



Education Matters Forum – Trading and VAT

The forum, hosted by Brachers and Kreston Reeves, focuses on topical issues and challenges that the education sector is facing. With the constant pressure on academy trusts to generate additional income this event was focused specifically on trading activities and the VAT and Tax implications associated with them.

- Trading activities includes any income that does not fulfil the academy trust's objects as stated in their Articles of Association. It will often include all self-generated income that is raised for a non-educational purpose.
- These are often implemented by academy trusts to utilise any spare capacity they may have e.g. unused land/building space or even time for certain staff members with the relevant experience and expertise.
- Common examples of trading activities are:
 - Lettings – Parties, weddings, business meetings
 - Consultancy Fees – Selling IT/HR expertise to other schools
 - Sale of goods – Non-branded and non-educational items
 - Sale of a service – Gym open to the public, car parking
- But does not include:
 - Income generated for educational benefit – Summer school, sale of educational equipment

Considerations

When looking to increase income through trading activities there are several considerations an academy trust should make, including:

- Don't stray from the Trust's moral/core purpose - weigh up the pros/cons with careful consideration being given for how this will benefit the pupils.
- Ensure that a strategy/plan is in place to implement any new initiatives
- Ensure that there is a service agreement in place that clearly lists the scope of duties to avoid disputes in the delivery of services
- Ensure the Academy has the available resources to run the activities.
- Consider public perception Academy Trusts operate in a high-profile industry that is subject to a large amount of scrutiny

Implications

- As these activities are considered outside of the Trust's main objects, they might be subject to VAT and corporation tax. These will only apply once the Trust has breached HMRC's trading and VAT Thresholds.
- Corporation tax limit for trading income is £50,000 until April 2019 and £80,000 thereafter. The VAT limit for registration is £85,000 in any 12-month period.
- It is important to note that vatable supplies are not always the same as taxable supplies, there are certain activities that will be exempt from VAT but will still be considered as part of the Trust's trading income for corporation tax.
- The most efficient way to track these activities is to set up a separate cost centre where all activities are posted and then seek advice when it looks like the limits draw near.

Trading subsidiaries

- For those Trusts that do have a large proportion of trading activities the most common practice is to set up a trading subsidiary. This is a separate legal entity that will operate under the control of the Trust and is a useful way of ring-fencing trading activities and the risks associated with them away from the main Trust.
- Planning is a key tool as trading subsidiaries can be set up in advance and remain dormant until the Trust is ready for them to start trading. They will then be available as soon as HMRC limits are expected to be breached preventing the Trust, itself, from having to register for VAT and being liable to corporation tax.
- The subsidiary should have separate directors to the Trust and an allocated team to take ownership and responsibility for the day to day activities, ensuring that the Trust's focus remains on its primary objectives.
- Consider the administration burden this will put on the Trust - are the relevant skills and resources available or will the trust need to source these elsewhere? For example, agents used to manage out of hours lettings.
- Trusts will need to update their risk register and ensure employment and service contracts are accurate and in place for shared staff.

Benefits

- Profits can be transferred to the Trust at the year-end through a tax-free distribution. Neither the Trust nor

the subsidiary would incur corporation tax charges for the activities.

- The subsidiary will not be restricted by the academy's Articles of Association
- Will be separate from the Trust's budget therefore any cash generated will be unrestricted.

Limitations

- Cannot use grant funding to support/set up the trading subsidiary as this is a misuse of public monies and would be considered a regularity breach
- If the subsidiary was unsuccessful who would bail it out as the trust
- Subsidiary will not be able to reclaim VAT on expenditure if it is not VAT registered
- Subsidiary may not qualify for the same VAT exemptions as the Academy Trust

Other Key points

- Not all trading activities are taxable supplies for example rent may be exempt from VAT unless a service is added to the rental agreement and if the profits from a rent agreement are used for the academy's primary purpose then they will not be subject to corporation tax.
- However, if rental income is not subject to VAT then the VAT on associated expenditure is not claimable. For example, the VAT on refurbishment costs of a classroom to rent to a third party will not be claimable on the Trusts VAT 126 form

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