

VAT and Employment Agencies

This document should be read in conjunction with Section 37(1) of the VAT Consolidation Act 2010

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Introduction

This guidance outlines the VAT treatment that applies in relation to staff sourced, placed or made available by employment agencies.

1. VAT treatment of consideration for the supply of staff by employment agencies

The status of agency staff who are sourced, placed, or made available by employment agencies is a matter of fact determined on the basis of contracts and/or the actual working and other arrangements that may exist from time to time between the staff, the agency and the company, firm, body, or other entity in which the staff work, referred to below for convenience as the 'organisation'.

In accordance with Section 37(1) of the VAT Consolidation Act 2010, as amended, VAT is chargeable on the full consideration which the agency becomes entitled to receive in respect of, or in relation to, the supply of agency staff to the organisation, including all taxes, commissions, costs and charges whatsoever, but not including VAT chargeable in respect of the supply. The relevant rate of VAT is the [standard rate](#) in force at the time of the supply.

If an agency is acting as **principal** in the supply of staff to organisations, the 'full consideration' which the agency becomes entitled to receive in respect of, or in relation to, the supply includes such monies as commissions, fees, wages, employers' PRSI, holiday pay, sick pay, and other monies due under **the Organisation of Working Time Act 1997**.

On the other hand, if an agency is acting as agent in the supply of staff to organisations, the 'full consideration' would normally exclude such monies as wages, employers' PRSI, holiday pay, sick pay, and other monies due under the **Organisation of Working Time Act 1997**.

The VAT treatment does not affect the position in relation to the operation of PAYE/PRSI. The income tax treatment of individuals engaged through agencies, including the operation of PAYE/USC/PRSI, is dealt with in Tax and Duty Manual (TDM) [Part 05-01-15](#) - Revenue's information on Agency Workers.

The following paragraphs outline the VAT treatment which applies in the different situations that may arise.

2. Employment agency providing placement service only (and staff employed by and paid by the organisation)

VAT must be charged on the full consideration that the agency becomes entitled to receive in respect of, or in relation to, its placement of agency staff in the organisation in the following circumstances:

- a) where staff are placed by the employment agency and are employees of the organisation in respect of this placement, and
- b) the contract between the staff and the agency provides that the employment agency is placing the staff and that the staff are employees of the organisation, and
- c) the employment agency receives written confirmation from the organisation, which confirms that the organisation is the employer of the staff in respect of this placement.

This VAT treatment does not affect the existing position in relation to the operation of PAYE/PRSI. The organisation must operate PAYE/USC/PRSI in respect of the 'agency staff' in accordance with the guidelines set out in Revenue's TDM [Part 05-01-15](#) (unless the position outlined in section 3 below applies).

3. Employment agency providing placement service plus 'payroll bureau service'

Where the position outlined in section 2 above applies and the employment agency also provides a 'payroll bureau service' on behalf of and for the account of the organisation, and the following circumstances exist:

- a) a separate bank account is maintained by the agency into which the direct reimbursement of wages, employers' PRSI, holiday pay, sick pay, and other monies due under the **Organisation of Working Time Act 1997** are lodged, and
- b) the funds in this account belong to the organisation at all times and are held in trust by the agency until they are paid out to the staff or returned to the organisation. In this regard, statutory and voluntary deductions from pay and employers' PRSI will be regarded as paid to, or in respect of, the staff when passed on to the appropriate body, e.g. Revenue, banks, health insurance providers, trade unions, etc.

VAT must be charged on the full consideration that the agency becomes entitled to receive in respect of, or in relation to, its placement of 'agency staff' in the organisation and its 'payroll bureau service'. However, VAT would not be chargeable on the direct reimbursement of wages, employers' PRSI, holiday pay, sick pay, and other monies due under the **Organisation of Working Time Act 1997**.

This VAT treatment does not affect the existing position in relation to the operation of PAYE/USC/PRSI. The agency must operate PAYE/USC/PRSI in respect of the 'agency staff' in accordance with the guidelines set out in Revenue's TDM [Part 05-01-15](#).

4. Other scenarios

Where the requirements at section 2 above and, where appropriate, section 3, are not satisfied in full, then:

- a) The employment agency is regarded, for VAT purposes, as principal in the provision of staff.
- b) The staff are regarded as employees of the employment agency.

In these circumstances, VAT must be charged on the 'full consideration' (regardless of how described) which the agency becomes entitled to receive in respect of or in relation to the supply of services, including all monies, as set out above, in its capacity as principal.

This VAT treatment does not affect the existing position in relation to the operation of PAYE/USC/PRSI. The agency must operate PAYE/USC/PRSI in respect of the 'agency staff' in accordance with the guidelines set out in TDM [Part 05-01-15](#).