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Schools Briefing
Spring 2022

Contents

Welcome from the editor

Welcome to the Spring 2022 edition of our briefing for independent schools.

As we appear to be emerging from the worst of the pandemic's restrictions, schools are once again looking to generate more income and so I consider it timely to address this topic in this publication. Additionally, schools are pushing forwards with their building programmes and so I'm pleased that Ramzan Khan has summarised the VAT implications of such expenditure. We plan to continue this theme in our next publication with a case study of a client's school building project. Continuing with taxes, Jamie Whale addresses the impact of withholding taxes on income from overseas, while Nick Bustin provides an update on employment taxes.

On a different note, trustees as well as other investors, are considering the environmental, social and governance (ESG) criteria when making investment decisions and so we welcome Max King's summary of the different approaches adopted.

As more schools are merging, Vikram Sandhu highlights certain financial implications for consideration and David Sewell reminds us of the recent update to the Charity Governance Code. For those of you not already aware, David retires at the end of March. I am grateful for his support and we all wish him a happy retirement.

I hope you find these articles of interest and do contact the authors if there are any matters which you wish to follow up. Furthermore, do let me know if there are any topics which you would like to see addressed in future publications.

Wishing you all a smooth end to this term and a restful Easter holiday.

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Sweating your assets

After a challenging two years, it seems that we are returning to normality and a more settled outlook. This period of turmoil for the sector has impacted financial results and resilience. For many, it was not just the impact on fee income that affected results. Reductions in other income sources such as lettings, holiday activities, and international operations were felt very keenly, particularly where the associated costs were limited. Thankfully many have seen some recovery in these areas in the latter part of last year, but with concerns of further challenges ahead, we are seeing a renewed focus on income generation beyond fees.

Although for some in the sector there may be opportunities to generate income from alternative sources, it is important to be realistic about what is achievable, the resource commitment required, and potential risks and downsides.

Below are some of the common opportunities and areas to consider:

Excess assets
By considering your school's asset base and plans, you may identify land or property which is under-utilised or surplus to current requirements, providing an opportunity for rental to generate additional income. This can come with challenges of managing tenants, loss of flexibility if the school's needs change, and is often only feasible for assets at the edge or off the school site. Some schools may consider it appropriate to sell excess land and buildings, but this is not a long-term solution to support schools' finances. It is important to ensure any funds are spent strategically.

Hire of facilities and holiday activities
This is an area which is commonly exploited by schools, whether through the letting of sports or arts facilities, or for TV and film shoots and weddings. There are others that operate membership schemes for the wider public for their sports facilities. The challenge in this area can be balancing the conflicting needs of the school, the provision of public benefit, and income generation. Although some activities require little input and resources, particularly where they are regular lets, others can require dedicated staff to oversee. It is likely that there will need to be significant time investment to grow these income streams, so be realistic on what is feasible.

Lettings of facilities to holiday camp providers, whether day or for boarding, can provide welcome income when the school doesn't need the facilities for its own use. There can be a dependence on large lets, but they also provide the benefit of recurring year on year, which provides a steady income and are often easier to manage. Some schools have established their own in-house offering, providing a better return and an opportunity to promote the school itself, however this presents greater risk, staffing challenges, and time investment.

There can be undue wear and tear on your building resulting in associated costs, particularly with external lets. Additionally, they place restrictions on your ability to complete capital and maintenance programmes or impact their efficiency.

We often see that part of the business case for the construction of a new building is the ability to generate additional income. This should be carefully considered in the planning process to ensure it is feasible and the new facility meets both the needs of the school and planned alternative uses.

What must not be overlooked is that for some there will be planning restrictions which can limit the opportunities for non-school use.

It is important not to underestimate the time commitment (and hence costs) of these activities, often of staff who are already busy. Some schools hire specific staff to drive and coordinate these additional activities.

After school activities
After school activities and wrap-around care can be an important part of a school's offering. The provision of activities at the weekend, often to the wider community, can increase awareness in the market and generate additional income. It is important to monitor contribution levels and the impact on the school's reputation.

Provision of services
With specialist staff, whether teachers or in support functions, there can be opportunities to provide services to other schools and share resources in the UK and overseas. This requires sufficient capacity and must also be in the interest of the individuals concerned.

In some cases, the benefit of economies of scale can provide opportunities to provide catering services to other local schools.

International opportunities
Many schools have established connections with international schools which provide a healthy income. Despite the current challenges in China, we are seeing schools continue to explore opportunities elsewhere. The time investment of senior staff (who are likely to already be under pressure) and governors should not be underestimated, both in negotiations and on an ongoing basis. Reputational risk also needs to be considered.

As schools look ahead there are likely to be opportunities to 'sweat their assets', but it is important to be realistic about what is achievable. Ensure you do a cost-benefit analysis before you embark on a new activity to ensure the time investment and risk is worth it. With busy teams, consider focusing on the easy wins first.

It is important to remember that your main priority is to run your school. Being distracted elsewhere may be detrimental.

Finally, don't forget the tax consequences of any new or growing activities – we will cover this in our next edition.

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The VAT impact of capital building projects

An essential part of planning building projects should be to consider the impact of VAT as schools are unable to recover most of the VAT charged by the builder. This article considers ways to manage the cost of VAT on certain building projects.

Boarding houses

There are two main methods in which schools with boarders can reduce the VAT cost incurred on certain building projects.

Firstly, when a new boarding house is being constructed, you can ask the construction company to treat the supplies made to the school as zero-rated. This is due to HM Revenue & Customs (HMRC) allowing zero-rating where construction services are utilised for buildings intended to be used solely for a 'relevant residential' purpose, which includes residential accommodation for pupils. The construction company will not charge VAT to schools when building a new boarding house if schools can provide a valid certificate. However, the school will still incur VAT on professional fees, such as architect's and surveyors' fees.

Secondly, if you are converting a non-residential school building into a boarding house, then you should qualify to receive the conversion services at the reduced 5% rate of VAT.

In both cases, if you expect to incur high costs for professional services, you can save on the VAT element by considering a 'design and build' arrangement. This is a possibility if schools use a separate company, such as a subsidiary, to undertake the construction of the new boarding house or the conversion of the school building to a boarding house; it would be interposed between the design/construction teams and the school. This company will incur the costs but can register for VAT and reclaim the VAT charged. Its onward supply of the construction services will be entirely zero-rated for a new build, or reduced-rated for a conversion, and will incorporate the design element so that the professional services can also be treated as zero or reduced-rated.

Making existing buildings more accessible

Although the zero-rating for 'relevant residential use' is not available for general school buildings, schools can still take advantage of some building works that do not attract VAT. HMRC allow charities VAT relief on certain building works that make the buildings more accessible for the differently abled.

Relief for VAT for the disabled (as HMRC refer to this relief) can apply to:

- Construction of ramps
- Widening existing doorways and passages
- Supplies of chair or stair lifts and lifts designed solely for use by a specific differently abled student/teacher
- Preparatory or restoration works related to any of the above
- Any private accommodation rented to a teacher: provision of a new or adaptation of an old, bathroom, washroom, or lavatory

In such cases, the school will be able to ask the building services' supplier to not charge them any VAT, leading to a VAT saving.

New sports hall/multi-purpose sports buildings

Often when a school is looking to build a new sports hall or multi-purpose sports centre, VAT on the construction services is subject to 20% VAT, which is unavoidable. The question is then whether the school can make any savings by recovering the VAT.

VAT recovery on purchases is linked to the taxable usage of the building. As the primary use is by the pupils, most of the input tax will not be recoverable as it is not linked to a taxable supply. However, it is worth bearing in mind that the school may be able to ensure some recovery, by looking at the following areas:

- Opting to tax, which converts any third-party hires into taxable supplies
- Not taking advantage of the exempt block-bookings for hire to other schools, clubs, and associations, which with an option to tax, would convert the hires into taxable supplies
- Use of a subsidiary for any commercial hires and the setting up of a VAT group

To reiterate, it will not be possible to fully reduce the VAT cost from building a new sports hall or multi-purpose centre. However, for large value builds you may still achieve some VAT recovery, which would make exploring these options beneficial.

Capital Goods Scheme

In discussing high-value capital projects, the Capital Goods Scheme (CGS) is an aspect of VAT accounting for VAT-registered schools that can become relevant.

Capital expenditure on land and buildings is subject to the CGS when it exceeds £250,000 and VAT is incurred on the work. The capital expenditure in question can cover:

- Purchases of land and buildings
- Construction of new buildings
- Alterations, extensions, and annexes to existing buildings
- Refurbishments of existing buildings

The CGS requires that the amount of VAT recovered is monitored over a ten-year period and adjustments are required to be made each year to this amount, if there is any change in the taxable usage of the building compared with the first use.

This can be done in line with the partial exemption calculation, and each year the annual adjustment percentage is then used to calculate whether any changes require an adjustment under the CGS.

Differing schools have differing recovery rates and the usage of the building can also determine how much VAT is recoverable. For example, if a school incurs VAT on the construction of a theatre building, which it uses entirely for its own purposes of educating its pupils, it will recover no VAT. However, if, after five years it starts to make taxable supplies from the building by letting it to third parties, then it can revisit the VAT it originally incurred and reclaim a portion of it.

VAT can have a substantial impact on costs for capital projects and as illustrated above, there are some savings which should make VAT planning an intrinsic part of any capital project planning at the outset.

Making Tax Digital (MTD)

Please note that from 1 April 2022, all VAT registered schools and their trading subsidiary companies must submit their VAT returns to HMRC in accordance with the MTD rules.

MTD requires that VAT records be kept digitally and for the returns to be submitted electronically to HMRC via an application programming interface, instead of manually entering the return figures into the old Government Gateway account. The main difference: when source data is keyed into the accounting packages, the journey through to the preparation of the VAT return and its subsequent submission to HMRC must be done electronically without any manual entries.

Complying with MTD can be done through either:

- Specific MTD-compatible software
- Continuing the use of existing software with MTD compatible bridging tools

However, note that where you have more than one piece of software, HMRC will expect transfers of data between the packages to be done electronically, including via Excel 'csv' or 'xml' format files.

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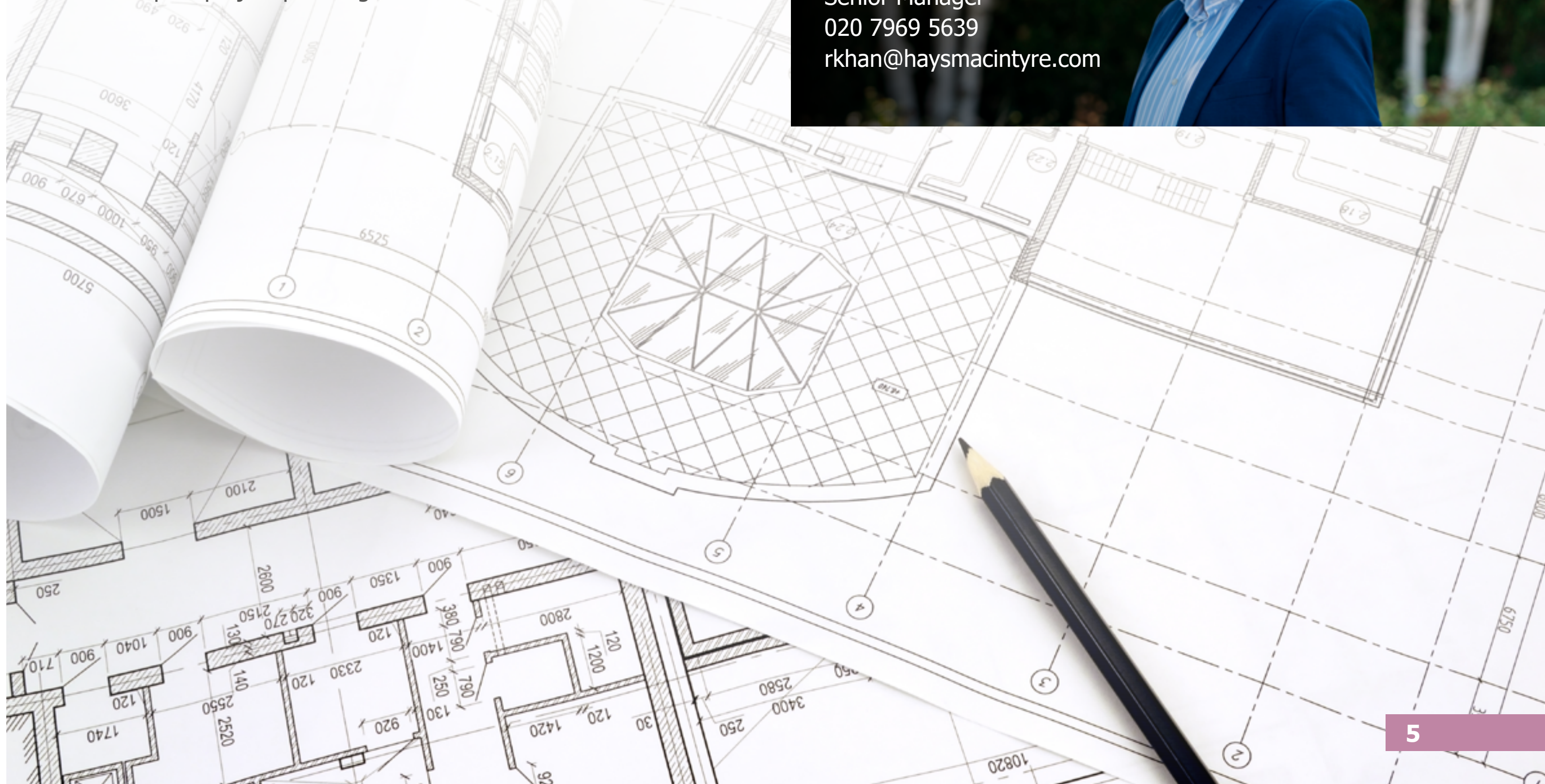

Withholding taxes

Charitable schools with overseas investments and income from satellite schools based overseas may suffer withholding taxes on their income. Below is a summary of the main scenarios that are likely to be faced and when advice needs to be taken.

Charities are generally exempt from Corporation Tax (CT) on their main activities and are also exempt from UK tax on investment income, provided that the income is applied to charitable purposes.

In contrast, trading, investment, and other income received by a school's subsidiary will be subject to CT, however due to the ability to make corporate Gift Aid payments to its parent school, CT is unlikely to be payable.

Overseas withholding taxes and relief available
Schools and their subsidiaries may be subject to overseas withholding taxes (WHT) on dividends, interest, royalties, and capital gains income they receive. Some jurisdictions can impose WHT on professional and technical services payments, but this is less common.

What type of relief can be obtained?

1. Treaty relief – the charitable school or subsidiary agrees to pay a lower WHT in accordance with the treaty between the UK and the overseas jurisdiction, by agreement with the overseas authority. Alternatively, the WHT imposed is then reclaimed via a claim to the overseas authority.
2. Unilateral relief – a charitable school or subsidiary deducts the WHT from its UK tax liability on the same income (as calculated on the CT return). A full deduction is only available where the WHT rate is the minimum rate specified under the treaty. Note: this relief can only relieve a current year liability and cannot create a taxable loss.
3. Deduction relief – eg £100 income suffers 30% WHT. The charitable school or subsidiary treats the net of £70 as taxable income, instead of £100. This should always be available but is effectively only 19% relief for the tax deducted and therefore not the most efficient option.

It is likely that no tax is paid on income in the UK because the recipient of the income is a UK charitable school or a subsidiary gifting all its profits to the parent school. In addition, in respect of investment income (such as from dividends), which is exempt in the UK, there is no UK tax payable on the source. As such, the charitable school or subsidiary company cannot offset the WHT or obtain any repayments or credits and must suffer the 10% overseas WHT. This represents a financial cost to the group.

Key points for charitable schools and their subsidiaries

- Charitable schools cannot generally benefit from unilateral or deduction relief as most investment income received is exempt from UK CT. Instead, treaty relief for the overseas tax must be obtained, where possible, from the overseas authority.
- Investment income received in a subsidiary company also does not generally give rise to any UK CT against which to offset WHT, due to corporate Gift Aid payments made to its parent school.
- WHT suffered overseas can be relieved where the rate suffered exceeds the treaty rate. If WHT cannot be relieved, it is possible that Gift Aid payments to the parent school can be reduced without creating any further tax charge, because the UK tax charge is 'franked' by the unilateral tax relief. However, this does not provide a tax saving to the group overall.

Examples
Treaty relief
Company A, a charitable school, has a royalty agreement with a company in Japan. WHT has been withheld at 20% on royalty payments made by the payer in Japan.

The UK-Japan double tax treaty provides for tax on royalty income imposed in Japan on a UK resident to be reduced to 0%.

Therefore, the company is entitled to full treaty relief. By making an application to the authority in Japan, normally accompanied by a certificate of residency from HMRC, the company should be entitled to a repayment and receive future payments gross without WHT being deducted.

Because the treaty rate is 0%, the company cannot obtain credit for this amount in its UK tax return.

Sometimes a claim for treaty relief is not cost effective or is impractical due to the complexity of overseas administration in certain jurisdictions and the need to overcome language barriers. If a claim was impractical, deduction relief can be claimed instead. For a taxable subsidiary company, this would mean only the net income (80% of the gross amount) needs to be brought in to account and potentially taxed in the UK. However, in the above example of a charitable school, the 20% WHT would be a cost, where it could not be recovered.

Unilateral relief
Company B, a school, has a royalty agreement with a company in China. WHT has been withheld at 10% on royalty payments by the payer in China.

The UK-China double tax treaty provides for WHT on royalty income imposed in China on a UK resident to be reduced to a minimum of 10%. Therefore, there is no benefit to an overseas claim.

If no tax is paid on income in the UK, eg because the recipient is a charity, the company cannot offset the WHT or obtain any repayments or credits and must suffer the 10% overseas WHT.

If the company does pay UK CT on the royalty income, eg because it's a non-charitable school and the income is part of taxable trading income, unilateral relief is available and the WHT can be deducted from the UK CT due. Full relief is available because the UK CT rate of 19% exceeds the Chinese rate of 10%. It is important to keep a record of the gross royalty income and the tax withheld to ensure correct disclosure on the CT return.

Note: if the WHT was applied at 15% instead, treaty relief or deduction relief would be available on the additional 5% withheld.

How haysmacintyre can help

- We help schools minimise WHT suffered on overseas source income and maximise claims for repayment, where necessary.
- We provide advice in connection with the application of the overseas tax treaty according to each schools' circumstances. Each country and relevant income source may have differing tax treatments.
- Using our international network, we obtain local advice regarding making a claim for treaty relief against past and future WHT claims, including details of when a refund claim may be 'out of time' under the other jurisdiction's tax law. Where the claim relates to investment income, this will normally require assistance from the school or its investment broker to assemble the necessary information.
- We consider the amounts being withheld in light of the associated professional costs as it is not always cost effective to make claims for smaller amounts. However, once one-off advice is provided, an overseas agreement can provide effective relief for many future years.

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Employment taxes: current issues

We have been asked many questions regarding the upcoming changes to the Health and Social Care Levy, as well as last year's changes to the IR35 legislation, and so we have summarised our previous guidance adjacent.

Health and Social Care Levy

Whilst there has been recent press speculation about whether some of the tax changes the Government announced last Autumn (2021) will take effect from April 2022, schools must be prepared in case there is no delay to the changes being implemented.

The Health and Social Care Levy is intended to be a bespoke charge to help provide funds across the UK health and care sectors. The approach being adopted by the Government comprises the following:

6 April 2022
There will be a temporary increase to National Insurance (NI) of 1.25% to each of the following:

Employers
1.25% will be added to the employers Class 1, Class 1A, and Class 1B NI rates, increasing all of them to 15.05%.

Employees
For employees, the rates will increase to 13.25% for those who earn below the NI Upper Earnings Limit (UEL). For employees who earn in excess of the UEL, they will also pay NI at a revised rate of 3.25%, as opposed to the current rate of 2% in respect of earnings which exceed the UEL threshold. For information purposes, the UEL thresholds for 2022/23 are £967 (weekly), £4,189 (monthly), or £50,270 (annually).

6 April 2023
From 6 April 2023, the new levy will apply to both the employer and employee at a rate of 1.25%, a combined levy rate of 2.5%, with the Class 1, Class 1A, and Class 1B rates reverting to their normal levels.

The changes will also apply where the school has engaged with any workers who fall within scope of the IR35 legislation, with the charge being included as part of the deemed employment calculations.

What action can be taken ahead of 6 April 2022?
Schools may want to review any salary sacrifice arrangements they have in place, for example:

- Pension contributions for those employees who participate in defined contributions schemes
- Cycle to work schemes
- Electric and ultra-low emission cars

Furthermore, schools will need to review their budgets and forecasts to ensure the additional costs introduced by the levy have been fully considered.

Extended IR35 legislation

The final changes to the IR35 legislation were introduced from 6 April 2021 and potentially impacted many independent schools, resulting in increased administrative and employer NI contributions. Although the legislation has been in place for academies since April 2017, the comments below are relevant to all schools who engage off-payroll workers.

Why are changes being introduced?
Due to perceived widespread non-compliance (90% according to HMRC) by intermediaries, the changes to the legislation moves the requirement to undertake the deemed employment status review away from the intermediary to the school. Consequently, where the worker falls within the scope of the legislation, the need to operate PAYE and pay employer's NI contributions (and potentially the apprenticeship levy) will fall on the school, unless the small exemption applies.

Small employers' exemption
For a small exemption to apply, the school needs to satisfy two of the following conditions:

1. Turnover of no more than £10.2m
2. A balance sheet total (assets) of no more than £5.1m
3. An average of less than 50 employees

A school individually may be considered small, but if it is part of a group then the criteria must be applied to the group as a whole.

Which contractors should the school review?
The new rules target those working for the school who provide services via intermediaries, such as a personal service company. However, every school should consider reviewing the tax status of any contractors it engages directly as a sole trader. This obligation has not changed but has come to the fore owing to the press coverage concerning the IR35 legislation.

IR35 is not relevant if the individual is either a school employee or is supplied and employed by the agency or umbrella company in which PAYE is operated on the earnings paid to the contractor.

What are the key obligations for the school if the new rules apply?

- The school as the end client is required to review the deemed employment status of the worker
- The school, where it is the feepayer, is responsible for accounting and paying the Income Tax and NI contributions via PAYE if the contract is inside IR35
- The school must provide a status determination statement (SDS) to the worker and the intermediary setting out the reasons for its decision and that it has taken reasonable care in reaching that decision

What actions should the school take to remain compliant?

There are a number of steps that can be taken:

- Check your contractor population for those who supply their services via an intermediary
- Establish an employment status policy which clearly sets out the process, controls, and governance
- Ensure all relevant stakeholders have employment status training
- Check that the contracts work in practice. HMRC and the courts will see through any sham contracts for services.
- Ensure the process for undertaking the employment status review is robust
- Ensure a valid SDS is given to the contractor/agency or any other intermediary
- Monitor each contractor's status and re-run the determination at least every six months, when a new contract commences, or if there is a change to the engagement
- Complete due diligence on the labour supply chain compliance especially if an umbrella company is used
- Check any fully contracted out service (exempt from IR35; HMRC guidance here) is based on the commercial reality of the arrangements and not on just labelling the contract as 'contracted out service' or 'statement of work'
- Ensure that the payroll department is aware of the correct reporting and compliance requirements for those inside IR35

HMRC announced they will start to undertake wide ranging IR35 reviews from April 2022. Consequently, it is imperative that any school which engages with off-payroll workers has considered their arrangements, ensuring appropriate policies and procedures are in place to help manage any off-payroll worker engagements.

We have already seen several government departments 'named and shamed' for not operating the legislation correctly and being required to pay significant amounts of unpaid duties to the Chancellor of the Exchequer.

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Incorporating ESG into your investment strategy

Environmental, social, and governance (ESG) investing is becoming an integral part of investment strategy. Both asset owners and investment managers have developed ways to incorporate ESG criteria into their investment processes. Meanwhile, increasing investor demand and growing evidence of the financial benefits of incorporating ESG have led to integration becoming more mainstream.

Additionally, the proposed changes to *Charities and investment matters: a guide for trustees (CC14)* have caused many not for profit organisations (and specifically many schools) to revisit their existing policies and consider whether changes should be made.

What is ESG investing?
ESG investing aims to incorporate environmental, social, and governance risks and opportunities into decision-making processes. While there is no standard across the industry, it is common that they are broken down into three factors: environmental issues may include factors such as resource depletion or deforestation; social could refer to modern slavery or human rights; and governance can include concerns about board diversity or tax strategy.

ESG falls under a wider banner of responsible investment, which includes a number of different approaches available to investors. Three approaches identified by the Investment Association's *Responsible Investment Framework* are described below, but there are many other options available such as best-in class, positive tilt, social, and green investment, to name a few.

1. Negative screening
Negative screening is where investors exclude certain sectors or companies that they deem unacceptable or controversial. Some typical exclusions for schools could include tobacco, alcohol, gambling, and armaments. Exclusions may be set at a production level, or in some cases at a distribution level as well. Faith-based schools may also look at other screens such as bioethics or investments that pay interest.

2. Sustainability focus
Sustainable investing works to contribute in some way to a sustainable economy. It could be themed, for example, to minimise natural resource depletion and create environmental benefits, or improve social issues such as inequality or access to education or healthcare.

Sustainably focused investors could also include negative screening of certain sectors which are deemed contrary to long-term environmental and social sustainability, such as thermal coal mining.

3. Impact investing
Impact investing relates to the deployment of capital with a specific purpose of generating a positive (and measurable) social and/or environmental impact alongside a financial return. Historically, this type of investment has been through direct investments (such as private debt or private equity), but an increasing number of initiatives are now offering equity-based solutions for clients.

Running alongside these categories is the integration of ESG factors into the research and stock selection processes, as well as stewardship – the responsible ownership of assets.

Identifying the most suitable approach
Incorporating any of these approaches into your investment policy needs careful consideration, especially when identifying which approach is most suitable for you.

Key factors that schools may wish to consider could include gender diversity and child labour. It may also be appropriate to ensure your investment managers are demonstrating the ability to incorporate ESG factors into their decision-making process. One way of doing this is to ask them to show how they adopt the *Principles for Responsible Investment* – something all investment managers should be able to do.

Given it is a bit of a minefield, and with time being an issue, many schools have chosen to employ professional advisors to help. The advisor can work with you to avoid any potential pitfalls, help you achieve your objectives, and ensure your investment solution pays due regard to your ESG aspirations.

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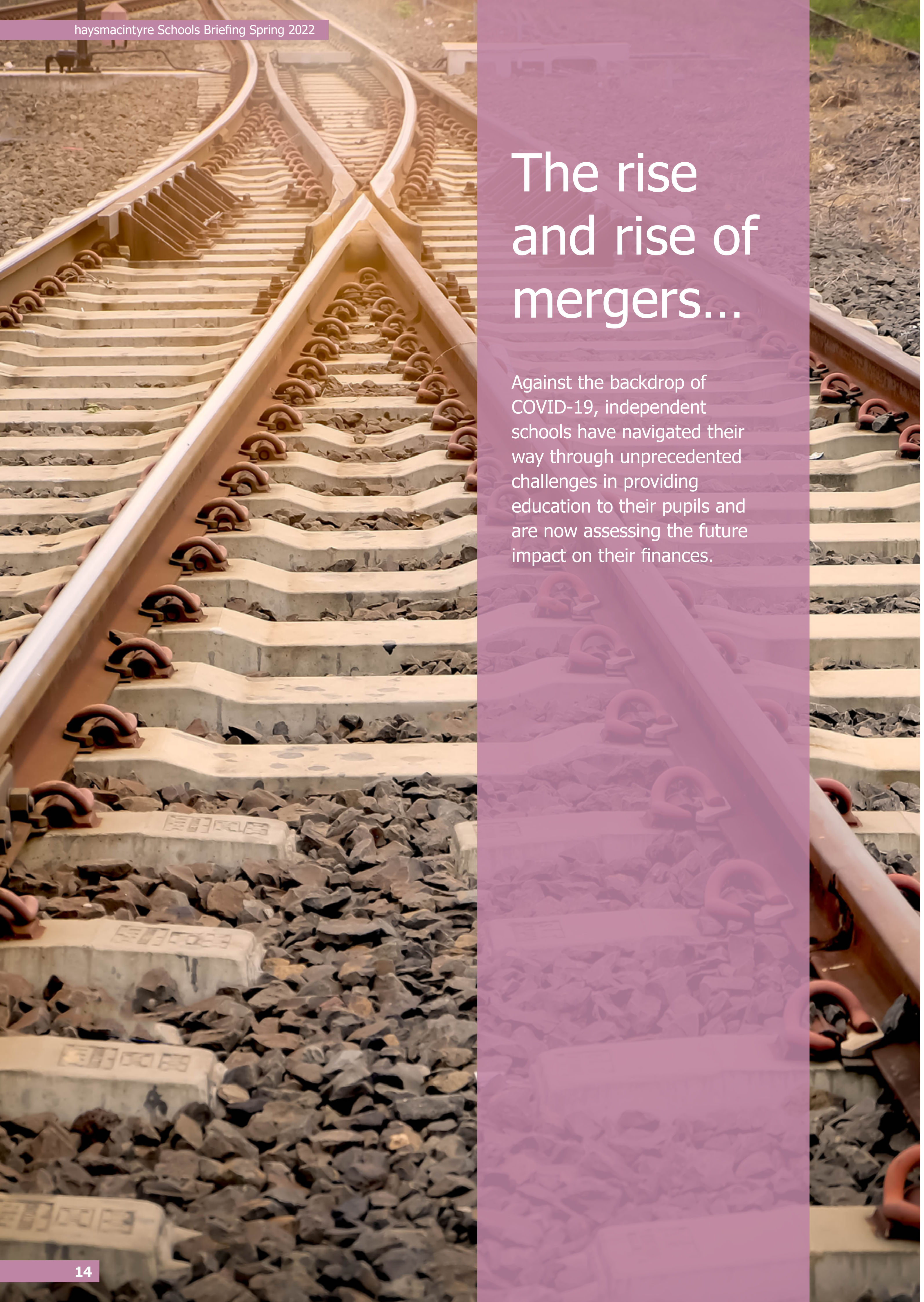

The rise and rise of mergers…

Against the backdrop of COVID-19, independent schools have navigated their way through unprecedented challenges in providing education to their pupils and are now assessing the future impact on their finances.

Prior to the pandemic, many schools were already facing financial challenges. Competition between independent schools and top-performing state schools had made it more difficult to attract students, while rising operational costs had been putting pressure on budgets and cash flow.

It is safe to assume that more challenges lie ahead, as already demonstrated with the recent increase in household bills further tightening the pockets of parents and the ongoing uncertainty over tax changes.

As the Government turns its attention back to Brexit, this too may have an impact on the UK's relationship with EU markets and there remains concerns about the ability of UK independent schools to continue to attract EU students. Certain schools have cited concerns about teacher recruitment due to both Brexit restrictions on freedom of movement and because teachers are worried about the financial stability of certain independent schools.

There is a growing trend of smaller independent schools reconsidering their business models due to the increase in teachers' salaries, especially the increase in the cost of belonging to the Teachers' Pension Scheme. These, and other fixed costs, understandably lead to a rise in school fees. If this tendency continues, independent schools will price out parents who are already suffering economic pressures, threatening pupil numbers, and adding pressure on the fee debtor and cash realisation position. Additionally, ongoing renovation, maintenance, and improvement works to school premises and the cancellation of lucrative summer lettings runs the risk of further draining resources.

A combination of brands and the arising synergy may secure the future of several small independent schools. There are three common structures for a merger:

1. The acquiree transferring the business of running the school, as well as the assets and liabilities, to the acquirer
2. Both the acquiree and acquirer transferring their business of running the schools, and their assets and liabilities, to the same newly established company
3. The acquirer becoming the trustee of the acquiree entity

In preparation for the merger, each school will have to consider the impact of the other school on the combined operations, and so we are increasingly being asked to assist with such financial due diligence as set out below.

Financial due diligence

Due diligence is the step that schools take to assure themselves that a merger is in their best interests and that there are no 'surprises' following the merger, for areas such as liabilities and fee debtors. It typically consists of four areas: financial, legal, property, and academic. The below is focused on financial.

The acquiree will need to prepare detailed relevant information and documentation relating to their school to include annual financial statements with commentary on their financial status and results, and identify critical trends and commentary on compliance with the Charities Statement of Recommended Practice (SORP). An audit findings report helps to identify and inform about any control issues raised by auditors. This can assist with indicating the effectiveness of the internal financial controls and the areas that need a review. Management accounts, together with a commentary on their format and structure, will also need to be provided in addition to financial forecasts to include forecast balance sheets and a cash flow forecast with commentary thereon.

Capital plans should be reviewed to consider affordability and appropriateness for the combined entity, together with a specific review of fee debtors to consider their recoverability. The review should ensure that fees received in advance are reflected correctly in the cash flow forecasts. Liabilities, long term contacts, and leases should also be reviewed. It is vital to receive advice from pension scheme specialists to identify any liabilities arising if membership of the scheme is terminated by staff leaving or through the merger.

Assessing potential tax liabilities arising from VAT and direct taxes, such as employment tax, forms an integral part of financial due diligence as every school operates slightly differently.

Conclusion

COVID-19 has forced a number of independent schools to revisit all areas of operation, from the provision of education to their estate planning and financial viability. These immediate years will also be affected by further inflationary increases for both schools and their affordability for parents, all against the backdrop of potential changes to government policy with respect to tax status and the increase in National Insurance. As a result, we have already seen a number of merger talks instigated in order to create these economies of scale and enable schools to become more affordable and accessible.

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Good governance

The Charity Governance Code (the Code), which sets out seven principles of good governance and is endorsed by the Charity Commission, was updated in December 2020.

The enhancements to the Code focus on two of the key principles:

Principle 3 – Integrity
There are new recommended practices for the right to be safe, emphasising trustees' needs to understand their responsibilities for safeguarding and to ensure that they have appropriate procedures for raising and dealing with issues. In particular, the Code includes new recommended practice on the right to be safe (safeguarding); the Code now asks trustees to:

- Understand their safeguarding responsibilities
- Establish appropriate procedures that are integrated with the charity's risk management approach
- Ensure that everyone in contact with the charity knows how to speak up and raise concerns about safeguarding

Principle 6 – Diversity
This principle is now named 'Equality, diversity, and inclusion' (EDI) and was changed to reflect best practice. The Code recommends four stages of practice for charities in their EDI journey:

1. Trustees should think about why equality, diversity, and inclusion are important for their charity and assess the current level of understanding of each
2. Trustees should set out plans and targets for equality, diversity, and inclusion that are tailored to the charity and its starting point
3. Trustees should monitor and measure how well the charity is doing in these areas.
4. Trustees should be transparent and publish the charity's progress in annual reporting

The revision of the Code can be downloaded here.

We have prepared a helpful factsheet about the Code in our 'questions to ask' series. You can view it here.


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Upcoming events programme

We have one of the largest charity and not for profit teams in the country: we act for over 800 clients, accounting for over 40% of our annual turnover. Our team of specialists host topical seminar updates and speak at other organisations' events presenting the latest developments within the not for profit sector.

AGBIS Annual Conference
Thursday 17 March 2022
10:00 - 17:00
Queen Elizabeth II Centre

AGBIS Finance for the Non-Financial Governor
Thursday 24 March 2022
10:00 - 16:00
haysmacintyre

Trustee Training: What Every Trustee Should Know
Wednesday 30 March 2022
09:30 - 17:00
Online

NFP Quarterly VAT & Tax Update
Tuesday 19 April 2022
10:00 - 11:00
Online

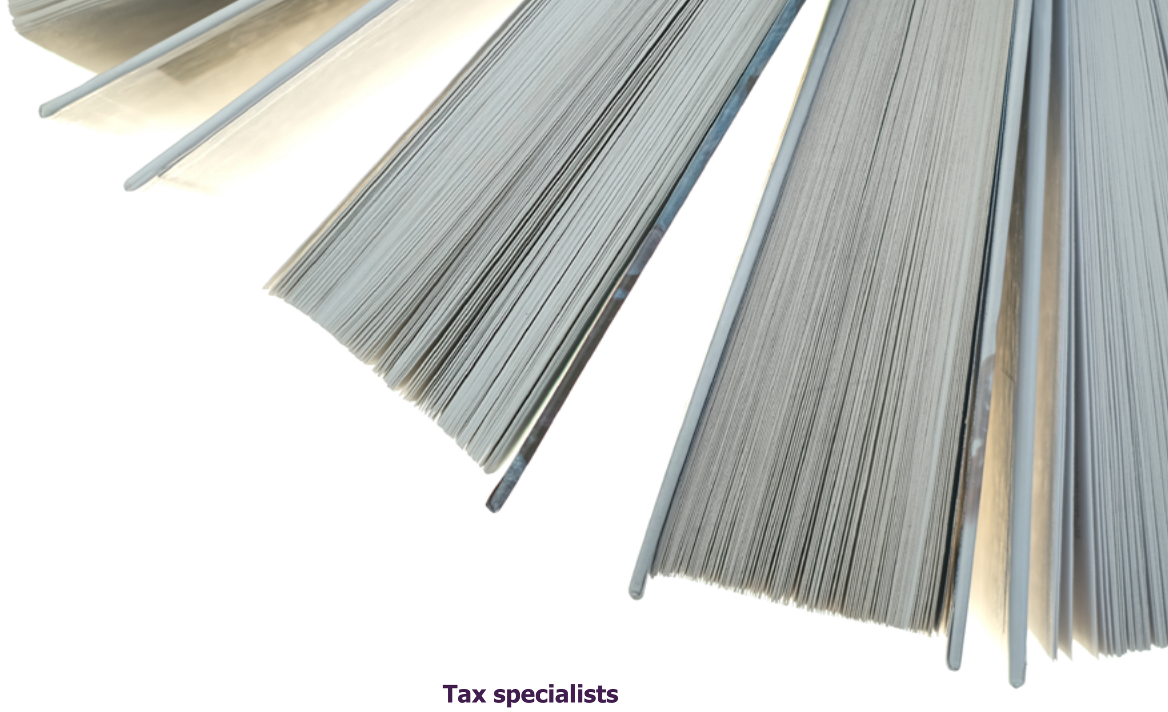
Bi-annual Schools Update
Tuesday 26 April 2022
15:00 - 17:00
haysmacintyre

Trustee Exchange Conference 2022
Wednesday 4 May 2022
09:00 - 17:30
America Square, London

ISBA Conference
Tuesday 17 - Wednesday 18 May 2022
09:00 - 17:30
ICC Birmingham

Quarterly Charities Update
Tuesday 7 June 2022
15:30 - 17:30
Online

To book your place at any of our events, please visit haysmacintyre.com/events



Schools team

If you need guidance on any audit and accounting, financial reporting, statutory obligations, funding, employment tax or direct tax matters you can contact any member of our Schools team as detailed below.

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Shortlisted 2019 Tax Team of the Year

Highly Commended Partner of the Year

Winner: Audit Team of the Year

Winner of the Bronze Award for 2018 and 2017

Top adviser to the top 5,000 charities, Charity Financials' league table 2021

Top ten by audit fees in the 2020 Charity Finance Audit Survey