

# Clause 1: Removal of VAT exemption for private school fees

## Summary

1. Clause 1 introduces a new exception to Schedule 9 to the Value Added Tax Act 1994, which specifically deals with exemptions within the VAT Act. This will result in private school fees for education and vocational training being subject to VAT at the standard rate (20%). It further defines the term “private school” for the purpose of this exception, detailing what is included and excluded within this term.
2. The clause also creates an exception of board and lodging which is deemed to be closely related to the supply of education provided by a private school, resulting in these services also becoming taxable. This exception applies to these types of services if they are provided by the private school themselves or an alternative body. With the exception of board and lodging, when provided by a private school, all other closely related goods and services provided for direct use of the pupils remain exempt. These goods and services also remain exempt when supplied by another eligible body to a private school.

## Details of the clause

3. Paragraph (2)(a)(i) inserts “(or would be so exempt but for item 1 or 2 of Part 3)” in to item 3(b)(i) of Group 6 of Schedule 9, which ensures that examination services provided by or to a private school will continue to be treated as exempt for VAT purposes.
4. Paragraph (2)(a)(ii) inserts “(whether or not that supply also falls within item 1 or 2 of Part 3)” in to item 4 of Group 6 of Schedule 9, which ensures that all goods and services that are deemed to be closely related to education or vocational training provided by private schools will continue to be treated as exempt for VAT purposes.
5. Paragraph (2)(b) inserts “Part 3” into Schedule 9 which sets out exceptions to the entire exemption schedule of education and vocational training, which is provided by a private school, or a connected person, and boarding services which are closely related to either of these items.
6. Item 1 of Part 3 inserts an exception for the provision of education by a private school, other than the provision of education in a nursery class. Which makes all fees for education provided by private schools taxable at the standard rate of VAT. Education provided in a nursery class by a private school will continue to be treated as exempt for VAT purposes. A nursery class is defined at Note (5).
7. Item 2 of Part 3 inserts an exception for the provision of vocational training by a private school, which makes all fees for vocational training provided by a private school taxable at the standard rate of VAT. Vocational training is defined at Note (6).
8. Item 3 of Part 3 inserts an exception for the provision of board and lodging which is closely related to a supply of a description falling within item 1 or 2. Item 1 being the provision of education by a private school and Item 2 being the provision on vocational training by a

private school. Thereby making all closely connected boarding services taxable at the standard rate of VAT when it is provided by any organisation.

9. Note (1)(a) of Part 3 sets out what a “private school” means for the purpose of this exception. A private school is either: a school at which full-time education for pupils that are of compulsory school age, or the appropriate equivalent in Scotland, Note (1)(a)(i) or, an institution for that education is provided for children above compulsory school age but under 19, Note (1)(a)(ii). The effect of Note (1)(a) is that all institutions catering to those above compulsory school age but below 19 are deemed to be a private school for the purposes of this exception subject to Note (1)(b).
10. Note (1)(b) of Part 3 sets out that a private school is limited to institutions that meet the criteria in Note (1)(a) and charges fees or other consideration for the provision of full-time education. This limits the application of the exception to private schools who charge fees or receive other consideration in return for the full-time education described in Note (1)(a).
11. Note (2) of Part 3 introduces anti-avoidance provisions and treats certain supplies of education and vocational training as taxable at the standard rate of VAT when provided by another body that is an eligible body for the purposes of Group 6, Schedule 9 to the VAT Act. Where one of the following tests apply the services provided by this body will be treated as a supply of education or vocational training by a private school, and therefore be taxable at the standard rate of VAT:
  - a) The eligible body is closely bound to a private school by financial, economic and organisational links,
  - b) The eligible body and the private school are connected within the meaning of Section 1122 of the Corporation Tax Act (connected persons),
  - c) The main purpose or one of the main purposes of the arrangements to provide the services through the eligible body were to benefit from VAT exemption on these services.
12. Note (3) of Part 3 sets out two exceptions from the definition of private schools. Note (3)(a) excludes ‘nursery schools’ and Note (3)(b) excludes ‘non-maintained special schools’ from the exception. A nursery school is not defined in the clause, but it is accepted that this will be an institution which caters to children below compulsory school age. A non-maintained special school is defined as being approved under section 342 of the Education Act 1996.
13. Note (4) of Part 3 sets out the definition for terms in Note (2). Note (4)(a) explains that the term “arrangement” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not these are legally enforceable). Note (4)(b) explains that an “eligible body” has the meaning given by Note (1) to Group 6, Schedule 9.
14. Note 5 of Part 3 sets out the definition of a “nursery class”. A “nursery class” means a class that is composed wholly of children who are under compulsory school age, or, in Scotland, school age, Note (5)(a), and would not be expected to attain that age while in that class, Note (5)(b).
15. Note 6 of Part 3 sets out that “vocational training” has the meaning given by Note (3) to Group 6, Schedule 9. This term, in general, can be described as covering all training, re-training or work experience for employment or volunteer work in some cases.
16. Note 7 of Part 3 sets out “compulsory school age”, “pupil”, “school” and “school age” have

the meanings given by the relevant Education Act in each of the four nations as education policy is a devolved matter.

17. Subsection (3) makes a consequential amendment to section 31 of the VAT Act. Section 31 provides the overarching exemption to supplies that fall within a description specified in Schedule 9. Sub-section (3) substitutes “Schedule 9” for “Part 2 of Schedule 9 and it is not of a description specified in Part 3 of that Schedule” which ensures that VAT exemption is limited to goods or services which fall within the groups at Part 2 of Schedule 9.
18. Subsection (4) makes a consequential amendment to section 8 of the VAT Act. Section 8 requires that where a UK recipient receives services from a non-UK supply that they account for output tax on these services as if they made this supply to themselves. Exempt services are excluded from this provision. This item substitutes “Schedule 9” for “Part 2 of Schedule 9 and it is not of a description specified in Part 3 of that Schedule” which ensures that the exclusion for exempt services in this provision only applies to services which fall within a description of one of the Groups in Schedule 9.
19. Subsection (5) makes a consequential amendment to section 43 of the VAT Act. Supplies between members of the same VAT Group are ordinarily disregarded. However, sections 43(2A) to (2E) of the VAT Act restrict the effect of this disregard where VAT groups set up arrangements to try to get around place of supply rules to avoid paying VAT. Item 5 substitutes “Schedule 9” for “Part 2 of Schedule 9 or which do fall within any of the descriptions specified in Part 3 of Schedule 9” which ensures that only services that are exempt by virtue of one of the Groups in Schedule 9 can be excluded from these anti-avoidance provisions.

## Background note

20. The Government has committed to removing the current VAT exemption for private schools (including board and lodging fees). Following a technical consultation on the draft legislation, the Government will confirm the introduction of these changes at Budget and will be legislate for the changes in the Finance Bill.
21. Private schools who are not currently VAT registered should not register with HMRC as a result of this announcement. Further guidance will be published for impacted private schools in due course.
22. If you have any questions about this change, or comments on the draft legislation, please contact [independentschools@hmtreasury.gov.uk](mailto:independentschools@hmtreasury.gov.uk).

## Clause 2: Pre-paid private school fees

### Summary

1. The clause introduces anti-forestalling provisions which will apply to all pre-payments of private school fees and boarding services on or after 29 July 2024 but before 30 October 2024.

### Details of the clause

2. Subsection (1) explains that the anti-forestalling provisions detailed later on in this part apply to services that have been pre-paid on or after 29 July 2024 and before the 30 October 2024 when this legislation will be introduced via a Provisional Collection of Taxes Act Budget resolution as part of the Finance Bill. This will result in pre-payments for education or vocational training that is due to be delivered after the charge is formally introduced, being subject to VAT at the standard rate.
3. Subsection (2) treats pre-payments received within the time frames mentioned in subsection (1) as a supply taking place on the later of:
  - a) 1 January 2025, or
  - b) the first day of the term which the pre-payment relates to.

This over-rides the normal time of supply rules which would require that the liability of a supply is determined at the point that a payment is received.

4. Subsection (3) provides a new power to allow the Treasury to disapply the rules at subsection (2) via a negative procedure Statutory Instrument.
5. Subsection (4) sets out that these anti-forestalling provisions apply to all education, vocational training and board and lodging that is described in the exception to the exemption.
6. Subsection (5) outlines that the above provisions apply as if they were contained within the VAT Act. This has the effect of incorporating definitions and the procedure for Statutory Instruments from the VAT Act.

### Background note

7. The Government has committed to removing the current VAT exemption for private schools (including board and lodging fees). Following a technical consultation on the draft legislation, the Government will confirm the introduction of these changes at Budget and will be legislate for the changes in the Finance Bill.
8. Private schools who are not currently VAT registered should not register with HMRC as a result of this announcement. Further guidance will be published for impacted private schools in due course.
9. If you have any questions about this change, or comments on the draft legislation, please contact [independentschools@hmtreasury.gov.uk](mailto:independentschools@hmtreasury.gov.uk).

## Clause 3: Commencement

### Summary

1. The clause introduces the commencement date in which the tax charge is formally introduced. As this legislation will be accompanied by a Provisional Collection of Taxes Act Budget resolution as part of the Finance Bill it will be treated as having effect immediately following the Budget announcement.

### Details of the clause

2. Subsection (1) provides the date at which clauses 1 and 2 will be treated as having come into force on 30 October 2024 and having effect in relation to the provision of education, vocational training or board and lodging which is provided on or after 1 January 2025.

### Background note

3. The Government has committed to removing the current VAT exemption for private schools (including board and lodging fees). Following a technical consultation on the draft legislation, the Government will confirm the introduction of these changes at Budget and will be legislate for the changes in the Finance Bill.
4. Private schools who are not currently VAT registered should not register with HMRC as a result of this announcement. Further guidance will be published for impacted private schools in due course.
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