

VAT considerations in the student accommodation sector

It is important to get the VAT treatment right in relation to student accommodation to prevent irrecoverable VAT being incurred; otherwise, it will be a real cost in relation to the project.

Letting to students is normally an exempt supply so, when student accommodation is being constructed, care has to be taken to ensure that a zero-rated supply can be made which should then enable VAT which has been incurred to be recovered.

The type of zero-rated supply that can be made (to allow the recovery of VAT) will depend on whether the student accommodation being constructed can qualify as dwellings or whether the more restrictive rules applying to "relevant residential purpose" ("RRP") buildings have to be relied upon.

Most student accommodation which is being constructed these days will qualify as dwellings as investors and private operators generally build studios and cluster flats which each have en-suite bathrooms and kitchen facilities. This contrasts with traditional halls of residence which typically only qualify for zero rating if they satisfy the RRP conditions.

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Where dwellings are constructed, the developer should benefit from receiving zero rated supplies from the building contractors so that VAT at the standard rate in relation to the construction should only be incurred on fees such as those paid to architects and surveyors and in relation to white goods. However, the developer may have to pay VAT to acquire the site in the first place and this VAT and VAT on fees of architects and surveyors (and similar services, but not white goods) can be recovered provided the developer sells or grants a long lease of the completed development to, for example, a university.

If instead the developer plans to operate the student accommodation itself, it will need to grant a long lease (which can be zero rated) to another company in its group which will operate the student accommodation, so enabling the developer to recover the VAT it has incurred.

If the dwellings conditions cannot be satisfied, the developer may have to pay VAT on the construction costs (unless it is going to operate the student accommodation itself) and so it will be even more important that it is able to make a zero-rated grant to the operator/tenant following completion of the project. For the sale or grant of a long lease to be zero rated, in these circumstances, the tenant will need to provide a certificate to the developer confirming that the building is going to be used for a RRP. If the developer plans to operate the student accommodation itself, rather than granting a long lease to a third-party operator, some further planning will be required.

Complex VAT issues can arise (under both the dwellings and RRP regimes) where amenities, in addition to the accommodation itself, are being constructed, since these amenities may not qualify for zero- rating. RRP treatment can be more generous than for dwellings in relation to some amenities. Dining rooms and laundry facilities may well qualify for zero rating treatment under the RRP regime if built at the same time as the accommodation, but staff offices, bars and shops are unlikely to do so, potentially resulting in irrecoverable VAT for the operator.

In order to qualify for RRP treatment the accommodation must be intended “solely” (at least 95%) for students. Summer letting of the accommodation for conferences can be a useful source of revenue. However, using the accommodation for more than 2 weeks each year for non–students could cause RRP relief being lost so, in general, it is better to qualify for dwellings relief since that relief does not impose the same “looking forward “restrictions.

This is not the end of the story. Other adjustments to the amount of VAT initially recovered may need to be made in some circumstances. For example, if an operating lease is surrendered in the first 10 years and the landlord starts to lease direct to students, or, if an RRP certificate has been given by an operator which incurred construction costs itself and the use of the building changes over a 10-year period, the benefit of zero- rating may be partially clawed back.

Care needs to be taken therefore both in relation to the initial structuring and when reviewing the impact of possible future events.

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