

Draft legislation on applying VAT to private school fees: initial guidance for English UK members



September 2024

Background

On 29 July 2024, the UK government published its draft legislation, guidance and explanatory notes on 'Applying VAT to Private School Fees and Removing the Business Rates Charitable Rates Relief for Private Schools'.

>> [Draft legislation](#)

This legislation will be presented to Parliament as part of the Finance Bills following the Budget (30 October 2024). The aim is to remove the VAT exemption and charitable relief status for private schools from January 2025.

What is a private school?

For the purposes of the legislation, 'private schools' are defined as

- a. those offering 'full-time education for pupils of compulsory school age and where fees are payable' and/or
- b. full-time further education institutions which charge fees such as sixth-form colleges.

This legislation has potential VAT implications for:

- English UK members that are also private schools
- English UK members who hire venue space from private schools

Key questions for English UK members

English UK has commissioned two VAT experts to provide guidance on the following three questions in connection with the draft legislation:

1. Will private schools that provide additional ELT programmes, such as residential summer courses, have to charge VAT on these programmes?
2. If the private school has set up a separate company to deliver these programmes does this make any difference?
3. If an external language school hires a private school for its own ELT programmes, will the private school have to charge VAT for any of its services?

Limitations to this guidance

It is important to note that the legislation and guidance on applying VAT to private schools is currently in draft form and subject to further consultation. The final legislation will be available after 31 October 2024 and may be subject to further amendment in its passage through Parliament. English UK will provide updated guidance as necessary later in the year.

Key question one:

Will private schools that provide additional ELT programmes, such as residential summer courses, have to charge VAT on these programmes?

Our comments:

- The current legislation contained in the VAT Act 1994 (see Schedule 9 Group 6 Item 1 Note 1 (f)) exempts supplies of courses in EFL. Providers are therefore eligible bodies for the purposes of VAT exemption to the extent that they provide EFL. Other programmes (such as teacher training) may not be VAT exempt.
(<https://www.legislation.gov.uk/ukpga/1994/23/contents>)
- The draft legislation proposes removing the VAT exemption for private schools offering 'full-time education to pupils of school age'. It does not distinguish between the types of eligible body offering this type of education.

- It does not propose removing the VAT exemption for EFL programmes where this is the primary educational purpose.
- We would therefore conclude that private schools offering EFL programmes which do not meet the definition of full-time, compulsory education will remain VAT exempt. This would include seasonal programmes such as EFL summer courses.
- However, private school programmes where the EFL element is not the primary educational purpose, such as remedial or additional English programmes may be subject to VAT. We recommend that the provider offering these programmes takes specialist advice on what constitutes full-time, compulsory education.

Key question two:

If the private school has set up a separate company to deliver these programmes does this make any difference?

Our comments:

- As outlined above, the provision of EFL is not defined as full-time education in the draft legislation and the legislation does not propose removing the VAT exemption where EFL is the primary educational purpose of the programme.
- This remains the case even if the separate company is connected to a private school.
- This company therefore remains an eligible body for the purposes of VAT exemption to the extent that it provides EFL programmes. We would therefore argue that the provisions in the legislation related to removing the exemption from parties closely connected to a private school do not apply with respect to EFL programmes.

Key question three:

If an EFL school (that is not itself a 'private school' as defined in section two above) hires venue space and/ or other services such as catering from a private school, does the private school have to charge VAT for the venue hire and any other services it provides?

Our comments:

- A private school is an eligible body for the purpose of the education exemption (VAT Act 1994, Schedule 9, Group 6, Note 1(a)(i)).
- The organisation receiving the service which teaches English as a foreign language, is also an eligible body (VAT Act 1994, Schedule 9, Group 6, Note 1(a)(f)).
- Under the draft legislation, private schools remain eligible bodies for the purpose of the education exemption.
- The draft legislation does not propose removing the VAT exemption for EFL programmes.
- The supplies continue to be made by one eligible body (a private school) to another eligible body (the EFL provider) and are therefore not subject to VAT.