

HMRC update supply guidance on payments that are not consideration but are grants

HMRC has updated its guidance on grants and in particular the question of when a payment is consideration for a supply. It includes commentary on the most important cases that have influenced HMRC's policy in this area. This is an area that can cause difficulties for both the funders and the recipients of the money, so this guidance will certainly be welcome. If a recipient of funds is expecting to be able to keep all the money, discovering a sixth of it must be paid to HMRC as VAT can come as a nasty shock. Equally a body that has assumed the amount it has paid out is a VAT free grant will not welcome a request for another 20% to cover the VAT. It is very important that both sides are clear who will bear the VAT cost if there is one, and clear funding terms and conditions are vital.

A grant can be different from a donation (which is defined as an amount freely given with no expectation of anything in return). A grant will often come with strings attached such that it can only be spent on certain things and the grant recipient must send reports to the funder showing how the money has been spent and the progress that has been achieved in the project the grant is funding. But it can still be outside the scope.

At its simplest a grant payment is consideration for a supply if there is a benefit provided to the funder in return for the payment, and is not consideration if there isn't, and any benefit accrues to the wider community, for example. However, this definition does not cover the situation where the grant is actually third-party consideration (a targeted payment/subsidy for a supply made to someone else) such as was the case in Keeping Newcastle Warm. Which should not be confused with a general subsidy paid to help with or cover the costs of a public service, which is outside the scope (see Hillingdon Legal Resource Centre).

The guidance lists some factors that can point to a grant being consideration, or not, such as is there a contract and who benefits from what is done with the money. Also, where does the balance of power lie? Who controls what is done with the money.

Usefully, some neutral factors are also listed such as what the payment is described as in correspondence. Essentially just describing something as a grant is not enough if the facts point to it being payment for a supply.

Comment

This is a complex area so more detailed guidance is welcome. For further information contact **4 Eyes Ltd**.

WE HOPE YOU FIND THIS NEWS ARTICLE HELPFUL. IF YOU WOULD LIKE TO REGISTER TO RECEIVE FUTURE UPDATES BY EMAIL THEN PLEASE SEND A REQUEST TO

info@4eyesltd.co.uk

This VAT update is published for the general information of 4 Eyes Ltd personnel, clients and contacts. It provides only an overview of the rules and regulations in force at the date of publication, and no action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a result of the material contained in this e-mail will be accepted by the authors or the firm.

The following pages have been updated / rewritten:

VATSC53500 Consideration: Payments that are not Consideration: Grants: Agricultural Grants -

VATSC51620 Consideration: Payments that are not Consideration: Grants: Introduction -

VATSC51910 Consideration: Payments that are not Consideration: Grants: Hillingdon Legal Resource Centre -

VATSC53000 - Consideration: Payments that are not Consideration: Grants: European Grants

VATSC52000 - Consideration: Payments that are not Consideration: Grants: Hope in the Community Ltd

VATSC51980 Consideration: Payments that are not Consideration: Grants: Bath Festivals Trust -

VATSC51800 Consideration: Payments that are not Consideration: Grants: Indicators of the supply position -

VATSC51630 Consideration: Payments that are not Consideration: Grants: What is a grant? -

**WE HOPE YOU FIND THIS NEWS ARTICLE HELPFUL. IF YOU WOULD LIKE TO REGISTER TO RECEIVE
FUTURE UPDATES BY EMAIL THEN PLEASE SEND A REQUEST TO**

info@4eyesltd.co.uk

This VAT update is published for the general information of 4 Eyes Ltd personnel, clients and contacts. It provides only an overview of the rules and regulations in force at the date of publication, and no action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a result of the material contained in this e-mail will be accepted by the authors or the firm.