



NHS VAT Update March 2010

Agency staff and professional services

1. Temporary staff

The issue of recovery of VAT on agency staff continues to cause difficulty within the NHS. Following recent discussions with HM Revenue & Customs and further to Revenue & Customs Brief 12/10, we can confirm the VAT treatment as outlined below.

Where an employment business is acting as a principal for VAT purposes it will normally charge VAT on the full cost of the service, i.e. the worker's wages and the agency's commission. An agency is acting as a principal when it has a contract with the worker and it pays the worker and then makes a charge to its customer for the provision of that worker.

In such cases the VAT charged by the agency can only be reclaimed if the worker qualifies under either of the following Refund Direction codes:

- Code 41 for nursing services.
- Code 69 for clerical, administrative and telephonist staff. This does not include managers and other specialists.

In particular, please be aware that a charge by an agency for the provision of specialist staff such as project managers and IT consultants cannot be reclaimed using code 52. This is because the agency is making a supply of staff and not a supply of professional services.

Concession for nursing agencies

In some cases, nursing agencies are allowed, by concession, to treat their services as exempt from VAT. In such cases the agency will not charge any VAT on their invoices.

2. Permanent staff

If an employment business provides a permanent member of staff, i.e. the worker becomes your employee and you pay them, then the fee charged by the agency is a recruitment fee and the VAT is recoverable under code 57.

3. Professional services – code 52

If an NHS body contracts with a professional services business to provide consultancy and advisory services then the VAT will normally be recoverable using code 52. If a contract does not clearly fall

within this definition we would recommend seeking a ruling from HMRC to avoid problems later. We would be happy to submit such a request to HMRC on your behalf.

Conclusion

If you have any concerns or queries regarding this issue please contact your usual Liaison adviser or our dedicated NHS VAT Helpline on 0800 700 652.