

Public Sector

Tax Forum

Newsletter Summer 2008

VAT TO BE CHARGED ON TOTAL AGENCY COSTS FROM APRIL 2009

The staff hire concession, which has allowed agencies to charge VAT on the commission element of their invoices only, has been in place for many years. Following a review by HMRC, they have now decided to withdraw this concession with effect from 1 April 2009, despite most respondents to their consultation urging them to retain it.

This will have a significant impact on NHS bodies as it will mean that VAT will be charged on the provision of all agency staff (apart from nurses) from 1 April 2009. Given that VAT on the provision of temporary doctors and other health professionals is not recoverable, this will lead to an increase in costs.

The Forum seeks to consult in the policy making process. If you would like to add your voice to this process then join the Forum today by sending your details to: mail@pstf.org

HMRC looking at further restricting recovery of VAT on agency staff services

This latest move comes on top of the general review HMRC has been conducting for some time of the whole area of recovery of VAT on the provision of staff via agencies and also consultancy and advisory services.

The current position is that VAT can be reclaimed on the provision of nursing staff, including nurses, nursing auxiliaries, and nursing/healthcare assistants under code 41. In addition, VAT on clerical, administrative and telephone staff can be reclaimed under code 69. VAT recovery is not allowed on any other types of staff.

It is thought that further limitations on VAT recovery are being considered.

The Forum is currently putting together a report on the impact of agency costs as input to the annual review by HMRC, Treasury and Department of Health of contracted out services. If you have any comments you would wish to be included, please send it to us at mail@pstf.org

OLD VAT CLAIMS NOW ALLOWED FOLLOWING LEGAL JUDGEMENT

Following a House of Lords ruling in January 2008, HMRC have accepted that they were wrong not to allow a transitional period when they introduced the three year cap on VAT repayments in 1996. As a result, organisations that were registered for VAT during the period 1973 to 1996 are now entitled to reclaim VAT they did not claim at the appropriate time.

These rules should apply to NHS bodies, but it is unclear yet exactly how they will be interpreted when the NHS body that incurred the cost is different to the one now in existence. HMRC are currently considering the issue and guidance is expected shortly.

Claims for VAT must be sent to HMRC by March 2009 so it is important that NHS bodies are ready to submit claims, if appropriate, as soon as HMRC issue guidelines covering the NHS.

The Forum is currently pressing HMRC to provide guidance for NHS bodies as soon as possible.

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UNCERTAINTY MAINTAINED OVER CORPORATION TAX

Recent correspondence with HMRC indicates that they do not propose to require Foundation Trusts to pay Corporation Tax on non healthcare related profits for the current year. This is clearly welcome news, but a firm indication of their future long term policy would be welcome so that Foundation Trusts can plan for the future.

The Forum is currently liaising with the NHS Confederation and the FT Network to ensure the guidance is fair and reasonable.

CONSTRUCTION INDUSTRY SCHEME (CIS)

Many NHS bodies are spending significant amounts of time on the administrative tasks involved in operating the CIS. Recent discussions with HMRC indicate that NHS bodies may only need to apply the CIS in respect of construction services used to generate non healthcare related income such as third party property rental.

The Forum is currently seeking clear guidance on this matter and will advise on the outcome as soon as possible.

£10,000 RULE FOR NOTIFICATION OF ADJUSTMENTS ABOLISHED

HMRC introduced a requirement in April 2007 that any adjustments to the recovery of VAT under the contracted-out services rules had to be submitted to them for approval where the errors totalled more than £10,000. This generated additional work for NHS bodies and time was taken up with many trivial queries from HMRC.

HMRC have now announced that they do not require notification of such errors in respect of payments made after 31 March 2008. They may however re-introduce the requirement if their regular on-site inspections indicate that the rules are not being complied with.

VOLUNTARY DISCLOSURE – NEW £10,000 THRESHOLD

All VAT registered businesses have been able to correct VAT errors relating to business activities where the net error (i.e. VAT owed to HMRC less VAT owed to the business) is less than £2,000. This threshold has not increased for many years and its low level has led to many disclosures being required.

In the 2008 Budget the Chancellor announced that the threshold for disclosing VAT errors relating to business activities would be increased to the higher of:

- £10,000 or
- 1% of turnover

With an upper limit of £50,000. This rule applies to errors identified after 1 July 2008.

As far as NHS bodies are concerned, the 1% of turnover only applies to business turnover, i.e. the value of goods and services sold to third parties (outside of the relevant divisional VAT registration).

As a result, the limit will be £10,000 for most NHS bodies. This is a welcome simplification.

PCT PAYMENTS FOR SERVICES USED BY GENERAL PRACTITIONERS

HMRC have been reviewing the scope for recovery of VAT on costs incurred by PCTs but used by GPs in their surgeries. They have recently announced that PCTs will be able to reclaim VAT provided that all the following conditions are met:

- The responsibility for providing the service lies with the PCT.
- The PCT enters into the contract with the supplier and pays them.
- The service is one which falls within the contracted-out services list.

MEMBERSHIP AND MEETINGS UPDATE

Each time notices of meetings of the Forum are circulated, we gain new members. We now exceed 100 Trusts in membership with the diversity widening to include Acute, PCTs, Mental Health Trusts, Ambulance Trusts and Foundation Trusts.

To encourage the maximum involvement of Trusts in meetings we are moving them around the country. The last one was in London on 12 June, the next one is in Leeds on 16 October and then London on 26 February 2009.

If you would like to attend either or both of these, please let us know on mail@pstf.org

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