buildings and Taxation*
- Information Sheet no 66, *Community Buildings and Utility Charges*
- Information Sheet no 86, *Trading and Community Associations*

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12-20 Baron Street London N1 9LL ☎ 020 7837 7887

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While every effort has been made to ensure the accuracy of information in these information sheets, it is not possible to cover every circumstance. In cases of doubt, further advice should be obtained since, as ever, ignorance of the law is no excuse for making a mistake.

This Information Sheet deals in particular with: corporation tax, income tax, gift aid, employees' tax and national insurance, capital gains tax, stamp duty, value added tax.

2. CORPORATION TAX

Corporation tax is the tax levied on the profits of businesses and organisations involved in trading.

There are many tax exemptions for charities, and most income (but not necessarily all) will be exempt, provided it is used in furtherance of the charity's objects. Many of the most likely 'trading' activities associated with community buildings such as the sale of crisps and light refreshments at the youth club, or running jumble sales, are, to all intents and purposes, not considered as trading activities for corporation tax purposes (*although they might be regarded as business supplies* and thus incur liability for VAT purposes: see Section 8.4 below).

There are other activities carried on in connection with community buildings which are definitely considered as 'trading' activities for the purposes of corporation tax. These include the regular sale of second hand goods in a charity shop (except where they are wholly donated), in some circumstances running a café on a regular basis and, perhaps one of the most common, the sale of alcoholic beverages from the building's bar. If any of these services form part of your activities, or indeed any other services for which you make a charge, you could be liable for corporation tax. If you do trade but you make no taxable profit then of course you will pay no corporation or income tax.

For an organisation to carry out any trading,

this must be allowed for in the governing instrument. Further information on all aspects of trading activities is given in Information Sheet no 86, *Trading and Community Associations*.

As you can imagine, this is an area where specialist knowledge and advice is vital. Community Trading Services Ltd (CTS), the trading arm of Community Matters, can assist in this area, and it is sensible to seek their advice.

3. INCOME TAX

If you are fortunate enough to have money to invest, whether in a deposit account or in stocks and shares, you are liable to pay income tax on the interest received on the investment, but if you are a charity you are exempt from this liability. However, the interest on many investments is taxed at source - in other words you receive the interest after the tax has been deducted. Registered charities can claim this back by writing to Revenue and Customs. Banks and building societies, however, will pay interest gross, that is without deducting tax, to registered charities as long as you give them your charity number.

If you invest your money either in a National Savings Investment Account or with the Charities Official Investment Fund your interest will be paid without the deduction of tax. You will want to check rates of interest and, in the event of rates being better with investments which pay 'net', you can weigh up whether the difference is worth the extra work in reclaiming the tax.

4. GIFT AID

Charities are able to recover the basic rate tax paid by individual donors on donations made under gift aid. In addition, organisations or businesses that owe corporation tax on their profits can donate some or all of the profit and the tax due on it to a charity.

There is no minimum or maximum gift aid amount, except that individual donors must

ensure that they will pay as much income or capital gains tax during the tax year as the aided charity (or charities, if they donate to more than one) will recover. There is also no limit on the number of donations a donor can make in any year. For organisations and businesses, the only requirement is that the donation or donations must come out of their UK pre-tax profits.

Individual donors are required to make a gift aid declaration covering the donation, which may be made in writing, by fax, e-mail or the internet, or orally. A specimen form for a gift aid declaration is in the Appendix at the end of this Information Sheet. All declarations must include:

- the donor's name and full address including post code;
- the charity's name or acronym;
- a description of the donations covered by the declarations; and
- a statement that the donations are to be treated as gift aid declarations.

There is no need for the declaration to be signed or dated, but the inclusion of at least a date is sensible for administration purposes.

Where a declaration is made orally (including by telephone), the charity must make a written record and send a copy to the donor. The record must contain the same information as in a written declaration, and must also include:

- the date when the oral declaration was made;
- the date the record is being sent to the donor; and
- a statement that the declaration will not take effect if the donor cancels it within 30 days of the charity sending the record.

In order to claim tax refunds on gift aid donations, the charity must keep records enabling it to identify which donations are and which are not covered by a gift aid declaration. The records must show the donations received, the link to the gift aid declaration (e.g. by a code number), and tax recovered, together with copies of the

declaration itself and any correspondence relating to it, and records should be retained for six years after the end of the accounting period to which they relate.

Forms for claiming repayment of the tax, and other information, are available from Revenue and Customs.

Individuals and companies who make gifts of freehold or leasehold property, which a charity agrees to accept, can themselves claim income or corporation tax relief on such gifts.

5 EMPLOYEES' TAX AND NATIONAL INSURANCE

If you are an employer you have the responsibility of deducting tax and national insurance from your employees' wages and paying it over to Revenue and Customs. Some of your workers may not have to pay tax or insurance because they fall below the annually set lower earnings limits but you still have to inform Revenue and Customs about your actions.

It is important for community organisations to be aware that part-time and, in some cases, casual staff are, in law, employees: for more information, see Information Sheet no 54, *Contract of Employment*.

If you employ anyone at all and payment is made for work done, be sure to contact your local tax office and they will give you precise information about what you have to do together with all the necessary stationery. You should bear in mind that detailed information, and relevant stationery, will change from year to year.

You will also want to pay out-of-pocket expenses to your workers, including volunteers. Unless you go about it in the right way this could also affect their tax position. The basic rule is that you must pay expenses actually incurred upon receipt of detailed claims. If you give lump sums, honoraria, or pay more than is actually

incurred the recipient will almost certainly be liable for tax on some of it. In the case of voluntary workers you could inadvertently change their status to that of an employee, most notably by paying a fixed rate without a receipt to cover their expense. For volunteers, you may also reimburse the actual costs of travelling from home to their place of work, of meals taken while volunteering, and of crèche, childminding or other dependant care costs in order for them to be available for voluntary work.

If you pay an allowance to a volunteer for using a vehicle in the course of their volunteering, you should pay it on the actual miles travelled and at no more than the rate permitted by Revenue and Customs. Ask the Inspector of Taxes for details, which change from year to year. Note that, subject to the rules, you are permitted to make payment for use of a bicycle as well as for motor vehicles.

Revenue and Customs considers an 'honorarium' to be a taxable payment. It is also important to note that, under charity law, other than in exceptional circumstances (see the Charity Commission's booklet CC1 *Remuneration of Charity Trustees*) trustees cannot be paid, so the payment of an honorarium to a trustee or management committee member of a charity is not normally permitted.

6 CAPITAL GAINS TAX

This is a tax payable on the profits made when you sell a capital asset such as land or a building. Once again, charities using the financial gain for charitable purposes are not liable for this tax.

7 STAMP DUTY

Under the Finance Act 1982 charities are exempt from stamp duty when buying or leasing property, or buying shares. In order to benefit from this exemption, a charity must obtain an exemption certificate from an Inland Revenue Stamp Office (addresses in the phone book or on the Inland Revenue web site). The property transaction will still need

'stamping' but there will be no charge.

8. VALUE ADDED TAX (VAT)

8.1 General

Value added tax is something everyone knows about as it is added on to the bottom of many bills, whether for goods or for services that we buy in the course of our daily lives.

VAT is levied on the purchases you make for your community building, just as it is on those you make for your personal use. The question for a community organisation to answer is: do we have to charge VAT on our goods and services?

In this respect VAT is only really relevant if you are involved in business activities. This phrase not only covers those activities we call trading but may also include things such as letting out your hall. You may not think of this as a business activity but, for purposes of VAT, it may be, at least in certain circumstances. For further information on the tax implications of lettings, see Information Sheet no 86, *Trading and Community Associations*. To add to the confusion, while carrying out business activities may render you liable to register for VAT, this only applies if you exceed a certain VAT 'threshold' and in calculating this some activities are ignored.

Charities are not exempt from the need to register for VAT simply by virtue of their charitable status. To all intents and purposes your community organisation is treated like any other body when it comes to considering whether you have to register and therefore separately account for VAT. So, if your community organisation does not engage in any business activity, that is provide goods or services for payment (even if the payment is less than the full value of the goods or services), then you need not worry any further about registering for VAT.

Revenue and Customs calls the goods and services your organisation provides 'supplies' and designates them as 'exempt' or 'taxable'.

If your organisation is conducting business activities as defined above, it will only have to register for VAT purposes if at any time the total value of its taxable supplies (not its profit) for the previous twelve months (or less if you have been in business for less than twelve months) exceeds, or looks as if it is about to exceed, a certain limit. This 'threshold' level varies annually; your local VAT office will tell you what the current rate is.

You may therefore be able to make a quick check on your organisation's need to register for VAT by taking its annual income and deducting the proceeds from lettings, bingo, grants and donations and interest and investment income, all of which are either exempt or non-business. If the total is clearly below the limit you need do nothing at all. If the total is nearing the limit and/or if you are not quite sure whether you need to register your organisation, then check with the local VAT office, as penalties for non-registration or late registration can be levied. Your organisation, however, may still be able to benefit from certain concessions for charities.

8.2 Some Details of VAT

If you do exceed the limit and thus have to register:

- you will be required to charge VAT on your goods and services and account for it on a quarterly basis to Revenue and Customs. Your sales relate to things going out from your business and are therefore called 'outputs' in VAT terminology. Thus the tax you charge your customers is called **output tax**: you are collecting this on behalf of Revenue and Customs and so have to pay it over to them.
- By the same token, what you have to purchase in order to be able to make your goods or provide your services are called 'inputs' in VAT jargon, and any VAT charged on them is called **input tax**. You can claim input tax back from Revenue and Customs on all purchases associated with the goods or services you sell, unless

they are exempt or related to non-business activities. If you pay more input tax than you charge in output tax you can claim the difference back from the VAT office.

There are three rates of VAT - standard rate (currently 17.5 %), some supplies of fuel and power - i.e. gas and electricity and some other items - (currently, for buildings used wholly or mainly for domestic or charitable purposes, 5%) and zero-rate (currently 0%). The reason for having a tax that amounts to nothing is that, although you do not have to charge tax on zero-rated items their value does count towards the overall value of taxable supplies that determines whether or not you have to register; and, of course, the zero rate may, at some time in the future, be changed.

If you are registered for VAT you have to keep detailed records and vouchers of all your business transactions in connection with both output and input tax. You will be subject to inspection by Revenue and Customs officials. You have to keep detailed records of purchases and can only claim input tax for those for which you have proper tax invoices - i.e. an invoice or receipt from the supplier with its VAT number printed on it. This applies to petty cash payments as well as other purchases. The inputs and outputs of all the activities of the organisation must be accounted for, including those of the different sections you may have.

As the tax and the liability to register for the tax is calculated on the total amount of taxable supplies and not the profits, it is vital that sections in a community association inform the Treasurer of all their income and expenditure and not just the net surplus or deficit. (It is, of course, good accounting practice for this to happen regardless of VAT).

- If you are registered for VAT you may not be aware of one or two items of your 'supplies' upon which you have to charge VAT, or at least account for and pay over to Revenue and Customs. One is admission charges for certain activities

(although charges for some fund-raising events are exempt - see Sections 8.4 and 8.5 below). Another is subscriptions or membership fees when members receive more than just the annual report and accounts in return, in other words when the membership fee buys some kind of service. Some organisations, however, have been successful in negotiating partial exemption on membership fees.

If you are in any doubt, be sure to clarify everything with your local VAT office.

8.3 Voluntary Registration

If you are engaged in business activities but fall below the limit requiring you to register there may be circumstances in which it is beneficial to apply for voluntary registration. The reason is that the amount of the input tax that you claim might be more than the output tax that you charge. If you think this might be the case contact your local VAT office to find out whether you are eligible and how to apply.

It is important to check the VAT rating of the main goods and services which you supply for payment when considering applying for voluntary registration. If a significant proportion is zero-rated then it might be worth applying. Another important consideration, however, is the time it takes to do the accounting. It can be considerable and many people think that if you do not need to register it is best not to bother. Also, if you register voluntarily you will have to charge VAT on all taxable supplies.

8.4 What is, and What is Not, a Taxable Supply?

To determine how much of your income is taxable in VAT terms, you need to sort out all your activities and the income they bring in into four categories: 'non-business' and therefore outside the scope of VAT; 'business' but exempt; 'business' and zero-rated; 'business' and standard rated.

The following list, whilst not exhaustive, categorises the most common activities of

organisations running community buildings.

Non-business

These are not included in the calculation of the organisation's taxable income.

- Voluntary services given free of charge in accordance with the objects of the charity.
- Supplies made for below cost for the relief of distress: these supplies must be made at least 15 % below cost and effectively funded by the charity's own resources.
- Proceeds of flag days or house to house collections.
- Grants and donations which are not a consideration for services rendered.
- The selling of advertising space in charity brochures to private individuals (but not to commercial organisations, and only if private advertisements make up at least 50% of the advertising).
- Dividends paid on shares owned by a charity.
- Membership subscriptions to charitable and similar organisations - but only if the payment of a subscription secures for its members entitlement to nothing more than the right to receive copies of accounts of and reports on their activities, and the right to vote at general meetings.

Exempt

VAT cannot be charged on exempt items **nor recovered on related purchases**. Items which are exempt do not count towards the threshold.

- Letting out a charity-run building, although there is an option to waive exemption (see 8.6 below).
- Receipt of interest by charities on funds kept in building society or bank accounts.
- Some fund-raising events by charities or other similar non-profit-making bodies (see 8.5 below).
- Subscriptions to non-profit-making youth clubs serving mainly members who are under 21. This can also include extra fees paid for facilities directly related to the club's ordinary activities, but not entertainment, goods which are sold, food,

- drink and purely recreational holidays.
- Lotteries and bingo (but not takings from gaming machines).
- Welfare services regulated under the Care Standards Act 2000, whether provided by charities, by their trading companies or by other commercial providers. 'Welfare services' includes promotion of the physical or emotional welfare of elderly, sick, distressed or disabled persons, care and protection of children and young persons (e.g. in crèches or nurseries), or the provision in certain circumstances of 'spiritual welfare' by a religious organisation. Services for children registered under the Children Act 1989 also benefit from this exemption.
- Education and training, if not carried out for profit.
- Sporting and physical education services supplied by non-profit-making organisations to individuals.

Zero-rated

VAT is not chargeable on zero-rated supplies. They do, however, count towards the registration threshold and have to be accounted for after registration.

- Sales of donated goods by a charity or by any VAT-taxable body donating to a charity all the profits from the sale of donated goods (such as a charity's trading subsidiary).
- Sales of donated goods to the general public, to disabled people or to people receiving means tested benefits.
- The loan of donated goods if the sale would have been zero-rated.
- Publications, including books and newsletters.

Standard-rated

- Membership subscriptions, where payment confers benefits other than those mentioned above under Non-business, such as free advice, information and the organisation of social activities. Membership fees of community associations and sections are likely to be taxable.

- Admission charges, except for 'one-off' fund-raising events held by a charity.
- Food and drink to be consumed on the premises, and hot take-away food and drink.
- Certain items of cold take-away food, eg ice-cream, confectionery, chocolate biscuits, alcoholic drinks, soft drinks and crisps.
- Sale of posters, diaries and calendars, greetings cards.
- The selling of advertising space to commercial organisations.

8.5 Fundraising and Cultural Activities – Some Concessions for Charities

Charities and some other non-profit-making bodies are exempt from paying VAT on up to 15 fundraising events of any kind held in any location, within a financial year. An exempt event is defined as one which is organised and promoted primarily for the purpose of raising money.

In addition, there is a general exemption from VAT for admission charges to cultural activities, if the organisation is 'managed and administered on an essentially voluntary basis by persons who do not have a financial interest in the result of the activities'. This includes admissions to museums, galleries, art exhibitions, and theatrical, musical or choreographic performances 'of a cultural nature'.

There is no restriction on the number of small-scale events of any one kind, such as coffee mornings, as long as weekly gross takings for such events do not exceed £1,000.

Any fundraising event that meets the criteria for VAT exemption will automatically also qualify for exemption from income tax and corporation tax.

For more information on taxation of fundraising activities, see Information Sheet no 86, *Trading and Community Associations*.

8.6 Purchases - Some Concessions for Charities

If you are a charity (whether registered or not) certain goods and services which you purchase, which otherwise would be standard-rated, can be charged to you at zero rate. This zero-rating is usually dependent on the charity providing the supplier with a written declaration of its eligibility for zero-rating.

Included in the concessions are:

- Charity advertisements - including recruitment advertising - in all media (including a web site other than the charity's). Recruitment can be for paid staff or volunteers, and advertisements no longer have to include a statement of the charity's objects.
- Design and production services and other closely related services, excluding a charity's overheads for producing its own adverts.
- Providing, extending or adapting bathrooms for use by disabled people in day centres and other charity premises.
- Talking books and radios for blind people.
- Supplies of aids for disabled people to a charity for use by disabled people.
- Donations by a charity of specified medical and scientific equipment to a health authority, hospital or charitable institution that provides medical care or treatment.
- Catering for meals on wheels.
- Construction of some new buildings - see below for concessions on buildings and construction, but this is a particularly complex subject, and you should get professional advice before embarking on any construction project.

Zero-rating is applicable to new buildings and, in some cases, to extensions of existing buildings. The definition of a 'new building' is not always clear - particularly when part of an existing building is retained, or when the new structure is joined to an existing building. It includes those constructed:

- making use of the foundations of an existing building, when the whole of the former building has been demolished;

- on the remains of a building, where all that remains is the foundation and façade, and where the façade has to be retained to comply with planning consent;
- construction of a new annexe on to an existing building. From 1 June 2002, zero-rate can be applied to a discrete part of such an annexe that is to be used for charitable purposes.

Qualifying Buildings

Buildings qualifying for zero-rating include:

- construction of a building for a 'relevant' charitable purpose - either as part of the charity's non-business activities or as a village or similar hall providing social or recreational community facilities.
- construction of a 'relevant residential building' - a residential building with shared facilities such as kitchens and bathrooms, for example a children's home or an old people's home.
- Services related to the construction, excluding architects, surveyors, consultants or anyone acting in a supervisory capacity. However, it is possible for the contractor to agree an all-inclusive design and building contract that would include these services, which would therefore be zero-rated.

The complete range of goods and services covered is set out in VAT notice 701-*Charities*, available free from your local VAT office. There are a number of other relevant VAT notices and leaflets, some of which are listed at the end of this Information Sheet. Some material can be downloaded from the web site www.hmrc.gov.uk. Another useful publication is *A Practical Guide to VAT for Charities*, published by Directory of Social Change.

You can, under certain circumstances, choose to waive exemption (i.e. opt for tax) on land or buildings. This would mean that income derived from lettings would then count towards your VAT threshold, so that your chances of registering for VAT, if you think that would be advantageous, would increase. The advantage of doing this could be that you could recover VAT on items related to

managing the building. In return, however, you would have to charge VAT on all your eligible lettings. Waiving exemption on land or buildings is a complicated matter, and once you have done it, you cannot go back. If you decide to take this step, make sure you get detailed information about it first, and try to find someone else who has taken this route to learn from their experience.

9. FOR FURTHER INFORMATION

9.1 Further reading

Charity Commission booklet:

CC1, *Remuneration of Charity Trustees*

Community Matters Information Sheets

15, *Rates*

66, *Community Buildings and Utility Charges*

86, *Trading and Community Associations*

HM Revenue and Customs publications:

700 *The VAT Guide* (the primary source of basic information about VAT)

700/1 *Charities*

Booklet *Trading by Charities* (CS2) provides guidelines on the tax treatment of charity trading.

Other publications are listed on HM Revenue and Customs website (see 9.2 below).

Directory of Social Change publication

A Practical Guide to VAT for Charities

9.2 Useful addresses

Charity Commission (Publications):

Woodfield House

Tangier

Taunton

Somerset TA1 4BL

☎ 0845 3000 218.

www.charitycommission.gov.uk

Many publications can be down-loaded from the Charity Commission web site.

Community Matters:

12-20 Baron Street,

London, N1 9LL;

☎ 020 7278 7887;

Advice Line 08707 272 373;

e-mail:

communitymatters@communitymatters.org.uk;

uk;

www.communitymatters.org.uk

Community Trading Services Ltd: as Community Matters.

HM Revenue and Customs (Information Branch):

Information Branch:

4th Floor

Ralli Quays West

3 Stanley Street

Salford

M60 9LA

www.hmrc.gov.uk

Charities Division:

☎ 0845 302 0203

VAT publications are available from local VAT offices.

For your local Revenue and Customs offices, see your Phone Book or Yellow Pages. For an interim period, local offices may still be listed as Inland Revenue or Customs and Excise separately.

APPENDIX

SPECIMEN GIFT AID DECLARATION FORM

Gift Aid Declaration

[Insert Name of Charity and (optionally) registration number]

Date 20.....

Details of donor

Title Forename(s) Surname

Address

..... Post Code

I want the charity to treat

* the enclosed donation of £

* the donation(s) of £ which I made on ... / ... / ...

* all donations I have made since 6 April 2000, and all donations I make from the date of this declaration until I notify you otherwise

as a Gift Aid donation* / Gift Aid donations*.

* Please delete as appropriate (NOTE: Charities do not have to include all these statements on their declarations, but may choose whichever is/are appropriate).

NOTES

You must pay an amount of income tax and/or capital gains tax at least equal to the tax that the charity claims on your donations in the tax year (currently 28p for each £1 you give).

- 2. You can cancel this declaration at any time by notifying [Name of Charity].
3. If in the future your circumstances change and you no longer pay tax on your income and capital gains tax that the charity reclaims, you can cancel your declaration (see Note 1).
4. If you pay tax at the higher rate you can claim further tax relief in your Self-Assessment tax return.
5. If you are unsure whether your donations qualify for Gift Aid tax relief, ask [Name of Charity], or ask your local tax office for leaflet IR65.
6. Please notify [Name of Charity] if you change your name or address.