



# Letting of New School Buildings (including Annexes) May 2004

## 1. Introduction

The purpose of this short Paper is intended to provide an understanding of the VAT issues surrounding the construction of new School Buildings & Annexes and the ability of Governing Bodies to subsequently Let the completed accommodation, or a part thereof.

## 2. Construction of new School Buildings & Annexes

The construction cost of new School Buildings – and an extension to an existing Building which satisfies the criteria for the extension to be considered an Annexe – is zero rated for the purposes of VAT.

### *Q. Why is the construction cost zero rated ?*

The VAT Act 1994 allows the construction cost of a relevant charitable building (in these circumstances a VA School), used solely for the relevant qualifying purpose of charitable / non-business use, to be zero rated.

### *Q. Who is the Charity ?*

The Board's Schools are Voluntary (Aided) Schools within the meaning of the Education Acts and are charities. Although a charity, a VA School is not registered under the Charities Act 1993 as it is exempt from the requirement to be registered by virtue of The Charities (Exception of Voluntary Schools from Registration) Regulations 1960.

## 3. Letting of completed Buildings & Annexes

The Letting of a building establishes a business use ( which is contrary to the permitted use ) and, prior to July 2002, if this occurs within 10 years of the completion of the building for which zero rating was obtained then the School would be liable for (a) VAT on the construction cost at 17.50% and (b) a penalty sum equal to the amount of VAT.

In July 2002, however, HM Customs & Excise published **Notice 48 Extra-Statutory Concessions** and **Clause 3.29 VAT : Charitable Buildings** allows, under certain circumstances, the Letting of completed buildings without the Governing Body having to pay the VAT on the construction cost or suffer the penalty.

### *Q. What is the concession ?*

If a Governing Body wishes to Let a completed building then it can, provided that:

- (a) the building will be used for its original purpose for **more than 90%** of the total **time** it is available for use, or
- (b) where **an identifiable part** of a building will be used for **more than 90%** of the total **time** it is available for use, or
- (c) **more than 90%** of the total **space** in the building will be used for its original purpose, or

(d) **more than 90%** of the total **number of people** using the building will do so for the original purpose.

***Q. What are the Conditions ?***

The relevant conditions are:

- for any one building, only one method may be used
- method (a) can be used without having to seek the prior agreement of HM Customs & Excise
- methods (b), (c) & (d) require the prior, written, agreement of HM Customs & Excise
- the **space** test and **number of people** test may not be applied to an identifiable part of a building
- the concession must be calculated and applied at the time a relevant supply is made.

---

**Author: Bill Learmonth, Building Finance Manager**