

Date: 29 September 2011
Consultation: HMRV VAT and Cost Sharing

Introduction

The Northern Ireland Federation of Housing Associations (NIFHA) represents registered and non-registered housing associations in Northern Ireland. Collectively, our members provide around 36,000 good quality, affordable homes for renting or equity sharing. Further information is available at www.nifha.org.

Background

On 28 June 2011, HM Revenue and Customs (HMRC) issued a consultation paper on the VAT Cost Sharing Exemption (CSE). A positive outcome in relation to this consultation exercise could pave the way for removing significant inter-association VAT costs from the sector.

General Comments

NIFHA welcomes the opportunity to comment on this important consultation on behalf of its member housing associations.

Specific Comments

Chapter 3 – What is an ‘Independent Group of Persons’ for the purposes of this exemption?

Question 1. Are there any other bodies or entities that could be used to form a cost sharing group?

- Umbrella Organisations and Procurement Groups.
- All Registered Housing Associations in Northern Ireland are within one of three different procurement groups (Apex, Accord and Abacus), used for creating economy of scale efficiencies through procurement. We believe this is the type of group and arrangement which would benefit from the exemption.
- The Northern Ireland Federation of Housing Associations (NIFHA) – The Federation is the representative body for housing associations in Northern Ireland. It is owned and democratically controlled by the housing associations in its membership. Each member has equal voting power in General Meetings and (if elected or co-opted) in meetings of the governing body (NIFHA Council).
- NIFHA’s constitution guarantees that any financial surpluses are re-invested to help the Federation accomplish its mission. We believe it would make sense for NIFHA to be able to be part of or even be the Northern Ireland housing associations’ Cost Sharing Group.

Question 2. Does the proposed definition of ‘independent group of persons’ provide any practical problems or barriers to using the exemption?

In our view it should not as long as members within the CSG could supply other members of the CSG with services and goods and still remain as independent. However, it would be helpful to have clarification on whether leading the supply of

goods/services within the CSG would be considered the same as controlling the CSG and consequently if that would undermine its independence.

Question 3. What practical problems or difficulties could occur if a VAT Group was a member of a CSG and how could these be resolved?

NIFHA is not a member of a VAT group and does not hold this information on its member associations.

Question 4. Are there any difficulties or problems that may arise from multiple memberships?

There may be problems if an association is a member of more than one CGG and provides a service to a member within each. For example can they invoice members of both CSGs for the same service or is a service provision restricted to one CSG?

Administrative burdens and cost implications may result if the CSGs are all expected to keep financial accounts, particularly if members are allowed to join and leave recurrently.

Depending on the answers to these questions it could be that there is no benefit for our members being a member of more than one large all inclusive CSG.

Question 5. Are these characteristics appropriate?

We consider they are. We also believe that housing associations' CSGs would meet the characteristics listed.

Having said that, we suggest rather than demonstrating a CSG meets all the criteria it may be simpler to get a signed declaration from the supplier of goods/services that they have been supplied at cost in order to benefit from the Cost Sharing Exemption.

Question 6. Do you agree that independence is a necessary safeguard against abuse and distortion?

Yes. However, if the entrance criteria for a CSG were more specific, abuse and distortion could also be limited that way.

Chapter 4 – Exempt or Non-taxable Activity.

Question 7. Do you think HMRC should introduce a specific test? If your answer is yes please, indicate the threshold and timescale you think should apply.

No. We believe the administration for the CSG would be minimised if no threshold was applied. This would also mean all our members associations would meet the criteria and have the opportunity to benefit from Cost Sharing Exemption.

Chapter 5 – What does 'Directly Necessary' mean?

Question 8. Do you have a preference for any of the approaches described above? Please explain why.

Our preference would be for the 'other approach' of a list of directly necessary services.

Question 9. Do you prefer another approach? If you do please outline your ideas.

We suggest having a list of 'directly necessary' services would enable participants in a CSG to be more confident the costs incurred would be exempt and help reduce misinterpretation. The list should be able to be amended periodically.

As a not for profit organisations, it seems unfair that voluntary housing associations should have to incur a VAT cost when other organisations which operate on a profit basis may receive exemption for e.g. back office costs and IT.

For example, the NI Housing Executive (NIHE), as a government department, is able to reclaim all input VAT yet Housing Associations are providing largely the same service as the NIHE and aren't able to recover their VAT. This also makes it difficult to undertake reliable cost comparisons in relation to this important service to the public.

Chapter 6 – The Exact Reimbursement of Costs.

Question 10. Do you agree with this approach to 'direct reimbursement of costs'? If not please explain why and indicate the approach you would like to see adopted.

We agree with the concept of direct reimbursement in order that the CSG is not profiting from the arrangement. We consider the most practical approach would be for the logistics to be internally managed and not governed by HMRC. As a result it would be up to each individual CSG to determine how they will recover the costs directly.

We have some concerns about using annual membership as a mean of recovering of the costs from the members since interest may be earned if the fee is paid up front. We also believe annual membership subscriptions would be difficult to charge in advance as a means of recovering 'direct reimbursement'. Moreover it could cause extra administration if members were free to leave a CSG at any point.

Chapter 7 – The Distortion of Competition Test

Question 11. In what circumstances do you think the 'Distortion of Competition' condition would apply?

Distortion of Completion could exist if a CSG had should a dominant market position that it effectively held a monopoly.

Chapter 9 – Process and Compliance

Question 12. Are there any process and compliance aspects of the cost sharing exemption that you think might need to be addressed specifically in guidance?

It would be important to have clear guidance on CSGs. While we support the need for accountability and transparency in these matters we consider it could be counter-productive to have a significant compliance process associated with cost sharing exemption. We agree it should be proportionate to the likely risks.

Chapter 10 - Impacts

Question 13. Do you think that the implementation of the cost sharing exemption will have any equality impacts? If yes please indicate what the impacts are and offer suggestions about how they can be eliminated.

We do not foresee specific equality impacts arising from this proposal.

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Question 14. On the basis of information in this document do you have any comments on the assessment of impacts?

We have no comments.

Question 15. On the basis of this document would your organisation join a CSG?

NIFHA would join a CSG particularly if it would be of benefit to our member housing associations for us to do so.

Question 16. What are the most valuable services (in cost terms) your organisation would want to receive from a CSG using the exemption? Please state the value of at least 3.

We have no comments.

Question 17. Of the services listed in question 16 above what services are currently supplied by a third party? Please state the annual irrecoverable VAT you currently incur when receiving those services.

N/A

Question 18. Of the services you have listed in question 16 above what are the annual economies of scale you would expect to make on services currently provided in-house if they were to be supplied by a CSG? Please specify these separately for each listed service.

N/A

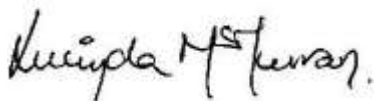
Additional Questions from NIFHA:

1. Does the CSG have to be the supplier of services or can any of its members supply services? (Without being seen to be controlling the CSG thereby threatening its independence)
2. Would HMRC consider allowing back office supplies to be included in the CSE?
3. Would HMRC consider allowing CSE without the requirement to join a CSG if the organisations are of charitable status and can provide evidence (in the form of supplier certification) that the goods/services have been provided at cost?
4. Could housing associations benefit from section 99 of the VAT act 1994?

Conclusion

I am pleased to submit this response on behalf of NIFHA and trust you will find our comments helpful.

Submitted on behalf of NIFHA by:



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