



Withdrawal of the Charitable Building Concession

HMRC has announced that the 'charitable building' concession (ESC 3.29), will be withdrawn on 1 July 2010. The concession allowed charities to build or acquire VAT free buildings even though there was minor business use (10%). This is a major blow for charities and it will significantly increase the cost of constructing, or buying a new building that they intend to use predominately for a non-business purpose.

From 1 July 2010 charities wishing to take advantage of the zero-rate for the construction of, and the acquisition of, a building intended for relevant charitable purpose ('RCP') use, will now have to satisfy HMRC that the building concerned is intended to be used **95%** or more for a 'RCP'. In other words a charity could only use the building for 5% business use, to secure zero rating. Any method can be used providing it is fair and reasonable.

There will be a transitional period of 12 months from 1 July 2009 in which charities have a choice of using either the Extra Statutory Concession or the new interpretation of 'solely' to determine whether they can take advantage of the zero-rate.

This is a significant change to the relief available to charities and makes it extremely hard to secure zero rating. Another important aspect of this announcement is that the change of use rules which had been significantly relaxed under the ESC will now apply to all projects post 1 July 2010. This means that if a charity increases its business use of the building above 5% within a 10 year period then it will be required to pay back the equivalent VAT to HMRC.

Charities planning such projects are advised to review the VAT treatment as soon as possible. The key date and event is for a charity to issue the builder or vendor with a VAT certificate before the 30th June 2010. HMRC has confirmed that it will not consider the certificate to be valid, except in the following circumstances:

- In the case of a supply of construction services, this must relate to a meaningful start to the construction of the building. This supply must have been made before 30 June 2010 and the works must be expected to progress to completion without interruption (they would not accept demolition or site clearance works unless construction starts immediately afterwards).
- In the case of the acquisition of a building, a meaningful deposit (for example, exchange in contracts) has been paid to the vendor before 30 June 2010 (they would not accept options to purchase – irrespective of intention).

For further information or advice on this issue, you can contact:

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