



# VAT: Consideration of the case to extend the education exemption to for-profit providers of Higher Education.

## **Consultation document**

Publication date: 12 September 2012

Closing date for comments: 5 December 2012

<b>Subject of this consultation:</b>	<p>At Budget 2012, the Government announced that they would consult on and review the VAT treatment of education, particularly at university degree level, to ensure that commercial bodies supplying courses similar to universities are treated fairly.</p> <p>The purpose of the review is to consider whether for-profit providers of Higher Education (HE) should be placed on the same footing as not-for-profit and publicly funded providers of HE, such as universities, that can exempt their supplies of education from VAT.</p> <p>Reasons for considering change are given in Chapter 1 of the consultation document.</p>
<b>Scope of this consultation:</b>	<p>This consultation invites comments on options that would enable for-profit providers of HE to exempt their supplies of HE where they exclusively provide these types of courses.</p>
<b>Who should read this:</b>	<p>All providers of HE whether they are for-profit, publicly funded or not-for-profit.</p>
<b>Duration:</b>	<p>The consultation will start on 12 September 2012 and end on 5 December 2012.</p>
<b>Lead official:</b>	<p>For enquiries about the content of the consultation or requests for hard copies, please contact:</p> <p>Keith Parnell  HMRC  VAT Liability Policy Team  Room 3/34,  100 Parliament Street,  London, SW1A 2BQ</p> <p>Email: <a href="mailto:keith.parnell@hmrc.gsi.gov.uk">keith.parnell@hmrc.gsi.gov.uk</a></p> <p>Telephone enquiries 020 7147 0529 (from a text phone prefix this number with 18001)</p>
<b>How to respond or enquire about this consultation:</b>	<p>Postal address and email address to which written responses can be submitted are as above. When responding please indicate your status e.g. are you are a current for-profit provider of HE courses, an existing HE provider with eligible body status (such as a university), an entity that is interested in providing HE courses in the future, a trade or representative body, individual or other interested party (please specify). In the case of representative bodies please provide information on the number and nature of your membership.</p>
<b>Additional ways to be involved:</b>	<p>HMRC is also happy to meet with and speak to interested parties during the consultation period. Contact details are shown above.</p>

**After the consultation:**

The Government will consider responses to this consultation carefully and decide whether there is any justification for changing the VAT treatment of HE provision. A response document will be published in early 2013. Following this, any resultant draft legislation will be consulted upon but to a shorter time scale than 12 weeks.

**Getting to this stage:**

In its response on 11 June 2012 to the White Paper '*Students at the heart of the system*' and the Technical Consultation '*A new, fit-for-purpose regulatory framework for the Higher Education sector*',<sup>1</sup> the Department for Business, Innovation and Skills (BIS) stated that it wants a diverse and competitive HE sector that can offer different types of HE giving students the ability to choose between a wide range of providers. Unless popular HE institutions and courses can expand and new providers, including those that offer different models of HE, can enter the market, the concept of student choice cannot become a reality.

HMRC have agreed to review the tax treatment of for-profit providers of HE.

**Previous engagement:**

None

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<sup>1</sup> The White Paper and Technical Consultation together with the Government's response can be viewed at <http://discuss.bis.gov.uk/hereform/>.  
The Welsh Government's FE and HE White Paper may be accessed at: <http://wales.gov.uk/consultations/education/feandhebill/?lang=en>

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# 1. Introduction

## The Current Legislation

1.1 Under EU VAT Law there are a number of mandatory VAT exemptions that must be applied by Member States. The mandatory VAT exemption for education is contained in Article 132(1)(i) of the Principal VAT Directive (PVD), which exempts:

the provision of children's or young people's education, school or university education, vocational training or retraining, including the supply of services and of goods closely related thereto, by bodies governed by public law having such as their aim or by other organisations recognised by the Member State concerned as having similar objects;.

1.2 UK VAT legislation allows the VAT exemption for education to be applied to supplies made by a range of defined “eligible bodies” - the definition of these can be found under Notes (1) (a)-(f) of Group 6 of Schedule 9 to the VAT Act 1994.

1.3 For the purposes of HE, eligible body status is covered by Note(1)(b)-(e) and applies in the main to universities, non-profit-making and public bodies such as local authorities and government departments (see below):

### Note (1) of Group 6 to Schedule 9 of the VAT Act 1994

- (a) ... ..
- (b) a United Kingdom university, and any college, institution, school or hall of such a university;
- (c) an institution-
  - (i) falling within section 91(3)(a), (b) or (c) or section 91(5)(b) or (c) of the Further and Higher Education Act 1992; or
  - (ii) which is a designated institution as defined in section 44(2) of the Further and Higher Education (Scotland) Act 1992; or
  - (iii) managed by a board of management as defined in section 36(1) of the Further and Higher Education (Scotland) Act 1992; or
  - (iv) to which grants are paid by the Department of Education for Northern Ireland under Article 66(2) of the Education and Libraries (Northern Ireland) Order 1986;
- (d) a public body of a description in Note (5) to Group 7 below;
- (e) a body which-
  - (i) is precluded from distributing and does not distribute any profit it makes; and
  - (ii) applies any profits made from supplies of a description within this Group to the continuance or improvement of such supplies;
- (f) ... ..

Note(5), Group 7 to Schedule 9 of the VAT Act 1994

(5) In item 9 "**public body**" means-

(a) a Government department within the meaning of section 41(6);

(b) a local authority;

(c) a body which acts under any enactment or instrument for public purposes and not for its own profit and which performs functions similar to those of a Government department or local authority.

## Why are the current rules being reviewed?

1.4 Currently, the majority of for-profit providers of HE<sup>2</sup> do not qualify as eligible bodies and cannot exempt their HE courses in the way that universities and not-for-profit HE providers that are eligible bodies can. The UK Government wishes to facilitate a more diverse and competitive HE sector that offers greater student choice and is responsive to student demand.

1.5 For-profit providers are now a growing feature of the HE landscape offering further choice for students wishing to undertake HE in the UK. Consequently, the Government is considering whether there needs to be any change to the UK VAT exemption for the supply of education to include for-profit providers of HE.

1.6 Any change in VAT legislation will need to achieve consistency of treatment, as far as is possible, between those HE institutions that currently have eligible body status (such as universities) and for-profit providers, thus ensuring exemption of HE courses by both types of providers.

### Question 1

**Do you agree that such a change will help to contribute to competition and benefit students within the HE sector? If so, why? If not, why not?**

## What is our proposed definition of HE in this context?

1.8 HMRC are proposing that for the purposes of delineating a new exempt body HE will be defined, for VAT exemption purposes only, as a course that leads to a degree or counts towards or forms part of a degree course or postgraduate diploma. The courses we consider fall within these parameters at the moment are the following:

- higher degrees (such as masters degrees and doctorates)
- postgraduate diplomas
- Postgraduate Certificates of Education
- first degrees (for example, BA, BSc, BEd and foundation degrees)
- foundation degree bridging courses

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<sup>2</sup> See paragraph 1.8 below for further detail of the proposed definition of HE in the context of the proposals for the extension of the exemption.

- Higher National Diploma and Certificate
- Diploma in Higher Education

This definition of HE is used throughout this consultation document.

## **Question 2**

**Do you think that the proposed list covers all those courses that lead to a degree or counts towards part of a degree course or post graduate diploma? If not, what other courses should we include?**

## **Question 3**

**Do you think that the proposed list includes courses that do not lead to, count towards, or form part of a degree course or post graduate diploma? If so, which courses should not be included?**

## 2. Possible amendments to Eligible Body Status

### What is an eligible body?

2.1 As detailed in paragraph 1.1 above EU legislation exempts from VAT the provision of education, vocational training and retraining by certain bodies. These bodies are described in the legislation as bodies governed by public law that have "such" (i.e. education, vocational training or retraining) as their aim and other bodies recognised by the Member State as having similar objects. It is therefore left to Member States to decide which bodies can benefit from the exemption.

2.2 The UK has implemented this exemption in relation to HE by defining a range of eligible bodies who must then exempt all their supplies of education, vocational training or retraining. It is the body that is covered by the exemption and not the individual courses that they provide, therefore all education provided by an eligible body is covered by the exemption.

2.3 An entity that is not an eligible body cannot benefit from the exemption. Most for-profit providers currently fall outside the definition of "eligible body". An amendment to UK VAT legislation will therefore be required if, following the consultation, the Government decides that for-profit providers of HE should be able to exempt from VAT their supplies of HE.

### How could the government extend this exemption to for-profit providers of HE?

2.4 HMRC and BIS have considered ways to enable for-profit providers of HE to benefit from a VAT exemption that will be compatible with EU VAT legislation. They have identified two possible options.

2.5 Both these options involve creating a new category of eligible body defined by reference to criteria relevant to the provision of HE. Both confine the definition to bodies whose provision of education consists wholly of HE courses (the entity may also engage in non-educational, taxable activity). Therefore, these proposals extend the benefit of the exemption to for-profit providers of education that is analogous to the education provided by universities.

2.6 If a for-profit provider supplies both HE and other courses it will not be entitled to the exemption and will be required to charge VAT on all of its supplies of education, vocational training or retraining, including HE courses. Such providers, if they wish to take advantage of the exemption, would need to establish a separate entity to exclusively provide HE courses.



## Why must a new entity be set up to supply eligible HE courses?

2.7 European law requires that the VAT exemption for education or vocational training applies to all supplies of education and vocational training supplied by the body recognised by the Member State. So, if UK legislation stipulates that for-profit providers of HE fall within the exemption, all supplies of education, vocational training or re-training provided by those for-profit suppliers must be exempt, even if the training is not HE.

2.8 However, providers who supply the same type of non-HE training but do not make any supplies of HE would still have to charge VAT. This would create a distortion of competition and place such providers at a commercial disadvantage.

2.9 Requiring for-profit providers to set up a separate entity will allow them to exempt HE courses but will also require them to supply their taxable training activities through a different entity. Those HE providers who do not separate out their HE supplies from their commercial training in this way will not be able to exempt their HE training. Setting the rules in this way not only complies with EU law but will also allow individual for-profit providers of HE and other services to structure their activities so that their HE provision is VAT exempt.

## Possible Options

2.10 The two options proposed for consideration are:

**Option 1** - A body providing wholly HE courses and which has Recognised or Listed Body status.

**Option 2** - A body providing wholly HE courses that are designated for HE student support, whether or not students choose to take advantage of that support.

These options are explained more fully below.

### Option 1

2.11 Under this option the new eligible body would have to:

- a. provide HE and no other form of education or vocational training and
- b. have Recognised Body or Listed Body status.<sup>3</sup>

This option therefore covers only those entities that:

- i) have their own UK degree awarding powers or

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<sup>3</sup> As HE is a devolved matter England, Scotland, Wales and Northern Ireland all maintain their own Recognised and Listed Bodies lists.

- ii) are permitted by any body falling within (i) above to act on its behalf in the granting of degrees or
- iii) are institutions that are part of a university with UK degree awarding powers; or
- iv) provide at least one course that leads to a UK degree awarded by an institution with UK degree awarding powers where the course is approved by or on behalf of that institution.

2.12 The Government understands that any reorganisation to take advantage of the exemption as outlined in paragraph 2.6 is most likely to be achieved by moving all of the taxable non-HE provision into a new entity, whilst retaining the exempt HE provision in the existing entity. This is on the grounds that track record is an important consideration in assessments made in relation to student support designation and degree awarding powers. However, for-profit providers could still qualify for the exemption if they instead decided to move all their eligible HE provision into the new entity. This would be contingent on the new entity achieving Recognised or Listed Body status.

2.13 As most of the supplies made by the eligible body will be VAT exempt it will not be able to recover all of the VAT costs that it incurs i.e. VAT on overheads, stationery and recharge costs that it incurs including those made by any associate that relate directly to its supplies of exempt education.

2.14 An entity which provides purely taxable courses will be able to recover VAT on its costs in full. The two entities may jointly incur some costs, or have recharging arrangements for some costs, for example, if they operate in the same building and utilise the same facilities. To ensure that the entities recover the correct proportion of VAT on their costs, HMRC will use current VAT legislation to ensure that the correct open market value is applied on any recharge of costs between the entities.

#### **Question 4**

- a) **We would welcome views on this option.**
- b) **Do you think that this option will correctly identify all those for-profit providers who are providing or may decide to provide HE? Does it miss out any such providers and if so, who?**
- c) **If you are a for-profit provider would you seek an exemption under this option if it was available? If so, why? If not, why not?**
- d) **What problems, if any, do you foresee for-profit providers encountering in setting up a separate entity? How easy would it be to overcome any problems identified?**

#### **Option 2**

2.15 Under this option the new eligible body would have to:

- a. provide HE and no other form of education or vocational training and

b. deliver courses which have been specifically designated for the purposes of HE student support.<sup>4</sup>

2.16 The exemption will only apply to businesses that solely provide exclusively HE courses that are designated for HE student support purposes (or equivalent). If they currently provide other education or vocational training then they will need to transfer that taxable education and training to a new entity (see paragraph 2.12).

2.17 As with Option 1, all of the supplies of HE education made by the eligible body will be VAT exempt and it will not be able to recover the VAT costs that it incurs that relate directly to its supplies of exempt education. It is possible for this entity to make other taxable supplies that are not education or vocational training. If so, it is likely they will be able to deduct a proportion of their overhead costs e.g. stationery and administration costs subject to their partial exemption method.

2.18 Again, as with Option 1, an entity which provides purely taxable courses will be able to recover VAT on its costs in full. The two entities may jointly incur some costs, or have recharging arrangements for some costs, for example, if they operate in the same building and utilise the same facilities. To ensure that the entities recover the correct proportion of VAT on their costs, HMRC will use current VAT legislation to ensure that the correct open market value is applied on any recharge of costs between the entities.

## Question 5

- a) **We would welcome views on this option.**
- b) **Do you think that this option will correctly identify all those for-profit providers who are providing or may decide to provide HE? Does it miss out any such providers and if so, who?**
- c) **If you are a for-profit provider would you seek an exemption under this option if it was available? If so why? If not, why not?**
- d) **What problems, if any, do you foresee for-profit providers encountering in setting up a separate entity? How easy would it be to overcome any problems identified?**

## Timing of any change

2.20 If the Government decides to proceed with this change, it is likely to introduce legislation in the summer of 2013.

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<sup>4</sup> Details of eligible courses in England can be found at: [www.legislation.gov.uk/ukxi/2011/1986/schedule/2/made](http://www.legislation.gov.uk/ukxi/2011/1986/schedule/2/made). For Wales this can be found at: <http://www.legislation.gov.uk/wsi/2011/148/regulation/2/made> and <http://www.legislation.gov.uk/wsi/2011/148/regulation/5/made>. For Scotland this can be found at: <http://www.legislation.gov.uk/ssi/2007/154/made> and <http://www.legislation.gov.uk/ssi/2007/154/schedules/made>. For Northern Ireland this can be found at: <http://www.legislation.gov.uk/ukxi/2009/1555/regulation/6/made>

### 3. Supplementary Questions

The following questions have been incorporated to assist HMRC in assessing the likely impact of these changes; **questions 6 - 8 apply only to for-profit providers of HE.**

#### Question 6

**Do you think there are any alternative ways of defining for-profit providers of HE other than the options that we have included in this consultation document?**

#### Question 7

**As a for-profit provider of HE courses,**

- a) What percentage of the total courses you provide are HE level courses?**
- b) How many HE degree courses do you currently run? Is this expected to increase over time?**
- c) What type of degree courses do you run i.e. level and subject area?**
- d) Do you have degree awarding powers?**
- e) If not, which awarding body approves or validates your HE courses?**
- f) On average, how many students are enrolled per HE level course?**
- g) What are your average fees, excluding VAT, for a HE degree course per year? Will this be increasing over time?**
- h) What proportion of your total input tax do you currently reclaim?**
- i) How many of your HE courses are currently designated for student support purposes?**
- j) What percentage of the charges for your HE course fees are made to businesses instead of to individual students?**

### Question 8

**As a for-profit provider of HE courses if you were to choose to become an eligible body and exempt your courses:**

- a) How much time would you need to arrange your affairs to meet the proposed criteria?**
- b) Is it likely that you would continue to operate the eligible body from the same premises as your current entity?**
- c) Would there be any financial costs that you would incur as part of the restructuring?**
- d) Would there be any additional administrative burdens you would face?**
- (e) Would you use the saving from the proposed VAT exemption to:**
  - Charge less on your tuition fees?**
  - Improve the student experience in other ways?**
  - Increase your income?**
  - Other (please detail)?**

The following question will assist HMRC in assessing the likely impact of these changes; **it applies only to existing eligible bodies that already apply a VAT exemption to HE courses:**

### Question 9

**If you are already an eligible body do you think the Government should extend the exemption to for-profit providers and why? If not, why not?**

## 4. Tax Impact Assessment

This table sets out HMRC's current understanding of the impacts of introducing the proposed measure. We welcome your views on our assessment of these impacts. Your response will feed into the Tax Information and Impact Note that will be published alongside the draft legislation in due course if either proposed option is taken forward.

### Summary of Impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17
	The final costing will be subject to scrutiny by the Office for Budget Responsibility.				
<b>Economic impact</b>	The extension of the VAT exemption may increase the number of HE providers, which may lead to a greater choice for students. A more detailed assessment of the economic impact will be set out alongside the consultation on the draft legislation if an amendment to the VAT legislation is required.				
<b>Impact on individuals and households</b>	This review will not have any impacts on individuals and households as it relates to for-profit providers delivering HE.  However, students may be affected to the extent that they benefit from lower tuition fees. A more detailed assessment of the impact on students will be informed by this consultation				
<b>Equalities impacts</b>	According to UCAS data, 85% of UK student applications in 2011 were from people aged under 25 – of which the majority were likely to be school leavers. There is no reason to suspect the split in age ranges will significantly change with the introduction of for-profit providers entering the HE market.  A more detailed assessment of the equalities impact will be informed by this consultation.				
<b>Impact on businesses and Civil Society Organisations</b>	Recent research into alternative providers of Higher Education, being conducted for the Department of Business, Innovation and Skills (BIS), has identified 698 providers who have confirmed that they offer privately funded Higher Education. This consultation will provide further information about these providers and others who offer privately funded HE.  Any for-profit providers who decide to structure their entities as outlined in the proposal so that they are eligible for the VAT exemption may benefit from being able to compete more equally				

	<p>with other HE providers.</p> <p>For each of the options set out in this consultation, there will be both one-off and on-going compliance costs (including administrative burdens) on for-profit providers who take up the exemption.</p> <p><b>One-off compliance costs</b> The main one-off compliance cost is likely to be the cost associated with setting up a new business to continue providing taxable courses. Consequently, there may be costs associated with rebranding, provision of new literature and marketing. There may also be a need to consider the re-pricing of HE courses to reflect any decrease in VAT. Further one-off costs will include time spent getting familiar with the guidance and the new legislation needed to make a decision on whether or not the for-profit provider will become an eligible body.</p> <p><b>On-going compliance costs</b> These will include the invoicing of recharge costs between entities where premises and other overheads are shared. The taxable and exempt courses will also need to be itemised accordingly on computer systems. Additionally, there may be the on-going requirement to complete two VAT returns and two sets of annual accounts. However, we envisage that for-profit HE providers will be familiar with this operating model and will not have a problem with it in principle.</p> <p>Further assessment of any impact on businesses and civil society organisations will be informed by this consultation.</p>
<p><b>Impact on HMRC or other public sector delivery organisations</b></p>	<p>The two options outlined will have some impact on HMRC as new eligible bodies may require assistance with information regarding operating and agreeing partial exemption methods.</p> <p>The requirement to have two separate entities to provide exempt and taxable courses may increase the number of VAT registration forms which require processing by HMRC. However, this will not apply if the entity providing HE courses is wholly exempt and does not have to register for VAT.</p> <p>There will also be some impact on BIS and the devolved administrations as both of the proposed exemptions will involve their processes. Both options are likely to lead to an increase in the volume of initial enquiries.</p> <p>The scale of further impacts will be dependent on what option, if any, is chosen as well as take up of this proposed measure by for-profit providers.</p>

	<p>There may also be a potential reduction in administrative burden to the Government. Currently the Government processes student loans, with the VAT included, of which part is then repaid via tax to the Government. The proposed VAT exemption would remove this last step in the process.</p> <p>Further assessment of any other impacts on HMRC or other public sector delivery organisations will be informed by this consultation.</p>
<b>Other impacts</b>	<p>Any policy change will also be tested against the list of possible impacts used in regulatory impact assessments. The full list of these “other impacts” is set out in Annex A of Overview of Tax Legislation and Rates available from <a href="http://www.hmrc.gov.uk/budget2012/ootlar.htm">http://www.hmrc.gov.uk/budget2012/ootlar.htm</a></p> <p>We will be considering the impact on small firms as part of the policy development process. Small for-profit providers are likely to be impacted by any change to the VAT legislation and we would welcome feedback on the potential impact.</p> <p>Further assessment of any other impacts will be informed by this consultation.</p>

**Monitoring and evaluation**

If, following the outcome of this review, changes to the VAT legislation is necessary, HMRC will then consider how to monitor the proposed policy.

**Question 10**

**Do you have any comments on the impacts set out above on for-profit providers if, following the review, a change to the VAT legislation is necessary? Are there any additional impacts, either benefits or costs, that you think will result from either of the proposed options?**



## 5. Summary of Consultation Questions

### From section 1: Introduction

1. The Government is considering whether there needs to be any change to the UK VAT exemption for the supply of education to include for-profit providers of HE. Do you agree that such will help to contribute to competition and benefit students within the HE sector? If so, why? If not, why not?
2. Do you think that the proposed list covers all those courses that lead to a degree or counts towards part of a degree course or post graduate diploma? If not, what other courses should we include?
3. Do you think that that the proposed list includes courses that do not lead to, count towards, or form part of a degree course or post graduate diploma? If so, which courses should not be included?

### From section 2: Possible amendments to Eligible Body Status

4. Option 1 of our proposal would allow a body providing wholly HE courses and which is listed either on "The Education (Listed Bodies) Order" or "The Education (Recognised Bodies) Order" to apply a VAT exemption.
  - a) We would welcome views on this option.
  - b) Do you think that this option will correctly identify all those for-profit providers who are providing or may decide to provide HE? Does it miss out any such providers and if so, who?
  - c) If you are a for-profit provider would you seek an exemption under this option if it was available? If so why? If not, why not?
  - d) What problems, if any, do you foresee for-profit providers encountering in setting up a separate entity? How easy would it be to overcome any problems identified?
5. Option 2 of our proposal would allow a body providing wholly HE courses and which is eligible for a Student Loan (or equivalent) to apply a VAT exemption.
  - a) We would welcome views on this option.
  - b) Do you think that this option will correctly identify all those for-profit providers who are providing or may decide to provide HE? Does it miss out any such providers and if so, who?
  - c) If you are a for-profit provider would you seek an exemption under this option if it was available? If so why? If not, why not?
  - d) What problems, if any, do you foresee for-profit providers encountering in setting up a separate entity? How easy would it be to overcome any problems identified?
6. Do you think are any alternative ways of defining for-profit providers of HE to the options that we have already proposed?

### From section 3: Supplementary questions

7. As a for-profit provider of HE courses,
- (a) What percentage of the total courses available are HE level courses?
  - (b) How many HE degree courses do you currently run? Is this expected to increase over time?
  - (c) What type of degree courses do you run i.e. level and subject area?
  - (d) Do you have degree awarding powers?
  - (e) If not, which awarding body approves or validates your HE courses?
  - (f) On average, how many students are enrolled per HE level course?
  - (g) What are your average fees, excluding VAT, for a HE degree course per year? Will this be increasing over time?
  - (h) What proportion of your total input tax do you currently reclaim?
  - (i) How many of your HE courses are currently designated for student support purposes?
  - (j) What percentage of the charges for your HE course fees are made to businesses instead to individual students?
8. As a for-profit provider of HE courses if you were to choose to become an eligible body and exempt your courses:
- (a) How much time would you need to arrange your affairs to meet the proposed criteria?
  - (b) Is it likely that you would continue to operate the eligible body from the same premises as your current entity?
  - (c) Would there be any financial costs that you would incur as part of the restructuring?
  - (d) Would there be any additional administrative burdens you would face?
  - (e) Would you use the saving from the proposed VAT exemption to:
    - Charge less on your tuition fees?
    - Improve the student experience in other ways?
    - Increase your income?
    - Other (please detail)?

9. If you are already an eligible body do you think the Government should extend the exemption to for-profit providers and why? If not, why not?

#### **From section 4: Tax Impact Assessment**

10. Do you have any comments on the impacts set out above on for-profit providers if, following the review, a change to the VAT legislation is necessary? Are there any additional impacts, either benefits or costs, that you think will result from either of the proposed options?

## 6. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 1 and 2 of the process. The purpose of the consultation is to seek views on the options identified to date and identify any suitable possible alternatives. HMRC may carry out another consultation later in the year on the legislative wording for a specific proposal for reform depending on the outcome of this consultation.

### How to respond

A summary of the questions in this consultation is included at chapter 5.

Responses should be sent by 5 December 2012, by e-mail to:  
keith.parnell@hmrc.gsi.gov.uk

or by post to:

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Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from the HMRC Internet site at <http://www.hmrc.gov.uk/consultations/index.htm>. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please indicate your status e.g. are you are a current for-profit provider of HE courses, an existing HE provider with eligible body status (such as a

university), an entity that is interested in providing HE courses moving forward, a trade or representative body, individual or other interested party. In the case of representative bodies please provide information on the number and nature of people you represent.

## **Confidentiality**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## **The Consultation Code of Practice**

This consultation is being conducted in accordance with the Code of Practice on Consultation. A copy of the Code of Practice criteria and a contact for any comments on the consultation process can be found in Annex A.

# Annex A: The Code of Practice on Consultation

## About the consultation process

This consultation is being conducted in accordance with the Code of Practice on Consultation.

The consultation criteria

1. When to consult - Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Duration of consultation exercises - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Clarity of scope and impact - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Accessibility of consultation exercise - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. The burden of consultation - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Responsiveness of consultation exercises - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Capacity to consult - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you feel that this consultation does not satisfy these criteria, or if you have any complaints or comments about the process, please contact:

Amy Burgess, Consultation Coordinator, Budget & Finance Bill Co-ordination Group, HM Revenue & Customs, 100 Parliament Street, London, SWA 2BQ

E-mail [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)