Charity News

Spring 2025

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Introduction

We are delighted to bring you our Spring 2025 edition of Charity News, in which we look at a number of matters currently of interest to charities and not-for-profit organisations.

With the Finance Act 2024 introducing new provisions to the charitable tax exemption, we outline in our first article some of the anticipated impacts of these changes.

Following on from this, our second article considers the accounting requirements in relation to reserves and focuses in on the Charity Regulators perspective on when it is appropriate to hold reserves.

With the introduction of auto-enrolment ("AE") from 1 January 2026, we have a comprehensive article on its scope, approach options and key issues to consider as a charity.

Trust has never been more important in society, and even more so in charities. Integrity due diligence involves assessing parties with whom your charity does business with. Our fourth article outlines how it can support your organisation and the benefits it can bring to your organisation.

Our final article deals with VAT and explains the challenges not-for-profits face when buying, selling or leasing property, and highlights the key considerations when entering into such transactions.

We hope you find this issue is helpful in comprehensively updating you on recent developments, as well as highlighting ways to ensure your organisation can equip itself to manage risks and remain compliant. If you would like to discuss any of the issues discussed in this newsletter, or any other challenges that your organisation may be facing, please contact your regular PwC contact or any of our not-for-profit team noted on page 14.

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Finance Act 2024 – changes in provisions to charitable tax exemption

As readers will be aware, registered charities in Ireland can avail of long-standing tax exemptions in relation to their income and gains (for completeness, exemption does not extend to all heads of tax, so payroll taxes, VAT etc. still require attention).

One of the underlying conditions for the exemption has, for many years, been that monies generated should be utilised for charitable purposes, in accordance with the objectives for which registration as a charity was granted. A significant proportion of charities have the requirement that monies are used for such objectives within a two-year period in the specific terms of their charity approval on registration.

In addition, Revenue guidance also stipulated that where there was an intention to accumulate income for periods in excess of two years for any purpose, Revenue should be notified of same, and of the rationale for the accumulation. Indeed, as a matter of practice, many charities voluntarily chose to incorporate this two-year requirement into their constitutional documents.

Accordingly, the landscape within which charities operate has for many years included parameters around the accumulation of income for charitable purposes – albeit, importantly, this was not on a legislative footing.

Finance Act 2024

Finance Act 2024 has changed the position in this regard however. The new provisions introduced stipulate that an Irish charity will retain its charitable tax exemption so long as its income is applied to charitable purposes by the end of the fifth year after the year in which the income is received. This provides a facility to enable charities to focus on longer term projects that are for the purposes of their charitable objectives.

In addition, a charity may apply to Revenue for an extension of the five-year period where it can satisfy Revenue that the charity is in the process of applying the income for charitable purposes. The provisions of Finance Act 2024 came into operation on 1 January 2025.

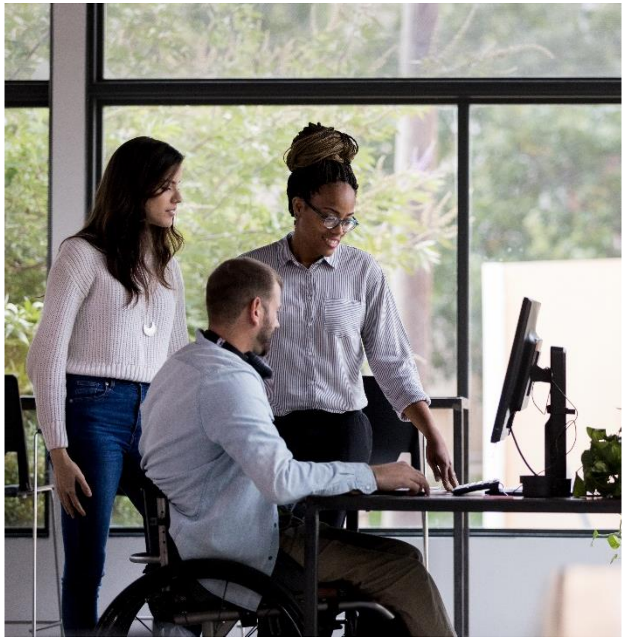
The impact of the changes

The question arises as to what the practical impact of this new legislation is for charities. It is recommended that charities should at a minimum begin to track their income and expenditure with a view to assessing whether the 5 year holding period is likely to be breached. Most charities have significant spending pressures and could not hope to hold monies for 5 years or more.

For those charities who (a) have already accumulated, or (b) are in the course of accumulating monies however, the position is much more complex. It will be key to categorise the use of these accumulated/accumulating monies – for example:

- are there material projects to execute on the charitable objectives of the organisation planned, that it is reasonable to assert may take a number of years to save towards?
- is there a significant and costly project to come, e.g. new premises, property upgrades, substantial repair/maintenance, new IT or CRM system etc?
- have certain donations or bequests been made subject to the proviso that they be used for a particular specific restricted purpose?
- in terms of organisations such as religious congregations, are cost of care provisions or medical care reserves required for aging members of the community?

Having identified and quantified the different categories of monies, in certain cases, it may be advisable to support the requirement for the amounts via third party validation, for example, actuarial support for pension projections or engineering reports for certain capital projects etc.



Accounting is also highly relevant given the starting point for tax is generally the accounting treatment – and accordingly accounting influences the tax analysis. While the Finance Act 2024 amendments reference income specifically, items that might be colloquially understood as gains or gifts may also be accounted for as income, which warrants review.

Previous interactions by the charity with the Revenue under the 2 year rule should be revisited through the lens of the new 5 year legislation, so that impacts arising can be assessed and considered.

Where relevant, it is recommended that constitutional documents of the charity be updated if these reference the now historic 2 year rule.

Conclusion

Finance Act 2024 shines a spotlight on accumulated monies within charities and the planned use of same. While parameters were in place for a long period of time, the new provisions – being on a statutory footing – up the ante in terms of charity boards ensuring they are compliant into the future.

Given the downside risk being possible loss of tax exemption, it is recommended that charities undertake a review as outlined above, to satisfy themselves that accumulation of monies aligns with the charitable objectives of the organisation. Where gaps or concerns are identified, an action plan should be developed to align with the requirements of the new legislation, bearing in mind the full background facts and circumstances of the particular charity.

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Regardless of changes in the Finance Bill – what does the Regulator have to say about Reserves?

"Generally, a charity is expected to spend its income on advancing its charitable purposes, unless there is a specific reason for keeping it. Accumulating a high level of reserves without a clear explanation or justification may adversely affect the public's perception of a charity. Unjustifiable stockpiling of reserves may also cause concern that charitable assets are not being used for a charitable purpose."

(Charities Regulator 2022 guidance document on reserves)

The above quote from the Charities Regulatory Authority guidance document on reserves sets the scene for how reserves are viewed by the Regulator, and gives a clear message that regardless of how a charity plans to address the changes in the Finance Bill in relation to accumulation of income/reserves, the CRA does not look favourably on charities stock-piling of reserves without a clearly articulated vision for their future use.

There are many reasons why charities hold reserves. I have set out below some of the **key reasons**:

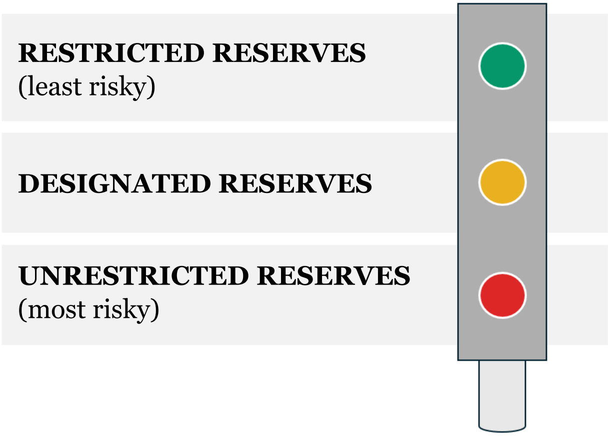
1. To meet a charity's commitments when expenditure overruns or unplanned events occur;
2. To fund shortfalls in income, for example when income is delayed or does not reach expected levels;
3. To fund unexpected events calling on the charity's service (such as a natural disaster requiring extra services with little warning);
4. To fund a future specified commitment or project;
5. To respond to unexpected difficulties or crisis.

Many charities have been re-thinking their reserves policies in the aftermath of the COVID-19 global pandemic as well as in the context of the global macroeconomic environment and the increasing risk that global shocks such as tariffs, reduced US Aid funding, and heightened risk of global recession could impact on charity income generating capabilities and result in the need for more "rainy day" type reserves.

Some charities are very good at reserve planning and appropriately dis-aggregating the various purposes for which they are holding reserves, and separately calling those out in their financial statements. Other charities may have "behind the scenes" plans and intentions in relation to how they anticipate spending their reserves in the future, but do not clearly articulate these plans in their financial statements. As the focus on reserves continues to increase by both the Regulator and the Revenue Commissioners, it will become more important than ever that a charity appropriately classifies the nature of their reserves in their financial statements. Where charities have a specific purpose in mind for their unrestricted reserves, it is highly advisable that the board take the time to properly consider the need to quantify the amounts required for specific designated funds and to clearly show that designation in the financial statements.

The diagram below illustrates the relative risk attaching to the various types of reserves in the eyes of the Regulator and other interested parties.

Distinction between different reserves



It is possible that a charity may have several individual restricted funds, each for a particular purpose of the charity, as instructed by the donor. Unrestricted and designated funds on the other hand are funds which are spent or applied at the discretion of the trustees to further any of the charity's purposes.

Para 2.7 of the Charities SORP (2019) notes that: "Trustees may choose during the reporting period to set aside a part of their unrestricted funds to be used for a particular future project or commitment. By earmarking funds in this way, the trustees set up a designated fund that remains part of the unrestricted funds of the charity. This is because the designation has an administrative purpose only and does not legally restrict the trustees' discretion in how to apply the unrestricted funds that they have earmarked."

Identifying designated funds may be helpful when explaining the charity's reserve policy and the level of reserves it holds.

When charities are designating funds for a particular purpose, they should wherever possible ensure that they can support the basis of designation by having a detailed calculation or report to support the amount being set aside. Depending on the nature of the designation, this calculation may take the form of an engineer or architects report if the designation is property related, an environmental consultants report if the designation is related to remediation works resulting from environmental or other hazards which require to be addressed, or an actuarial report if the designation is to set aside income to be used on a periodic basis for a particular purpose in the future – for example for future living and healthcare costs of an ageing congregation, or to provide a particular scholarship or fund a particular activity for which there will be no future income stream generated.

Our PwC actuarial team – Munro O'Dwyer and Anna Kinsella have a lot of experience assisting our clients with these types of actuarial reviews and reports which they can use to support the reserves they are holding. Such reviews also help our clients understand how various factors impact the level of reserves required and enables better decision making in terms of areas such as investment strategy and identifying when such reserves will need to be called upon.

Regardless of the nature of the designated reserve, we would strongly recommend that charities seek to have appropriate third party evidence to support the nature and quantum of the designation.

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Auto-enrolment – its impact on charities

Auto-enrolment ("AE") is a new retirement savings system for employees that is being introduced by the Irish Government. The scheme is aimed at individuals who do not already have a workplace pension arrangement. If an employee meets the eligibility requirements for enrolment then both the employee and the employer will be required to contribute into the savings scheme.

Who is in scope

Given the nature of work involved, many charities and not-for-profit organisations will have employees who are eligible for enrolment in the government scheme.

Any employee who:

- is not a member of a pension scheme;
- earns more than €20,000 per year; and
- is aged between 23 and 60

will be automatically enrolled into the new system.

The definition of Employee includes anyone who is directly employed, including variable hours staff, seasonal workers and short-term contract workers.

It's also important to note that any employees earning less than €20,000 per year and/or who are aged outside the 23-60 bracket will be able to opt in, as long as they aren't already in a pension scheme provided by their employer.

Why

The scheme is being introduced with the aim of significantly increasing the number of employees who are actively saving towards their retirement. By ensuring that more individuals have access to a pension scheme, the government is seeking to reduce the reliance on the State pension and increase the standard of living in retirement.

When

Finance Act 2024 shines a spotlight on accumulated monies within charities and the planned use of same. While parameters were in place for a long period of time, the new provisions – being on a statutory footing – up the ante in terms of charity boards ensuring they are compliant into the future. The auto-enrolment savings scheme is expected to go live on 1 January 2026.

Contribution rates

The contribution rates for auto-enrolment are to be phased in over a period of ten years:

Years from launch	Employee contribution	Employer contribution	Government Top-up	Total Contributions
1-3	1.5%	1.5%	0.5%	3.5%
4-6	3%	3%	1%	7.0%
7-9	4.5%	4.5%	1.5%	10.5%
10+	6%	6%	2%	14.0%

All employee contributions will be matched by the employer and topped up by the State. The legislation sets out that an upper threshold of €80,000 applies to earnings for the calculation of contributions. Contributions will be fixed and employees won't be able to contribute more or less than the set rate.

Given that contribution rates will be phased in over the next 10 years it is important to recognise both the immediate and long term financial implications when determining the costs that will be associated with auto-enrolment.

Tax relief

Contributions to the auto-enrolment scheme will not be subject to tax relief. Instead, the State will provide a top up of €1 for every €3 an employee contributes. In practice this is equivalent to 25% tax relief.

This approach means that the auto-enrolment scheme will be most attractive to those at the standard tax bracket. Earners at the marginal rate of tax would benefit more from the tax relief available on a normal occupational pension scheme.

Key issues to consider

There are a number of initial aspects that charities and not-for-profit organisations will need to consider:

- **Who is in scope** – an immediate first step is identifying who is impacted by auto-enrolment. Understanding which employees will be affected is a key first step to determining the impact that the scheme may have on your workforce. It is important to consider both employees that are currently employed and those who may be employed in the future.

- **Budgeting** – it is important to assess the potential additional costs for current employees who are not members of a pension scheme. Understanding how much AE will cost is a key consideration when putting any plan together.

- **Implementation practicalities** – you will need to consider implementation practicalities such as payroll integration and employee communications.

Approach

Ultimately, as an employer you will need to make a decision between using the State's auto-enrolment system, using a traditional occupational pension scheme or using a combination of the two approaches.

The table below includes a few high level considerations which may help to guide your thinking in relation to fulfilling your auto-enrolment obligations

Option	
Using AE system only	• Using the central system may be appropriate for employers with smaller workforces that have high turnover rates – it provides an effective way to provide pension benefits without needing to set up an employer scheme • There is a lack of control of the benefits provided to employees • Employees at marginal rates of tax may be worse off than in a traditional occupational pension scheme
Using the AE system in tandem with an occupational scheme	• The majority of administration work for the AE system will fall to the new body, the National Automatic Enrolment Retirement Savings Authority • Limited flexibility and control of benefits provided to employees who end up in the AE system • Running two schemes may lead to additional communication and administrative complexities e.g. two separate payroll runs will be required each month and contributions remitted to two different entities
Using your existing scheme only/setting up an occupational pension scheme	• Will allow you to retain a greater level of control and flexibility over the benefits provided to your employees • Employment contracts and pension scheme eligibility conditions may need to be reviewed e.g. employees may unintentionally end up in the AE system if no changes are made to waiting periods in the existing scheme • The contribution design structure may need to be reviewed in order to manage costs • The ability to opt-out of your current scheme and any periods where pension contributions may be ceased should be reviewed to ensure no unintended AE consequences • Administration and employee communications should be more straightforward as everyone will be in the same scheme treated in the same manner

It is crucial to recognise that it will be difficult to avoid auto-enrolment entirely. Therefore, it is important that you are prepared for auto-enrolment even if you believe it will only impact you in a limited capacity.

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Strengthening trust: spotlight on integrity due diligence in the not-for-profit sector

Introduction

In the not-for-profit sector, **trust** is paramount. Charities and not-for-profit organisations (“NFPs”) often rely on the goodwill and confidence of funders, donors, partners and the wider public to deliver on their mission statement and sustain operations.

In today’s business environment, the safeguarding of an organisation’s reputation is crucial. *“Knowing your counterparties*” is essential for effective risk management.

In light of various cases of corporate misconduct in the sector in recent years, such stakeholders are demanding higher standards and increased accountability from NFPs. Public scrutiny and evolving regulations are now increasing pressure on NFPs to **identify and mitigate risks** with business partners, including suppliers, donors, customers, agents and employees. These risks encompass sanctions, financial sustainability, environmental impact, adverse media, forced labour and human rights abuses.

Organisations are now actively using **integrity due diligence** (“IDD”) to identify and manage such third-party risks.

What is integrity due diligence?

Integrity due diligence (IDD) involves assessing the reputation, ethical standards, and trustworthiness of potential suppliers, partners, donors, agents, customers or other third parties with whom an organisation does business with.

Unlike traditional due diligence, IDD employs a risk-based approach to assess the compliance and integrity of potential counterparties, safeguarding against potential threats that could undermine an organisation’s trust and reputation.

IDD can identify a third party’s ownership structures, business activities, clients, partners, financial performance, reputation, misconduct, disputes, litigation, key stakeholders, sources of funds and political connections.

Key use cases relevant for NFPs

IDD can support an NFP’s third-party risk management activity in the following ways:

- **Knowing your counterparties:** onboarding of suppliers, agents, partners, donors, third parties, etc., focusing on key risks such as financial performance, reputation (both positive and negative), and environmental, social, and governance (ESG) risks.
- **Monitoring of relationships:** ongoing relationships with partners, suppliers, or third parties may require continuous oversight to maintain standards. Implementing IDD as a monitoring tool provides reassurance that these parties uphold the expected levels of integrity throughout their business relationship with the NFP.
- **Mergers and acquisitions diligence:** identify information to evaluate businesses, assess potential value and understand legal risks associated with potential targets including liability, debarment, prior conduct, ownership and conflicts of interest.
- **Joint ventures, partnerships or business alliances:** understand significant risk relationships, especially in higher-risk jurisdictions, and assess potential sources of funding, wealth or media findings.
- **Investigations and asset tracing:** support investigations by identifying personal, business or social connections between various parties of interest. Identify assets held by companies or individuals, such as equity, property and other lifestyle assets.

Benefits of IDD for NFPs

- **Improved risk management:** IDD strengthens risk management by identifying financial, operational, and reputational risks associated with third-party relationships. By addressing these risks, organisations can bolster their resilience, adapt to new challenges effectively and make more informed business decisions.

- **Strengthened compliance:** As regulatory scrutiny intensifies, IDD assists organisations in complying with legal and ethical standards. This crucial aspect reduces risks related to fraud, corruption, or unethical behaviour, protecting both the organisation and its stakeholders.

- **Accountability and transparency:** Implementing IDD demonstrates a commitment to integrity, fostering trust with funders, donors and the public through promoting accountability and transparency, ensuring long-term sustainability.

- **Reputation preservation:** NFPs operate in a reputation-sensitive environment. Diligently vetting business service providers and partners, and donors, can help prevent potential reputational damage.

- **Enhanced decision-making:** When adverse issues are identified, organisations can make informed decisions to implement mitigating procedures to protect their integrity and reputation.

- **Value alignment:** Not-for-profits are driven by their mission and ethical standards. IDD ensures potential partners and donors share similar values, fostering genuine collaboration and support for an organisation's mission. This alignment supports shared goals and enhanced partnerships.

We are here to help

Our bespoke technology aggregates more than 180,000 public information sources to identify hidden data outside of ordinary internet search engines, enabling concurrent searches across multiple open sources and databases, including those behind paywalls.

- Financial information
- Litigation records
- Media sources
- Industry blogs
- Internet forums
- Social media
- Company registries
- International watchdogs
- Industry specific databases
- Sanctions/PEP databases
- Company information databases
- Regulatory authorities
- SEC Edgar
- Insolvency databases
- Disqualified directors
- Credit agencies
- Local newspapers
- NGO websites

Our custom-built search platform ensures comprehensive coverage of open-source intelligence, providing confidence in the depth of research for each IDD report, which we can supplement with human-sourced intelligence on the counterparty or target. We offer a flexible approach with various depths and tiers of customisable IDD reports, and you can select the option that best suits your needs – whether it's a one-time report or ongoing monitoring of counterparties. We would be happy to share our insights and advice on best practice due diligence policies and procedures – please get in touch, if you are interested in discussing your organisation's IDD requirements.

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VAT Implications of Property Transactions in the not-for-profit sector

Introduction

Not-for-profit entities ("NFPs") can face unique challenges when it comes to Value Added Tax ("VAT"). To recover VAT incurred on costs, any entity acquiring goods or services must be:

- carrying on a business;
- making taxable supplies; and
- be able to attribute the cost upon which the VAT was incurred to the making of a taxable supply.

The complexity arises in the NFP sector due to the fact that often one (or more) of the parameters above cannot be met, leading to restricted or no input VAT recovery. Consequently, any input VAT incurred becomes an additional cost.

Combined with the relative value of property transactions, this means that NFPs need to be particularly careful when buying, selling or leasing property. The VAT on property rules are complex and require substantial analysis on a case-by-case basis. The purpose of this article is to highlight some of the key areas that should be considered by a NFP when entering into a property transaction.

Lettings

In general, the letting of property is exempt from VAT. However, a landlord has the option to tax a letting, which allows them to charge VAT on the rents. Typically, a landlord will seek to exercise this option where they have incurred costs to purchase or renovate the property, and an exempt letting would result in a claw back of some, or all of the input VAT recovered on such costs. This is known as a 'capital goods adjustment', the quantum of which will reduce year on year from the date of the creation of the capital good, up to a limit of 20 years for construction/acquisition costs and 10 years for renovation costs. Beyond these limits, there is no longer a requirement to make a VAT adjustment.

Where there is a remaining capital goods adjustment on a building that a NFP is seeking to lease as a tenant, it may be possible to agree a slightly higher rent, or a rent premium, with the landlord such that the additional rent payable offsets any remaining capital goods adjustment. In exchange the NFP could see an overall reduction in VAT cost over the term of the letting, depending on the size of the remaining capital goods adjustment.

It should be noted that it is not possible to opt to tax the lease of property for residential use, which is why it is common to have clauses in letting agreements that prohibits the use of a leased property for residential purposes or requires an indemnity for any VAT cost that may arise as a result of such use by the tenant. There are also some other circumstances that can cause an option to tax to be automatically terminated for which a lease should have similar clauses.

VAT issues can also arise where a tenant renovates a property. Again, there should be contractual terms in the lease to set out the VAT implications of such work. This is particularly important where a NFP is the landlord, as failure to include the correct contractual clauses could give rise to an unexpected VAT cost. The exercise of the option to tax by a NFP as a landlord would result in the NFP being required to register for VAT , potentially bringing other activities of the NFP within the ambit of the tax. This is unlikely to be a desirable outcome and therefore careful consideration should be given by a NFP prior to exercising the option to tax.

A letting should also be distinguished from a license to occupy, the latter of which would always be taxable. The distinction between a letting and a license for VAT purposes is a subtle one, which is beyond the scope of this article.

Sale and Purchase of Property

The sale of property can also be either taxable or exempt, depending on several factors. In general, the sale of new or developed property is subject to VAT, while the sale of older properties would generally be exempt unless the seller and buyer have agreed to exercise the joint option to tax.

For VAT purposes 'new' property does not merely refer to newly completed property. 'New' property would include:

- the first supply of completed property within 5 years of completion,

- the second or subsequent supply of that property within 5 years where it has not been occupied for 24 months in aggregate, and
- the supply of developed, but incomplete property within 20 years from the date the development ceased.

There are also additional rules for property developers and property subject to a development agreement that could cause the sale to be taxable.

Developed properties, which have undergone significant improvements or have had their use materially altered by development may also attract VAT. As such, it is important to understand the history of any property that is being sold to ensure the correct VAT treatment is applied.

Where a property does not fall to be taxable under the parameters set out above, then it would be expected that the sale should be exempt from VAT. Notwithstanding, the VAT legislation also provides for a ‘joint option to tax’ which allows both the buyer and seller to agree that a sale will be subject to VAT. Exercising the joint option to tax has significant benefits for the vendor as they should be able to recover VAT on costs associated with such a sale. Furthermore, a capital goods adjustment would not arise in the event of a taxable sale. However, it should be noted that the purchase of a property subject to the joint option to tax creates a 20-year capital goods adjustment for the buyer, to the extent that the VAT is recovered.

In the context of a NFP, in acquiring property it should be considered if the building will be put to any taxable use. Where this is not the case, or it is unclear if the building will be used for taxable purposes for the full 20 year period VAT charged on the sale should be considered a cost, either in part or in full. Therefore, as a buyer it would be important to ensure that the contractual position is clear as to whether the total amount payable is inclusive of VAT.

The joint option to tax may only be exercised between two accountable persons, i.e. a NFP would need to be, or become VAT registered for the joint option to be exercised. As set out above, any outcome which results in a NFP becoming registered for VAT, (including the sale of new or developed property by the NFP, or the exercise of the joint option to tax) should be carefully considered to ensure no undesirable consequences arise.

Where the NFP is the vendor, it is equally important that the VAT position is clarified. Depending on how the charge to tax arises, the liability to account for the VAT could lie with either the buyer or the seller, so a poorly worded VAT clause could result in a vendor receiving a lower payment than expected, due to the VAT effects.

While the above analysis considers the rules specific to VAT on property, there are also broader VAT rules which could impact the position. For example, in order for a supply to fall within the scope of VAT, it needs to be supplied in the course of business. Depending on the circumstances, a NFP may not be regarded as being ‘in business’. Therefore, there could be a case where a NFP sells a developed property that would otherwise be taxable, but because the NFP does not make the supply in the course of business, such a sale falls outside the scope of VAT. Whether or not a NFP is regarded as being in business would require careful analysis, given the potential VAT exposure that could arise due to an incorrect assessment.

Conclusion

Property transactions are inherently complex when it comes to VAT. While this article has sought to highlight some of the key issues, there are further intricacies in the legislation that could result in a different outcome. Considering the significant amount of VAT that can arise on a property transaction, it is imperative that the facts of each case are analysed in detail to confirm the correct VAT treatment.

As set out above, in many cases there could be room for negotiation over the VAT position, specifically where the option to tax is being considered. This analysis should be part of the broader commercial discussion, which would be looked at differently depending on whether the NFP is the lessor/seller or the lessee/buyer. The key is to understand the VAT cost arising in respect of the sale/across the duration of a lease, versus the VAT cost that may arise should the option to tax not be exercised.

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