HMRC - VATSC51820 - Grants: Factors Indicating The Payment Is A Grant

The following factors are taken from precedent cases. They are not in any particular order, all factors should be considered when making a decision. The more there are in your situation, the more likely it is that the payment is outside the scope of VAT.

The factors to consider are:

the payment was made following a grant application process run by an organisation that regularly provides outside the scope grants, such as central or local government

are the funders the beneficiaries of the project? To be outside the scope of VAT a grant should be freely given. In using the payment, the supplier carries out its own charitable aims and objectives with the assistance of the money which is given with no expectation of direct benefit in return

the funder will not attempt to control how the money is spent beyond seeing that the funds are properly managed. Any monitoring is no more than simply ensuring the payments are appropriately spent

the supplier will set its own targets as opposed to the funder imposing specific targets

the payments are not treated as trading income or expenditure in the accounts of either party

if the funding is withdrawn there is no legal redress for the supplier to have the payment reinstated

funding is drawn down by the supplier as a reimbursement of expenditure incurred, rather than an advance payment for services. Alternatively, there may be a ‘deficit funding’ arrangement whereby the funder agrees to plug any funding gaps

the funding is provided under a statutory provision that empowers the funder to make a grant. This would be mainly relevant if the funder is a Government department or local authority

there is a ‘clawback’ provision within the agreement. Funders use this method to reclaim their funding in circumstances such as where not all the money was spent or if the terms of the agreement were not complied with. In contrast, a contract for a supply should not contain a ‘clawback’ clause as there is no automatic right to reclaim any money. The money is consideration for the supply and the solution for reclaiming the payment in any subsequent breach of contract is to sue for damages.

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