

VAT in *Black & White*



April 2011

news update

Introduction

Berthold Bauer is the VAT & TAX specialist, working with the National Health Service, Public Health Providers and Government Bodies throughout the United Kingdom.

The NHS 'VAT in Black & White' provides recent VAT and Tax news and developments which affect all NHS and Government bodies.

Tribunal impact on temporary workers and VAT

VAT on temporary staff costs is a significant financial burden for many NHS Trusts, Healthcare organisations, Government bodies and not-for-profits (the 'irrecoverable sector').

Following the outcome of a recent VAT Tribunal decision [Reed Employment v's HMRC], the tribunal found that Reed were not making a supply of 'staff' but a supply of introductory services only. The consequence being VAT was only due on the agency's charge and not the 'salary' element.

Since HMRC's removal of the 'staff hire concession' in 2009, temporary staffing agencies have been directed to levy VAT against their total charge for all staff supplies (i.e. commission and wage element). The exception to this rule is for qualifying supplies of nurses and nursing auxiliaries. Therefore, the ramifications of the recent decision could be significant.



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There may now be scope for the recruitment agencies to offer a VAT 'credit' against previous qualifying supplies. There may also be scope to review existing agreements to ensure these too can be regarded as an 'agent' agreement.

Action required:

We are awaiting the official response, but we suspect HMRC will limit the decision to the facts of the Reed case only. They may also lodge an appeal to a higher court in response to the findings. The Reed case in particular interacted with the 'Fleming and Condé Nast' judgments.

It is likely this will take a long period of time and traders should strongly consider submitting a 'protective' claim in the meantime.

If you are an end customer (e.g. the NHS or the 'irrecoverable sector'), or a temporary recruitment agency who supplies these sectors, then we would recommend submission of a claim to HMRC.

Should you have any questions, or require assistance with preparing a claim, please feel free to contact one of our advisers to discuss in more detail.



FREE Helpline and Advice

If you have any VAT enquiries, Berthold Bauer are always happy to offer their FREE expert VAT advice

Telephone: **0800 328 9254**
Email: **vat@bbvat.co.uk**
Web: **www.bbvat.co.uk**



Quotation

"The art of taxation consists in so plucking the goose as to get the most feathers with the least hissing."

[Jean Baptiste Colbert]