



VAT exemption explanations :

Generally speaking, apart from the nursing agencies' concession mentioned in paragraph 6.5 on VAT Notice, all supplies of health professional staff are taxable for VAT purposes.

VAT exemption explanations: called under MSR Smartpay Ltd and Logged on HMRC as ref CVS 3782 on 28/06/2017 by Mr J Murrey of VAT Team under HMRC VAT Notice 501/75 Nursing Agencies Concession.

Supplies of registered health professionals (other than nurses) by employment businesses acting as a principal

The Employment Agencies Act 1973 defines an 'employment business' as a 'business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of supplying persons in the employment of the person carrying on the business, to act for, and under the control of, other persons in any capacity'.

Staff supplied by an employment business may be either employees of that business, or self-employed and engaged by that business. In both cases the workers' services are provided to the employment business, which in turn makes a supply of that worker to the client. If the worker comes under the direction and control of the client, this is a supply of staff. The employment business in these circumstances is acting as the 'principal'.

When an employment business supplies registered health professionals (other than staff subject to the nursing agencies' concession referred to in paragraph 6.5) as a principal to a third party, where the health professional is working under the control and guidance of the third party, it is making a taxable supply of staff to that third party - not an exempt supply of healthcare. It is the third party which is responsible for providing healthcare to the final patient, rather than the business supplying the staff which has no such responsibility.

However, if the employment business maintains the direction and control of its health professional staff to make a supply of medical care directly to a final consumer, then the employment business is providing medical services rather than merely a supply of staff. In these circumstances, the business is making an exempt supply of health services (provided, of course, the services meet the conditions for exemption under section 2.3 above).

Section 6.5 Supplies of nurses, Nursing auxiliaries and care assistants by state regulated agencies (the nursing agencies' concession):

By an informal Extra-statutory concession, nursing agencies (or employment businesses that provide nurses and midwives, as well as other health professionals) may exempt the supply of nursing staff and nursing auxiliaries supplied as a principal to a third party, if the supply is of:

- a person registered in the register of qualified nurses and midwives maintained under article 5 of the Nursing and Midwifery Order 2001 providing medical care to the final patient
- an unregistered nursing auxiliary who is 'directly supervised' by one of the above

- an unregistered nursing auxiliary, whose services are supplied to a hospital (NHS or private), hospice, care home with nursing under item 4 of Group 7, Schedule 9 VAT Act 1994 and form part of the care made to the patient
- A nursing auxiliary (also known as a healthcare assistant) is an individual who is not enrolled on any register of medical or health professionals but whose duties must include the provision of medical, as well as personal, care to patients.

The institution to which staffs are supplied may be operated by a local authority, NHS body, charity or other organisation operating in the public or private sector.

Therefore for supplies on or after 1 October 2010, the concession applies to employment business that would have been required to be registered with the Care Quality Commission before that date.

For the supply of nursing auxiliaries or care assistants to benefit from the concession, they must undertake some direct form of medical care, such as administering drugs or taking blood pressures, for the final patient. The concession does not apply to supplies of general care assistants.

However, where a state-regulated domiciliary care agency supplies the services of its care assistants directly to the final patient, we would see the agency as making an exempt supply of welfare services - see Notice 701/2 Welfare.

HMRC regularly review Extra Statutory Concessions.

The VAT liability of a supply is not determined conclusively by the terms of any contract or other documentation alone. If the wording of a contract does not reflect any changes in the way that the business actually operates in practice, the VAT liability of a taxable supply of staff will not change.

VAT on Agency or arrangement fees

As an agent, your commission, fee or any other charge that you make for arranging and administering the supply is standard-rated.