

"OVERALL AUDIT SERVICE AWARD"
WINNER 2009
Annual Charity Finance survey



schools | briefing

Gift Aid | VAT's up | child care vouchers | public benefit | bussing | iXBRL | consumer credit

editorial



This Autumn 2010 edition of schools briefing gives equal attention to revenue and costs with two articles on each, but inevitably I suppose they are pipped by the three on regulation.

We consider ways of maximising income from non-educational activities and how the increased attractiveness of Gift Aid at a time of rising personal tax rates may benefit fundraising. There is advice that employment taxes can be reduced by taking advantage of child care vouchers and on the action that can be taken to mitigate the impact of the forthcoming rise in the rate of VAT.

Veale Wasbrough warn us of changes to the consumer credit legislation and its relevance to flexible fee payment arrangements and, once again, we provide an update on public benefit. We also report on the "irritation" of iXBRL. However, this will only affect accounts filed with corporation tax returns after March 2011.

I am grateful to Tracey Young for her assistance in putting this publication together; this in the absence of Naoisha Maher who is on maternity leave.

There is much to digest and do contact us if you have any questions or if you have suggestions for topics in future publications.

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are you maximising your income?



Many schools have concerns over their pupil numbers and fee income in light of the current economic position and so have been seeking alternative sources of income. Other activities such as lettings have proven lucrative and for some have meant the difference between a deficit and surplus result. In the current climate it is worth reviewing such activities with your Head and Bursar to make sure your school is not missing any opportunities.

boarding schools

The options available to a school are dependent on the facilities at your disposal, and often boarding schools are at an advantage. During the holiday periods when the school would otherwise be empty, a number of boarding schools provide their facilities to language schools, summer schools and conferences generating significant levels of income and are often recurring year on year. In some cases schools run their own summer schools although this can be more complex due to staffing requirements but does enable you to have more control. Some boarding schools also host weddings which can include full catering and accommodation.

These activities do not come without their costs. It is important to consider the additional wear and tear on your site. There will also be staff costs associated with the lets, whether that is cleaning, catering or management. I understand from many Bursars that there is definitely a hassle factor to consider! It can also mean your Bursar is forced to take their holiday during term-time to ensure they are available during lets. You also shouldn't forget that the holidays are the prime time for a school to complete those little (or large) repairs, redecoration or building projects.

Your external lets will not be happy to work to the sound of hammering and neither will your pupils so it is important to manage the process effectively.

Boarding schools generally have more restrictions over their ability to let their facilities during term-time due to the requirements of the pupils and consideration needs to be given to Child Protection issues.

day schools

Day schools have the advantage of only having pupils on-site for a limited time each day and not at weekends. To supplement income and to meet the demands of parents many schools provide breakfast, after school and holiday clubs. A number of day schools let their swimming pools, sports facilities, theatres and halls to local community groups and classes in the evenings and at weekends. However, for a day school the income is far less and it is important to monitor costs to ensure you are actually not losing money. In fact, for many schools the main motivator can be integration with the local community rather than income generation.

promotion

Effective advertising of your school, its facilities and availability for lets is extremely important. As mentioned above, for many lets once they are established they continue week by week or year on year with little additional work, but negotiating the initial let can be a challenge!

Schools with significant levels of lettings may employ a letting/business manager or equivalent. This ensures there is an individual who is focused on ensuring income is maximised and will manage the process, but income must be at a reasonable level to cover the cost and provide sufficient work for this individual. In many cases, lets are actually managed by the bursary staff who are often already extremely busy and have to fit this in with their other duties.

restrictions

Many schools have planning restrictions in place which limit their ability to let certain facilities and so it is important to check this before embarking on a programme to generate additional income. Also, when obtaining planning permission for a new facility it is important to try to limit any restrictions where possible so that you have flexibility of use in the future. Although this is easier said than done.

other common areas

Other areas where both boarding and day schools generate additional income is by providing catering to other schools which do not have sufficient catering facilities of their own and school shops. In the case of school shops they often do not generate large profits, a significant amount of cash can be tied up in stock and they can be extremely problematic from an accounting perspective. For many boarding schools the school shop is extremely useful to pupils, but many schools have opted to outsource to an external provider and instead receive a commission.

public benefit

We also cannot forget public benefit. For many schools there will be competing demands on facilities, first from the pupils, secondly to demonstrate you are providing public benefit and lastly to generate income. In many situations the school may feel it is more appropriate to provide the school's facilities to other organisations free of charge or at a discounted rate rather than to charge a full fee.

tax and VAT

Generating additional income is essential for many schools but it is extremely important to be aware of the tax and VAT implications of your activities or you could incur unexpected costs.

The trading activities of a school are only exempt from tax if certain conditions are met. These are:

- the profits from the trade are applied for the purposes of the charity; and, either
- the trade is carried out in fulfillment of the primary purpose of the charity or is ancillary to these purposes; or
- the income from the trade is considered 'small' in relation to the other income of the charity; or
- the 'trade' is carried out to raise funds for the charity and falls within the VAT exemption rules for fundraising events.

The education of pupils in a school is usually a trade carried out as part of its charitable purpose and so profits are generally exempt from tax. Other trading activities which are ancillary to the primary purpose will also be exempt. Additionally, the small trade exemption allows a school's non-charitable trading activities to be exempt if the aggregate turnover from all such trades does not exceed the lesser of £50,000 or 25% of the school's gross income.

Whilst school fees are exempt from VAT, other trading income, whether or not part of its charitable objects, may be taxable and, if turnover exceeds the limit (currently £70,000), the school needs to register for and charge VAT on the trading income which is standard rated.

In a number of cases it is appropriate to carry out certain trading activities through a trading subsidiary for tax purposes which offers significant advantages but also some drawbacks.

This is a complex tax area which cannot be covered in detail in this article; however if you would like further details please do not hesitate to contact us to obtain our datasheet on School Trading or contact our direct tax and VAT specialists.

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Gift Aid



The increase in the highest rate of tax from 40% to 50% for those earning more than £150,000 in the current year means that the net cost to a higher rate taxpayer of making a Gift Aid donation has never been lower. Other changes, such as the withdrawal of personal allowances for those earning in excess of £100,000, can result in an even higher marginal rate of tax of 60%.

Under the Gift Aid regime, a donation is treated as having been made net of basic rate tax at 20%, which the recipient charity can reclaim (together with an additional credit to compensate for the fall in the basic rate of tax from 22% to 20%). In addition, a donor paying higher rate tax can claim relief for the difference between the basic and the higher rate. This means that, for a Gift Aid donation worth £5,128 to the school, the actual cost to the donor is only:

- £4,000 for a basic rate taxpayer
- £3,000 for a 40% taxpayer
- £2,500 for a 50% taxpayer
- £2,000 for a 60% taxpayer

In addition to any normal fundraising publicity, it is therefore worthwhile paying special attention to the potential tax

savings for donors earning between £100,000 and £112,950 or in excess of £150,000.

Certain requirements need to be met in order to claim Gift Aid and a basic outline is given below:

- a donation essentially needs to be a gift and there are strict limits on the value of any benefits that might be made available as a result of a donation.
- the charity needs to maintain an auditable record linking gifts to the individual donors, the bank or cash account and a valid Gift Aid declaration.
- the declaration must include certain information such as the name and home address of the donor, the name of the charity, an adequate description of the amount to be gifted and confirmation that Gift Aid is to apply.
- it is vital to demonstrate that the donor has been given an explanation that they are liable to pay sufficient UK tax to cover the amount that the charity is able to reclaim (it is not sufficient to merely state that they are a UK taxpayer).

The format and recording of Gift Aid declarations is a common area for issues to arise, potentially putting tax repayments at risk. In the event that you have any queries regarding the operation of Gift Aid or feel that a systems health check may be of benefit, please do not hesitate to get in touch.

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“The charity needs to maintain an auditable record linking gifts to the individual donors, the bank or cash account and a valid Gift Aid declaration.”

VAT's up



With the VAT rate set to rise to 20% on 4 January 2011, schools may wish to consider whether there is any action which they can take to mitigate the effects of this.

Any genuine purchase of goods or services made prior to the rate change will incur VAT at 17.5% and this can apply even when the invoice from the supplier is not issued until after the rate change provided the goods or services were supplied before the change. However, this provision is at the discretion of the supplier so you may wish to ensure that any suppliers who are likely to invoice you in January for work carried out in November or December will apply this provision.

It is possible (if you have the available funds) to make a pre-payment before 4 January 2011 for goods and services which will not be supplied until after 4 January. However, this provision is limited to a maximum of £100,000 per supply, and it is not possible to split a single supply into several supplies which, individually, fall below the £100k limit.

It might also be possible to fix the VAT rate at 17.5% by asking for your supplier to issue you with a VAT invoice prior to the rate change. But, aside from the difficulties this may cause the supplier who will then have to account for VAT in advance of payment, anti-forestalling provisions prevent this unless the invoice is to be paid in full within six months of the date of issue.

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child care vouchers



The provision of child care vouchers to the value of £55 per week per employee is a tax exempt benefit. All employees must be eligible to apply for them.

From 6 April 2011 tax relief will be restricted to basic rate tax. The new rules will only apply to those employees who start to use the vouchers on or after that date. It would be helpful to ensure that your employees are aware of this change to enable them to enter the scheme prior to that date if they are able to and thereby preserve higher rate relief. The effect of the tax relief restriction will be that the weekly limit is adjusted as follows:

£55 for basic rate taxpayers (20%)
£28 for higher rate taxpayers (40%)
£22 for additional rate taxpayers (50%)

The limits apply per employee, so both parents are eligible.

Employers may simply provide the vouchers as a benefit, or, as is more common, offer them through a salary sacrifice scheme. Salary sacrifice involves a contractual reduction in the employee's pay in return for qualifying child care vouchers. The tax and National Insurance relief provide savings for both employers and employees.

It is important to note that the vouchers must only be used for qualifying child care to a qualifying child.

Employees can use child care vouchers to pay for the care of any of their children or a child for whom they have parental responsibility and who lives with them.

A child will be a qualifying child until the 1 September following the child's 15th birthday, or 16 if the child is disabled.

Qualifying child care means registered or approved care such as:-

- home based child care such as child minders, nannies or au pairs
- pre-school care such as nursery schemes, play school and crèches
- care for older children in
 - out of school clubs* such as breakfast and after school clubs
 - boarding fees*
 - holiday schemes such as those run by providers like Camp Beaumont

* For out of school clubs and boarding fees the care must be invoiced separately to the education fees and be provided out of school hours and on the school premises.

Note that in Scotland and Northern Ireland different rules apply to the registration and approval of child care which affects how the vouchers can be used. Special rules also apply to relatives providing child care.

Under no circumstances may vouchers be accepted for education fees. It is the responsibility of the child care provider to ensure vouchers are only accepted for qualifying care. It is, however, unclear as to who has responsibility for auditing this as it does not in our experience come up in HMRC employer PAYE compliance reviews and the voucher providers do not appear to be undertaking their own checks. If you are a school which offers both qualifying child care and education it may be worth checking that you are not unwittingly accepting them for non qualifying purposes.

Boarding schools may also consider whether it would be helpful to advertise to parents that boarding fees can be paid for using child care vouchers as it seems this is not widely understood.

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public benefit – the latest...



It would be hard to have missed over the last few years the much reported and debated requirement of the Charities Act 2006 – independent schools (along with all other charities) must demonstrate that their activities are for the public benefit. The question everyone asks is “what do we have to do and how much?” Unfortunately, I am not sure we are any closer to a definitive answer but in this article I will update you on the latest news.

In July 2009, the Charity Commission issued the results of its assessments into 12 charities which examined if the aims of the charities selected were capable of being charitable and for the public benefit and to assess the extent to which these charities were currently fulfilling that requirement. This resulted in two schools failing to meet the Commission's required level, hence failing the public benefit test. The Governors of the two schools which failed, S. Anselm's School and Highfield Priory School, were given three months to confirm that they intend to address the issues raised and then a further nine months to provide a plan for agreement.

Following an extension announced by the Charity Commission, charities have up to five years (previously three) in which to implement their plans and pass the test. It should be noted that the five year period is in fact a maximum and depending on the position of the individual charity, it could be that plans are required to be implemented over a shorter period by the Commission.

Both schools developed plans to ensure that there is sufficient opportunity to benefit in a material way for those who cannot afford their fees, including those in poverty, and these have now been agreed by the Commission.

The key point arising from the initial assessments was that the Charity Commission appeared to have placed great emphasis on the level of bursary support and, contrary to earlier expectations, relatively little on wider community involvement. The Commission had not given a definitive benchmark as to the level of means-tested support which is deemed sufficient, although some have inferred a level of 5% of fee income.

In the case of the plans prepared by both schools, there is a significant increase in the level of means-tested bursaries provided and in the case of S. Anselm's School, some new initiatives are planned to increase the use of the school's facilities by children who live locally.

Highfield Priory School plans to provide means-tested bursaries to a value of 4.9% of fee income by 2014/15. However, S. Anselm's School's plan was approved on the basis that by 2011/12 the school will provide means-tested bursaries of up to 2.5% of fee income which includes 0.2% of hardship awards. In both cases 100% means-tested bursaries would be available.

It is pleasing to see that in the case of S. Anselm's School the Commission has taken a more proportionate approach, as they had originally promised, and have taken into account the financial circumstances of the school.

Therefore, it appears it is possible to pass the public benefit test without providing means-tested bursaries close to 5%, but it is clearly very dependent on the individual circumstances of your school so unfortunately for many the uncertainty continues.

However, this is not the end of the story. The Independent Schools Council has recently been granted permission by the High Court for a judicial review of the Charity Commission's guidance as it feels that their interpretation of public benefit is 'too narrow and deeply flawed'. This shortly after the Attorney General ordered a separate review of the Commission's guidance. It seems likely this debate will continue to rumble on for some time yet – so watch this space.

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“The key point arising from the initial assessments was that the Charity Commission appeared to have placed great emphasis on the level of bursary support and, contrary to earlier expectations, relatively little on wider community involvement.”

bussing



The supply of passenger transport in a vehicle designed or adapted to carry 10 or more passengers is zero-rated.

If school minibuses are acquired in trading subsidiaries, rather than by the school itself, this allows the subsidiary to recover the VAT on the purchase and make an onward zero-rated supply to the school. But, for the subsidiary to make such a supply, arguably at least, it needs the human resources (drivers) to make such a supply, so schools should consider whether there is a need for some staff to be employed by the subsidiary.

If the school was to acquire the buses themselves, then any VAT could well be irrecoverable as HMRC would be able to argue that the school is simply supplying services which are closely related to education. Such supplies are exempt when they are supplied by the eligible body which makes the principal supply of education. By routing the supply through a non eligible body such as the trading subsidiary, the school effectively replicates the position it would be in if it bought in transport from a third party transport provider.

The supply of passenger transport in vehicles with a capacity of less than 10 is standard-rated, so any charges here would give the school an irrecoverable VAT cost, and, of course, if the school and subsidiary are VAT grouped, then any intra group charges are disregarded.

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iXBRL accounts and other electronic filing



From April 2011, HMRC is making it compulsory for organisations to file company accounts, tax returns and computations in an electronic format called iXBRL – inline eXtensible Business Reporting Language. This will affect all organisations that are required to file corporation tax returns. It therefore will affect all trading subsidiaries of schools, and any school which is a charitable company, that is requested to submit a corporation tax return.

iXBRL is a language written specifically for business reporting. It facilitates the electronic exchange of business and financial data, which should allow HMRC to automatically collate and analyse the numbers submitted. The inline version is a format which is designed to be read by people as well as by machines. Essentially the figures included in the iXBRL file are “tagged” so that they can be identified electronically.

HMRC is introducing this requirement to reduce processing costs and for the easier collection of data. In theory these efficiencies will benefit taxpayers and organisations will benefit from improved online filing. However, there will certainly be short-term pain for organisations that need to change the way they prepare their accounts, or will require external assistance to prepare them in the correct format.

HMRC has said that if organisations are unable to submit both corporation tax returns and company accounts in the prescribed format, it will reject the submission, and offenders will be treated as having not filed their returns at all. This could mean penalties and pressure from the authorities to comply.

what to do?

If you are currently preparing your accounts on Word, Excel or other non iXBRL formats, there are three approaches:

- convert your statutory accounts into iXBRL and tag the data. This can be carried out by a number of external consultants; or
- your accountant may have a statutory reporting package that could generate the statutory accounts for you; or
- you buy an iXBRL compliant accounts preparation programme yourself.

The implication for many schools is that they will require their accountants to use software that is compliant or engage an external consultant to tag the data. Neither are without cost implications and we would advise you to consider this area with your financial advisors sooner rather than later.

However, many schools and their trading subsidiaries should be able to delay the impact of iXBRL until next year provided your 2010 accounts are approved and signed and the corporation tax return submitted before 1 April 2011.

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consumer credit



The Consumer Credit Act 1974 (CCA) has been in force for the past 36 years. At the time of its introduction, Parliament had not contemplated that the CCA would have a significant impact upon independent schools and their long established custom of charging fees on a termly basis in advance of the delivery of educational services.

Until very recently, the provision of credit to parents by schools has been on a relatively small scale, and it has been possible to outsource this function to a third party. However, year on year increases in fees above the rate of inflation together with the current economic climate and the withdrawal of some third parties from the market place have combined to create greater demands on schools for more flexible fee payment arrangements.

Much has been discussed and written during the past year on the provision of credit and many schools are aware of either the requirement to obtain a licence to operate consumer credit agreements regulated by the CCA, or how and when to make use of available exemptions from regulation. However, just as schools are familiarising themselves with the CCA, Parliament is about to implement a Directive of the European Parliament and Council on credit agreements for consumers via a series of new regulations. Fortunately, for credit providers in the UK, including independent schools, the CCA already provides a comprehensive framework and relatively few changes will be required to give effect to the directive.

Most of these changes will come into force on 1 February 2011, although some will be in operation before publication of this article. The following paragraphs briefly summarise the main changes which may affect a schools flexible payment arrangements.

In circumstances where regulated consumer credit agreements are offered, there will be:

- a duty for schools to provide explanations of the credit on offer which will allow the consumer (usually the parent) to decide whether it is suitable to his or her needs and circumstances. This is additional to the existing duty to provide certain pre-contractual information in writing and in a specified format.
- an obligation upon the school to assess the creditworthiness of the parent/s before concluding or extending the agreement. If the assessment is based upon information from a credit reference agency and credit declined, the parent must be informed of this.
- a right to the parents to repay an agreement early in part and to receive a consequential reduction in the total cost of the credit. This new right is additional to the current right for parents to make early repayment of the full amount.

- in agreements that provide for a variation in the rate of interest charged, an obligation for the school to provide the parents with notice of the variation before it takes effect. This extends existing requirements to provide advance notice of changes to a credit agreement.

For those schools using an exemption under the CCA which allows each term's fees to be subject to a separate agreement for the repayment of those fees by no more than four instalments within a 12 month period, the charging of interest or administration fees or a surcharge on those instalments will no longer be permitted.

From its introduction onto the statute books, the CCA has remained a highly complex and technical piece of legislation. Schools that do not comply with its requirements may be committing criminal offences, the sanctions for which include a fine or imprisonment. The above changes do not make compliance any easier and schools should therefore consider seeking proper advice before making credit arrangements with parents.

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“Year on year increases in fees above the rate of inflation together with the current economic climate ... have combined to create greater demands on schools for more flexible fee payment arrangements.”

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schools' team

future events

- **Trustee Training event series** runs from october 2010 – april 2011
- **accounting and legal updates for charities: care and health** 20th october 2010
- **an introduction to tax for charities** 18th november 2010
- **diocese seminar and workshop** 19th january 2011
- **benchmarking survey submission deadline** 31st january 2011
- **haysmacintyre annual schools conference** 2nd february 2011

For further information on these events please contact our events team on 020 7969 5668, events@haysmacintyre.com or visit www.haysmacintyre.com

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