

VAT Agenda

Can zero rate relief for relevant residential or relevant charitable use still be obtained?

In June 2009, HM Revenue and Customs ('HMRC') announced the withdrawal of an Extra Statutory Concession ('ESC') 3.29, with effect from 1 July 2010. Up until this date, it was possible to obtain VAT relief at the zero rate on the construction of a building for relevant charitable use even if there was some use for business purposes, provided that business use was less than 10%.

At the same time, HMRC changed its interpretation of the term 'solely' as used in the phrase 'intended for use solely for a relevant residential or a relevant charitable purpose.'

From 1 July 2010, if an organisation wishes to obtain VAT relief at the zero rate on the construction of a building that is to be used for a relevant charitable purpose or relevant residential use then the building must be used for non-business charitable purposes for more than 95% of the time.

Initial impressions might be that this is a negative change. However, in practice, it was very difficult to satisfy either the 10% or the 'solely' rules, as HMRC were very prescriptive in respect of the calculations that needed to be made. Now there would appear to be greater flexibility in calculating whether business use is less than 5% provided that the approach is deemed by HMRC to be 'fair and reasonable'.

Securing VAT relief on property developments can significantly reduce the financial burden on entities that are not able to fully recover VAT, such as charities.

Should you wish to discuss this or any other VAT matter, please do not hesitate to contact us.

Elysian Associates
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