

Indirect Tax Directorate

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Date 8 May 2018.
Our ref
Your ref

Dear Mark

Children's Services Trusts

At the VAT Committee meeting on 1st March I explained that I was in the process of meeting with officials at the Department for Education and Ofsted to discuss the VAT treatment of Children's Services Trusts (CSTs). The Secretary of State for Education can require that the activities of a local authority children's services department are transferred to a CST, or a local authority may choose to do this voluntarily. Although different to a degree, the structures put in place result in CSTs making supplies to local authorities, and the issue has been the nature of those supplies.

We have reached two conclusions which, although similar to those articulated by Peter Gladdish to the Committee, follow a different route.

Where a CST supplies both welfare services and educational support services and the educational support services form the larger part of the contract between the parties, we are content that the supply is a single supply of educational support services. This is a standard rated supply by the CST to the local authority.

Where the welfare element is greater than the educational support services, or where it is the only supply, it is necessary to consider what the CST is actually doing. The exemption from VAT for welfare services in item 9(b) of Group 7 to Schedule 9 of the VAT Act 1994 covers supplies of such services by "a state-regulated private welfare institution or agency". State regulated means approved, licensed, registered or exempted by any Minister or relevant authority. Ofsted advise that although welfare providers are required to be registered with them, only some of their activities may be regulated.

The activities of drawing up child protection plans, making decisions in relation to these plans, and ensuring that the plans and decisions are delivered are not regulated by Ofsted – although Ofsted may audit the outcomes. This applies to such activities carried on by CSTs. Conversely, activities such as

those of running children's homes, adoption agencies and fostering agencies are regulated by Ofsted. Our view here is that where the activities of drawing up child protection plans, making decisions in relation to these plans, and ensuring that the plans and decisions are delivered form the principal element of the CST's supplies to the local authority, and elements such as running adoption agencies are ancillary to this, there is a single supply of this principal element which is standard rated. However, the outcome of individual situations will depend upon their facts and it is not inconceivable that the Ofsted regulated activities may form the principal element of the supplies.

We have indicated this view to the Department for Education, but advised them that we would like the VAT Committee to first have an opportunity to comment. To this end it would be helpful to know how the Committee wishes to proceed in this matter.

Kind regards.

Yours sincerely,

David Ogilvie