



VAT:
churches renting property
for their activities

September 2016



Stewardship Briefing Paper

This Briefing Paper and others like it are provided free of charge and help a great many churches and charities. Their development involves many hours of dedicated professional expertise both from within and outside of Stewardship. They are provided at our own cost as part of our mission to equip you.

If you find the material in this Briefing Paper to be of value, we would invite you to respond in the following ways:

- Subscribe to receive our email bulletins at our website, www.stewardship.org.uk; and
- Tell others in your church or charity about our resources.

If you regard the material to have been of particular help and significance to you in your work (for example using it to inform a church or charity group/network) perhaps you would consider making a financial gift to Stewardship in appreciation (though please feel under no obligation).

CONTACT DETAILS

Stewardship

1 Lamb's Passage, London EC1Y 8AB

t: 020 8502 5600

e: enquiries@stewardship.org.uk

w: stewardship.org.uk

Stewardship is the operating name of Stewardship Services (UKET) Limited, a registered charity no. 234714, and a company limited by guarantee no. 90305, registered in England

© Copyright Stewardship 2016

COPYRIGHT

This publication is the copyright of Stewardship. We want our resources to have the maximum impact, therefore you are welcome to reproduce or otherwise distribute this material in whole or part. We simply ask two things: (1) there must be no use for commercial gain, and (2) Stewardship is clearly acknowledged with the following wording "Reproduced with permission from Stewardship. www.stewardship.org.uk". If extracts are to be used in another context, permission should be sought in advance by emailing enquiries@stewardship.org.uk or telephoning 020 8502 5600. Thank you.

DISCLAIMER

Whilst every care has been taken in the preparation of this material, Stewardship cannot be responsible for action taken or refrained from in reliance thereon. It is recommended that appropriate professional advice be sought in each relevant individual circumstance.

table of contents

	Page
1 background	4
2 the problem	4
3 the solution.....	4
4 some practical details and definitions	5
5 recovering past VAT charges	5
6 certification of relevant charitable purpose	5
7 an important exception	6
8 VAT Guide.....	6
Appendix.....	7

1 background

When a landlord rents space to a tenant, the rent will normally be VAT exempt but the landlord can exercise an 'option to tax' the transaction at the standard VAT rate of 20%.

Commercial landlords will often want to do this as it means that they will be able to recover VAT on their own costs. If the person renting the property is also in business and charges their customers VAT, this will not present a problem as the tenant business will in turn be able to recover the VAT on their rent.

But churches are not usually VAT registered. Even if they are, they will rarely be able to recover much VAT at all. That is the nature of charitable activity.

2 the problem

Renting property can be an expensive business. All the more so if there is a 20% VAT charge on top that the charity has to suffer (and therefore fund). VAT registration is not an option in most cases either because the church cannot register or, if it is able to register voluntarily, it is unlikely to be able to recover more than a minor proportion of its VAT costs. Added to this, the administrative cost of accounting for VAT is likely to outweigh any benefit of recovery of VAT.

3 the solution

Thankfully, the law provides some relief in these circumstances if:

- the use of the building by the church is or is intended to be **solely for a relevant charitable purpose** (but not as an office), and
- the landlord is made aware, in advance, of the use to which the building will be put,

the landlord is **legally barred** from exercising an option to tax.

This relief will commonly apply when churches rent a school or other premises for Sunday morning worship.

Where the payment for the premises includes more than just provision of a room, but includes a range of other services—such as may be provided by a hotel or similar establishment—VAT may legitimately still be charged where the payment is no longer for 'rent' but for a package of services, including items such as AV equipment, catering etc., in addition to use of the room. It may be possible to overcome this by asking for the room hire to be invoiced separately and for optional additional services to be added as a separately billed supply. The mere provision of light refreshments, such as tea and coffee, would be viewed as ancillary to the main provision of a room.

4 some practical details and definitions

'Relevant charitable purpose' is defined in law as:

- use by a charity otherwise in the course or furtherance of a business, or
- a village hall or similar providing social or recreational facilities for a local community.

'Business' broadly means 'economic activity', whatever the purpose or results of that activity. So, whether or not an activity makes a profit is not a relevant determinant. This is so even if profits are only used to further the aims and objectives of the charity. Both profit and non profit-making activities can be 'business activities'. Consideration will be given to the manner of operation and the substance of the activity in deciding whether the activity is 'business' or 'non-business'.

Where the space being rented includes office accommodation, this could in theory mean that VAT can still be charged. However, in practice, if the office is a small administrative area incidental to and within a charitable establishment (and is used for supporting the non-business charitable activities), a charity should still be able to block a landlord's desire to opt to tax the rent. In contrast, an office that is used to manage significant retail or other business activity would probably fall foul of the requirement.

5 recovering past VAT charges

Landlords may be prepared to issue a credit note for VAT incorrectly charged for a period of up to four years prior. However, to be sure of the right to recover past VAT, the church would need to be able to demonstrate that it had made the landlord aware of the use it was going to put the building to at the time it entered into the rental arrangements.

6 certification of relevant charitable purpose

In order to prevent a landlord from opting to tax rent (ie to charge VAT at 20%), the tenant must certify their intended use of rented property to their landlord in advance. An appropriate form of certificate is included in the Appendix.

Exceptionally, where the intended use changes after the lease is entered into, so that it newly becomes solely for relevant charitable purposes (other than as an office), the church can inform the landlord at that point so that future rents become exempt. However, the landlord is not obliged to comply with this request.

Conversely, if the intended use ceases to be solely for relevant charitable purposes, there is no requirement for the tenant to notify the landlord of this. Surprising as it may seem, if the intended use when the certificate was originally issued was a solely relevant charitable purpose, HMRC does not see the change of use affecting the treatment of ongoing rents.

7 an important exception

Note, however, the situation where a church paid a **capital** sum for a lease which was zero rated at the time, because of the original relevant charitable purpose. Although the change of use will not affect the rents under the lease, it will trigger a liability for the charity under the change of use rules (the 'Capital Goods Scheme').

8 VAT Guide

This briefing paper is an extract from **VAT for Churches – a detailed guide** and has been adapted to supplement information provided to subscribers to [Stewardship's Quarterly Church Treasurers' Dial In Seminars](#).

VAT for Churches – a detailed guide is available for purchase from [Stewardship's online shop](#). It covers the general principles of VAT; VAT planning; VAT registration; property acquisition, use and maintenance; other reliefs for charities; churches registered for VAT; FAQs and pro forma VAT Certificates and Declaration.



Appendix

Certificate for the statutory disapplication of the option to tax where the church will be using the building for 'Relevant Charitable Purpose' other than as an office under Para 7 Schedule 10 VATA 1994.

Address of the building:

Name and organisation of the purchaser or tenant

VAT registration number if registered:

Charity registration number if registered:

With reference to Para 7(2) of Schedule 10 VATA 1994, I have read the relevant parts of Notice 708 Buildings and Construction that set out the certification requirement (imposed as a result of the application of Note 12 of Group 5 of Schedule 8 by paragraph 33 of Schedule 10 VATA 1994) and certify that this organisation (in conjunction with any other organisation where applicable) will use the building, or the part of the building which is being purchased / leased / rented for a relevant charitable purpose but not as an office, namely by the charity in either of both of the following ways:

- Otherwise than in the course or furtherance of business, or
- as a village hall or similarly in providing social or recreational facilities for a local community.

I certify that:

the information given is complete and accurate: and

if the building, or the part of the building which is being purchased / leased / rented is used for a purpose which is not solely for a relevant charitable purpose that I will inform the landlord of that fact.

Name:

Position held:

Date:

Signature: