

Advice Note to HIAs Charging VAT under Supporting People

Introduction

The purpose of this note is to clarify the position of HIAs around their service's liability for VAT from April 2003 when they become part of the Supporting People programme. From this date services will be commissioned and partly funded via a contract issued by the SP Administering Authority.

This advice note draws on:

- Customs and Excise and the ODPM's joint guidance to help determine whether VAT is chargeable on a Supporting People contract contained within The Interim Financial Package (chapter 1, pp 55-59) published by the ODPM in June 2002
- The joint National Housing Federation/SITRA document, "Supporting People and VAT", issued August 2002
- Subsequent correspondence between Foundations and Customs and Excise over specific issues for HIA services

Joint Customs and Excise and ODPM Guidance

This sets three conditions to be met in order for a HIA to exempt its services from VAT. **All three conditions must prevail:**

1. The Status of the Service Recipients - must be "...elderly, sick, distressed or disabled persons"
2. The Status of the Service Provider must be a Local Authority or have Charitable Status. In order to have Charitable status an organisation must be -
 - i. Registered with the Charity Commissioners OR
 - ii. Registered as an Industrial or Provident Society under the 1965 Act and established for charitable purposes OR
 - iii. Registered under the Friendly Societies Act of 1974 and established for charitable purposes OR
 - iv. Recognised as a charitable organisation by the Inland Revenue (only applicable in Scotland and Northern Ireland)
3. The service provided must be an exempt activity. In order for the service to be seen as exempt it must pass two tests, i.e.
 - a. It should be a welfare service which is directly connected with the "provision of care, treatment or instruction designed to promote the physical or mental welfare of elderly, sick, distressed or disabled persons".

The example given of exempt activities that best encompasses HIA services is “support or instruction designed to develop or sustain a person’s capacity to live independently in the community”. Specifically for an HIA this would include home visiting, advice on benefits and welfare services and support to cope with the stress of building work.

- b. If the service provided meets the above criteria but is one a person would normally be expected to do for themselves (such as making financial arrangements, liaising with builders, obtaining quotes, supervising work) then the person must be assessed as being unable to do this themselves “...safely, adequately or without significant pain or discomfort”.

An appropriately trained or experienced person must carry out such an assessment. For an HIA this person would be the caseworker. This assessment will normally take place during the initial visit by the caseworker in the client’s home.

The questions on the Foundations standard assessment form about the client’s levels of disability to perform various tasks can be used to inform this assessment.

What is the VAT status of your SP Contract?

If all the above conditions are met, i.e.

- the service provider is within the exempt categories
- the service recipient is assessed as vulnerable
- the service is an exempt welfare one

then HIAs should be able to claim exemption from VAT on their contract with the Supporting People Administering Authorities.

HIAs services are typically a package of agreed support measures. This package may involve a service which would not normally be seen as exempt for VAT purposes (for example drawing up of plans, building work schedules).

In this case the advice in The Interim Financial Package referred to above states that:

“Where a supply consists of more than one element...this may form a single supply for VAT purposes. There is a single supply for VAT purposes where one or more of the elements of the service are regarded as constituting the principal service while one or more elements are regarded as ancillary services. A service is ancillary if it does not constitute for customers an aim in itself, but a means of enjoying better the principal service. **In such cases the VAT liability of the whole supply follows that of the predominant element.** Where the predominant element of a single supply is VAT exempt support services, the whole supply may be VAT exempt”. (chapter 1, p.56)

Thus to be VAT exempt the service specified under the SP contract must be provided directly by the HIA as a single package of support within an agreed timeframe, and the support and advice element must be the main part of the service provided.

What about VAT on Fees?

Although the guidance refers to VAT and the Supporting People contract, it is also useful when deciding whether HIAs should charge VAT on fees.

Fees on grants from local authorities are regulated by the Housing Renewal Grants (Services and Charges) Order 1996 (S.I. 1996/2889).

Fees can be charged for a range of services listed in the Order. Some of these services fall within the definition of support/advice, which can be a VAT exempt activity, e.g.

- Assistance in completing forms
- Advice on financing the cost of the relevant works that are not met by grant
- Advice on contracts

Some services charged for in the grant fee will normally be deemed as being subject to VAT (e.g. drawing up of plans). However, as described above, VAT liability on a service provided as a single composite supply will be charged on the principal activity of the package. Where this is advice and support the whole service may be VAT exempt.

What about Handyperson Services?

Handyperson Services are a building activity and will attract VAT if charged for, whatever the status of the provider or service recipient.

If you currently charge VAT on fees will this have to change?

Some HIAs currently charge VAT on fees and may wish to continue to do so. For instance a HIA may not have the staffing for support to be its main activity. If

- you restrict your services to the preparation of plans, schedules of work and supervision of works
- you do not carry out an assessment of need
- the service user is not vulnerable but has been directed to use the service by the local authority as a means of accessing a grant

then clearly there can be no VAT exemption as the service provided is not a welfare service.

Lastly

This is an advice note, not definitive guidance. Customs and Excise are clear that in case of doubt you must seek clarification with a tax advisor.

The source documents for this advice note are contained within the SP Interim Financial Package (Chapter 1, p 55-59) and the National Housing Federation and SITRA paper entitled "Supporting People and VAT". These are available to view on the Supporting People section of the Foundations website (wwwFOUNDATIONS.UK.COM)

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