



VAT | recruiting overseas pupils

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Many independent schools increasingly rely on attracting pupils from abroad. One way of assisting with this process is to hire an agency which is established in the target location to actively recruit pupils, perhaps through "trade shows". Where an introduction successfully converts into attendance and school fees, a commission is payable to that overseas agent. This can have VAT consequences.

It has, in fact, always been the case that importing a consultancy service, or importing an advertising service (including imports from both the EU and non-EU areas), can give rise to a VAT cost even though the overseas supplier does not, themselves, charge VAT on their fee. However, the actions of an agency procuring a pupil as such probably did not fall into those particular categories (though the point is debatable). But that changed on 1 January 2010. All services (with some exceptions which are not relevant), are treated as carrying a VAT cost on importation. This means that services on which the school has traditionally not paid VAT are now unambiguously subject to VAT.

but how can this be paid?

It is paid through what is called the "reverse charge". A VAT registered school has to apply VAT to the cost of the imported service. But what happens when the school is not registered for VAT? The VAT legislation provides that, in order not to create an unfair advantage for non-VAT registered schools, the school must become registered for VAT if the value of its taxable supplies, including deemed taxable supplies under this reverse charge arrangement, exceeds the VAT registration thresholds.

An illustration of this is as follows: say, an unregistered school generates £40,000 of taxable turnover (below the VAT registration threshold) but also pays £40,000 of overseas pupil recruitment fees. If we add those together, the deemed taxable turnover is £80,000, which exceeds the VAT registration thresholds. This causes the school to become registerable for VAT.

Not only does this create extra cost on the recruitment fee, but it brings within the scope of VAT a stream of income which had escaped it, and, most importantly of all, for many, it introduces the administrative burden of the school being registered for VAT.

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This can be easily avoided, however, particularly where a school has an already existing and VAT registered subsidiary company. If the subsidiary company imports the service in question, it can apply the reverse charge and then charge that cost to the school. Although it has to add VAT to its charge, which creates the cost, the school is no longer registerable for VAT on the basis of having imported a service. This is because the school did not import the service, but rather the subsidiary company did. Since the subsidiary company is already registered for VAT, it does not incur any extra administrative burden.

It is important, therefore, for schools that might be in this particular situation to consider transferring any contractual arrangements it has with agents so as to clarify that the supplies are made to the subsidiary company in the first instance, and for the subsidiary company to contract with the school to make the same supply to the school.

It is advisable for contractual changes of any kind to be undertaken by a solicitor.

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