HMRC - VATSC51630 - Grants: What Is A Grant?

Whether something is described as a grant is not relevant to a VAT analysis except in so far as it may be indicative that money is freely given and no supply has occurred. However because definitions of grants vary the label may be misleading and it is therefore important to look at what actually happens when a payment described as a grant is made. This guidance concentrates on the whether a payment is consideration for a supply for VAT purposes. It does not cover payments such as grant-in-aid which represent funding of public sector bodies from their parent central government departments (in Scotland, Scottish Futures Trust Ltd) for strategic projects such as infrastructure plans. These payments are always outside the scope of VAT.

When an organisation identifies a need it wishes to fulfil, and decides not to do so itself, it may either:

enter into an agreement with another body to undertake the task, and fund that body’s costs through a grant or subsidy; or

enter into a contract for the procurement of services (and possibly goods) to enable the task to be completed

The former is not a supply for VAT and will commonly be described as a grant. The latter is a supply for VAT but you may see instances where such arrangements are never the less described as a grant.

The majority of grants originate from central or local government and are given to organisations to support specific community activities or initiatives to benefit the public. This type of funding helps government to achieve its aims by enabling others to provide a wide range of activities and avoids government directly managing projects.

Projects will normally be subject to a tendering process on the open market and the strict rules on public procurement where the funder is a public body. Goods or services tendered for in this way will normally have a legally enforceable contract where goods or services are agreed to be supplied in return for payment.

There are other ways of funding a project such as providing sponsorship, a subsidy, an equity investment or a loan (long or short term). The type of funding used will vary depending on requirements of the project and the value for money offered. In all these situations, no matter what label is applied to the funding, you need to consider what if anything is received in return for the payment to determine whether it is consideration for a supply.

Common controls within an outside the scope grant agreement include a fixed (often maximum) time period, approved uses of any assets bought, and an agreed timetable of financial reporting.

When paying a grant, a government department normally does so under its statutory obligations and so must have a legal power to do so. It is not subject to EU rules on procuring goods, but the rules around state aid must still be observed which means a government cannot provide funding that distorts, or threatens to distort, market competition within the EU.

Therefore, two important questions to ask are:

Does the funder have a legal power to award a grant and which statute contains this power? If a legal power exists this is an indicator that the funding may be a grant and outside the scope of VAT.

What was the tendering process? Was there an invitation to tender for a public procurement contract, which was advertised and has gone through a specific procurement and tendering processes (this is explained on the GOV.UK website). This is an indicator that the funding may be consideration for a supply.

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