

Revenue & Customs Brief 29/07

Charities - Extra Statutory Concession 3.29 - VAT: 'charitable' buildings - the 'change of use' charge

Charities that have obtained zero-rating for their new buildings or construction services under Extra Statutory Concession (ESC) 3.29 will no longer be liable for any VAT charge when there is a 'change of use' of the building within ten years of the zero rate having been obtained.

Background

A charity is entitled to the zero-rating of the supply of:

- a new building;
- construction services to construct a new building;
- a substantially reconstructed listed building;
- an approved alteration to a listed building,

where the building concerned will be used solely for a relevant charitable purpose.

Under ESC 3.29, a charity is entitled to ignore non-qualifying use as long as it does not exceed 10%.

This ESC includes a provision whereby the charity will be liable for a 'change of use' taxable self-supply charge, if the qualifying charitable use of the building falls below 90% within 10 years of the zero-rating.

Changes

With effect from 21 March, HMRC will not enforce this self supply charge when there has been a 'change of use' that was not anticipated at the time that zero-rating was obtained under the ESC. This means that any charity using the ESC to obtain zero-rating and whose non-qualifying use subsequently exceeds 10% within the 10 year adjustment period, will not be required to account for a self-supply charge.

However, if it is apparent that, at the time that zero-rating was obtained, it was intended that non qualifying use would exceed 10% within the 10 year adjustment period, HMRC will consider that the original supply should never have been zero-rated in the first place.

Paid self-supply charges

Any charity that has paid a 'change of use' charge in the last 3 years may be entitled to a refund. Those who are, or have been but are no longer, VAT registered can make an adjustment in accordance with Notice 700/45 (How to correct VAT errors and make adjustments or claims), available from the National Advice Service.

Those who have never been VAT registered can apply for a refund to the following address, giving full details of how they calculated and accounted for the 'change of use' charge:

HMRC Charities
St Johns House
Merton Road
Bootle
Merseyside
L69 9BB

All charities are reminded that if any input tax was deducted on the self-supply charge, they will need to reduce the value of their claim by the amount

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Can only charities using the ESC benefit from the changes above?

This change may also affect the position of any charity that obtained zero-rating under Group 5, Schedule 8 of the VAT Act 1994, rather than the ESC. In the event of any 'change of use' of their building, the charity should contact HMRC at the above address for further advice.

Future use of the ESC

Charities are reminded that zero-rating is only available when they intend to use a building for a qualifying relevant charitable purpose for at least ten years, and there has been no change to that position. ESCs cannot be used for tax avoidance (see para 1.3 of Notice 48 Extra Statutory Concessions). Making a false declaration to secure zero-rating could give rise to a penalty equal to the tax that should have been charged under s62 VAT Act 1994.