

Welcome

September Newsletter



Our aim is to keep you up to date with ideas and information that will help you gain the best possible advantages from working with us. These newsletters will be sent regularly to help achieve this aim, and we hope you enjoy reading them.

VAT treatment of Coronavirus testing services clarified after controversies



With the ongoing pandemic causing a high demand for COVID-19 testing, HM Revenue & Customs (HMRC) has published new guidance on the circumstances in which such services are exempt from VAT following a call for clarity from many businesses reliant on regular testing.

HMRC has said that the service of COVID-19 testing is treated as medical care in most cases, where it requires the administration of the test to the patient and the results require the assistance of a medical professional, including where the work of another person is supervised by a medical professional.

The supply of medical care is typically exempt from VAT and as such it should not be applied where testing is:

- Carried out and supplied by a relevant health professional within the meaning of items 1, 2, 2A or 3 of Group 7 of Schedule 9 of the VAT Act 1994.
- Supplied by a non-registered person, but the services are wholly performed by a relevant health professional (this does not apply to dental technicians)
- Carried out by a non-registered person acting under the supervision of a relevant health professional (this does not apply to a pharmacist, pharmacy technician or dental technician)
- Supplied by a hospital or state-regulated institution, including the supply of any goods in connection with the supply.

The condition that the body is state-regulated applies only to the company making the supplies and not to the representative member of a wider VAT group. Businesses should also be aware that services delivered by an organisation considered to be accredited by the UK Accreditation Service are not state-regulated for these purposes. Similarly, the supply of COVID-19 testing by a body regulated by the Care Quality Commission for other activities, but not COVID-19 testing, remains standard rated. However, the VAT exemption can apply if the supply meets another of the tests required to qualify.

COVID-19 Travel Tests

As the purpose of COVID-19 travel tests is diagnosis for the protection of human health, HMRC has said that tests taken for international air flights may be VAT exempt medical care, subject to the supply meeting the usual requirements listed above.

To help businesses determine the VAT status of the test they require, HMRC has published the following examples:

- Sales of tests, where the test is self-administered and an immediate result provided — Standard rated for VAT
- Sales of tests, where included within the supply are testing and diagnosis of a sample provided by someone other than the buyer — where the testing and diagnosis is carried out or directly supervised by a registered health professional then the sale is exempt, where this is not the case the sale will be standard rated
- Tests administered in pharmacies — Only exempt, where directly administered by the pharmacist
- Tests in GP surgeries — These are exempt from VAT, where administered or directly supervised by a registered healthcare professional
- Tests supplied by the manufacturer to hospitals, pharmacies or GP surgeries — Standard rated for VAT.

If you are unsure about the VAT treatment of the testing services you use, or you operate a company that supplies medical services and are uncertain of the VAT status of the services you offer, please [contact us today](#).

Hospitality sector faces rise in VAT as the economy reopens



At the end of September, tourism and hospitality businesses that have enjoyed a reduced rate of VAT will see the amount they pay more than double.

In response to the pandemic, the Government temporarily cut the VAT rate for these hard-hit sectors to five per cent. However, at the start of October, this rate will rise to 12.5 per cent.

This includes supplies of:

- Hot takeaway food and hot takeaway non-alcoholic drinks
- Food and non-alcoholic beverages sold for on-premises consumption in restaurants, cafes and pubs
- Sleeping accommodation in a hotel or similar establishment
- Fees for caravan pitches and associated facilities
- Fees for tent pitches or camping facilities
- Admissions to attractions such as theatres, amusement parks, concerts, museums, zoos, cinemas and exhibitions

It is believed that to date this measure has cost the public purse around £4 billion in lost revenue, but it has helped many businesses with the difficulties of lockdown and the continuing economic recovery.

The emergency measure was originally due to end on 12 January this year, but was further extended to 31 March and finally, in his March Budget, the Chancellor Rishi Sunak extended it to 30 September.

The new rate of 12.5 per cent will remain in place until 31 March 2022, before increasing again to 20 per cent at the start of April 2022. This is designed to assist those hit hardest to gradually transition back to the full rate of VAT.

How does the change affect pre-booked accommodation?

Businesses supplying pre-booked accommodation or other eligible supplies made before 30 September for periods after this date should apply the five per cent VAT rate

For all bookings made between 30 September 2021 and 31 March 2022 the 12.5 per cent rate should apply, even if the service is supplied after April.

If you are unsure how this change may affect you or your business, please **Speak to our experienced team today.**

Zero rating for new build dwellings



Building works to construct a new dwelling are VAT zero rated but there are strict conditions to be met for this beneficial zero rate of VAT to apply and the recent case of CMJ (Aberdeen) Limited v H M Revenue & Customs is a stark reminder of the perils of stretching these conditions.

The conditions as set out in VAT law are that:

- The supply is in the course of construction of a building designed as a dwelling; and
- The services relate to the construction.
- Simple enough but then the law goes on to define a dwelling as follows:
- The dwelling consists of self-contained living accommodation;
- There is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
- The separate use, or disposal of the dwelling is not prohibited by the term of any covenant, statutory planning consent or similar provision; and
- Statutory planning consent has been granted in respect of that dwelling and its construction or conversion has been carried out in accordance with that consent.

And a new dwelling is one where:

- The existing building has been demolished completely to ground level; or
- The part remaining above ground level consists of no more than a single façade or where a corner site, a double façade, the retention of which is a condition or requirement of statutory planning consent or similar permission.

In the CMJ case the planning consent was for an enlargement to an existing dwelling but during the course of the works it became clear that the existing walls were not strong enough to support the planned building and so a building warrant was issued allowing the existing building to be mostly demolished.

Building warrants are specific to Scotland but the principles around this case apply equally to the rest of the UK insofar as the final condition of the definition of a dwelling refers only to statutory planning consent which the Tax Tribunal found to exclude any other form of consent.

A retrospective new build planning consent was obtained in this case but HMRC won their argument that zero rating could not apply because at the time the construction services were supplied there was no such consent.

The moral of this tale is to fully consider the VAT implications of any building project at the outset and to take the relevant advice. There are acceptable planning measures that can be implemented to mitigate irrecoverable VAT cost on construction projects but, as with all planning, the key is to do it before the project starts rather than once it is underway or worse still completed.