HMRC - VATSC50400 - Donations

If a monetary donation is freely given, it is not consideration for any supply and so is outside the scope of VAT. In this situation, the donation has to be unconditional and the following points will help in deciding whether this is the case.

Does the donor receive anything in return for the payment?

Are there any conditions attached to the payment that go beyond merely having to mention it in account statements?

What will the payments be used for?

If the donor does not benefit directly, does any third party receive a benefit?

Is there a contract and what are the terms and conditions?

The test case quoted in the majority of arguments is that of Mr Tolsma , which is described below.

It is also necessary to distinguish between monetary donations and sponsorship payments. Whereas a donation means the donor does not expect anything in return, sponsorship involves the sponsor receiving clearly identifiable benefits. These benefits may include advertising, publicity or use of facilities and any sponsorship payment is within the scope of VAT. How to determine whether a payment is sponsorship is covered in VATSC09000 and Notice 701/41 Sponsorship.

Mr Tolsma ECJ case C-16/93 (1994 STC 509)

Mr Tolsma played a barrel organ on a public highway and invited passers by to leave donations. The Dutch authorities assessed for output tax on these payments since a supply had been made to the passers by.

The ECJ accepted Mr Tolsma’s appeal and ruled that the playing of music on the public highway for which no payment was stipulated did not constitute a supply of services effected for consideration and so it was not within the scope of VAT. This was because there was no agreement between the parties, and there was also no necessary link between the musical service and the payments to which it gives rise. Mr Tolsma played whether the passers by paid him or not and he had not entered into a formal agreement with them for the provision of his services.

Project Funding

Sometimes businesses will join with government departments or local authorities to co-sponsor a research and development project with each individual sponsor contributing funds. The amount contributed depends on the cost of the project rather than on any commercial benefit to the individual sponsor.

It could be seen that the sponsors receive benefits (as discussed above). These could include technical reports, rights relating to or restricting the use of the results, a loan of any items developed from the project or a levy on the sale of the project’s results (a way of repaying some of the funding).

Benefits such as these are often necessary safeguards to ensure the money is spent correctly and that the end product is put to proper use. They are incidental to the primary purpose of the project and have a minimal relation to the amount of the funding. Since the benefits are incidental, the funding of the project is not seen as a consideration for any supply and so is outside the scope of VAT.

Donated goods and services

The guidelines on monetary donations above should also be considered when specific goods and services are donated. Typical examples of donated goods are computers and other equipment given to schools and universities. Where goods are given for no consideration the rules on business gifts in VATSC20000 must also be considered.

Donated services may include a business donating its staff for a charity event. Since there is no consideration, the provision of such services is not a supply for VAT purposes. However, in some cases the provider of the services may ask for donations to be made to a charity rather than ask for the standard fee. The most common example of this is Will Aid.

Will Aid

This is a national fund raising scheme for charity where a code of practice has been agreed in order to treat the payments as donations for VAT purposes. The scheme involves solicitors offering to write wills and to arrange for their normal fee to be given to charity. More information can be found at .

It was agreed that any payments under this scheme are disregarded for VAT purposes provided the solicitors make it clear to customers that the will can be obtained without the customers being obliged to pay anything. It must be left entirely up to the customers’ discretion whether they wish to pay anything to the charity. The fact that the solicitor may recommend an amount equivalent to their fee be paid to the charity does not alter the donation status of the payments.

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