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Your Ref

Dear Mr Ratty.

Provision of Laptop computers to school pupils.

I refer to our discussions about the provision of laptop computers to school pupils, which were prompted by a letter to you from 'First Technology' (FT), dated 19 June 2006. I am sorry that this issue has taken so long to resolve, however, we needed to ensure consistency of treatment.

In considering the issue I have given particular regard to my letter to you of 22 September 2003. In that letter I set out a number of requirements which need to be satisfied if goods and services supplied by an LEA are to be seen as being closely related to education. I have no wish to change these. However, the number and nature of queries that we receive on this issue leads me to conclude that some further clarification is required, in particular to the criteria in the first and second bullet points in my letter:

- "The goods and services must be closely related to the education provided. By this we mean for the direct use of the student and necessary for delivering the education to him or her; and
- The pupil must receive education from the LEA – in either an LEA maintained school or in connection with some other LEA run educational activity, such as an orchestra"

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In our view, when read as a whole, this means that the item must be used as a necessary part of receiving tuition directly from an LEA teacher. This tuition does not have to be provided in the classroom, but does require the direct supervision of the teacher.

We suggest that, in order to clarify matters, the guidance should commence with a general introduction clearly setting out the basic position, which is then amplified in the bullet points. This would then read as follows:-

An LEA school can treat the goods and services it supplies to its pupils as non-business if they are closely related to the non-business provision of education. In order for this to happen the following principle conditions must be satisfied:

- *the specific goods or services purchased are for the direct use of the pupil in lessons during LEA supervised tuition*
- *in the delivery of education that is part of the school curriculum, and*
- *are necessary for delivering that education to him or her.*

For avoidance of doubt, it is not enough that a similar item is used in the LEA tuition, whilst the purchased item is used elsewhere, eg at home, for homework or musical practice.

In addition to the principle conditions I have outlined, the following general conditions must also be satisfied to demonstrate a supply by the LEA to its pupil:

- *The goods and services required must be purchased from the LEA. By this we mean that the LEA must hold title to the goods, and transfer ownership to the parent, guardian or pupil purchasing them. However, within that, the delivery address and point of distribution of those goods and services is a matter for individual LEAs to determine.*
- *Payment for the goods must be made either to the LEA or to the school. If paid to the school it must be paid into the school's official funds.*
- *Some evidence, eg order form, must be kept to show that the recipient of the goods and services has been receiving education from the LEA, and that what has been supplied was essential to that education. The style of the order form can be tailored to the needs of the LEA.*
- *The price of the goods and services supplied must be at or below cost, there being no intention to make a profit. "Cost" means the fully overhead-inclusive price of supplying the goods and services to the pupil. In the absence of any clear and compelling evidence to suggest an intention to make a profit, you should generally accept that this condition will be met.*
- *In certain cases goods may be leased. In such cases the same rule will apply as for sales.*

We hope that this further clarification will remove the current doubts and confusion about what the rules mean. Taking the case of laptop computers and applying these rules, we take the view that the only way they could possibly qualify for treatment as items closely related to education is if they are used by the student in lessons as a necessary part of receiving tuition from a teacher. Use of the item for homework, for example, does not meet these requirements.

In view of the fact that we have needed to clarify our policy – although as I have explained it is not a change in policy – it is possible that there may have been some past misunderstandings about its application. Therefore, if a local authority has misunderstood the existing guidance or been advised by us contrary to the guidance in this letter, we would sympathetically consider applying the correct interpretation from an agreed future date. I hope this clarification of the position is helpful and I am happy to discuss further.

There are two further points I would like to make. In paragraph 12.2.4 of V1-14 we state:

“Sales of laptop computers to teachers and parents

Sales of computer equipment by LEA schools to either parents or teachers are not considered to be closely related to the provision of non-business education to the pupils and therefore cannot benefit from non-business treatment even if supplied at or below cost. Thus any payments received by the LEA are business and standard-rated”.

In case there is any confusion about this paragraph, I should explain that it means that any sales of computers for the use of parents and teachers are not seen to be ‘closely related to education’, because they are not the ones receiving education. The intention is **not** to stop a parent (or Guardian) personally paying for a laptop for the use of their child, as we accept that this is what may happen in practice. The point the paragraph is making is that it is the child who must be receiving the education for “closely related” policy referred to above to apply.

We will amend our own guidance to make all the above issues clearer.

Finally, I note that in the Specific Activities section of the CIPFA VAT Manual there is an old note (dated Dec 1997 – is this the latest version?) headed “Education, Training and Research” which mentions “Items closely related to education”, but does not cross reference to the more detailed note headed “Sales of items closely related to education”. You may wish to amend this.

Yours sincerely

Nick Williams