



Staff hire concession – HMRC confirm its withdrawal from 1 April 2009

As you will be aware from previous updates, it was announced in the 2008 Budget that HMRC were going to withdraw the staff hire concession for employment agencies with effect from 1 April 2009. This long standing concession allowed agencies supplying temporary staff to charge VAT on their commission only, if they so chose. This has led to significant VAT savings for those customers who are unable to reclaim some or all of the VAT they incur.

Despite vigorous opposition to this move from all sectors which will suffer an increased VAT cost (e.g. the NHS, charities, education, finance and insurance) HMRC have now confirmed that the concession will be withdrawn from 1 April 2009.

How will this affect the NHS?

Where agencies supplying staff to the NHS currently make use of this concession they will have to cease using it from 1 April 2009 and will have to charge VAT on the full cost of providing temporary staff.

Where such staff fall within the definition of Refund Direction (contracted-out services) codes 69 or 41 then this VAT can be recovered (but see below for possible changes to these rules) but for other staff that do not fall within these codes, no VAT recovery is allowed.

NHS bodies are therefore likely to suffer increased costs from 1 April 2009 and should consider making provision for this within their budgets. The possible changes outlined below may also have an impact on budgets.

Update on VAT recovery on agency staff and professional services

You may be aware that there is an expectation that the Treasury is intending to implement revised definitions of three of the Refund Direction (contracted-out services) codes, namely code 52 covering professional services, code 69 covering a range of administrative services and clerical agency staff and code 41 covering nursing services.

The revised definitions of these codes would have the following effect:

- VAT recovery on professional services under code 52 would be restricted to advice and opinion on efficiency or policy issues, legal advice and opinion and internal audit.
- VAT recovery on agency staff would be removed under code 69, so VAT on administrative and clerical agency staff could no longer be recovered at all.
- Although the wording of code 41 would not change, there is also a possibility that VAT recovery under code 41 could be restricted to specific grades of qualified nurses.

HMRC representatives attended the HFMA Tax Matters Conference last week and they advised that although the revised definitions do have legal effect, the Treasury is still considering the issues and as the revised definitions have not been officially published in the London Gazette they are not currently requiring NHS bodies to implement them.

HMRC's advice was therefore that NHS bodies should continue to use the existing definitions of these codes until a further announcement is made. Unfortunately there is no guarantee that the revised wording won't be introduced from the start or even during the financial year starting on 1 April 2009, so the best advice is to be aware that VAT recovery may be reduced going forward.

If you have any queries on the issues covered in this update please contact your usual VAT Liaison adviser or our dedicated NHS Helpline on 0800 700 652.