

VAT and Supplies of Staff, Research, Consultancy Services

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“Beyond the everyday world lies the world of VAT, a kind of fiscal theme park in which factual and legal realities are suspended or inverted”

Lord Justice Sedley,
Royal & Sun Alliance v C&E commissioners (Court of Appeal) 2001

Purpose

- To look at the VAT issues that arise when the University of Worcester....
 - Supplies Staff to a third party
 - Carries out research
 - Carries out consultancy work

Why is it important?

- Because supplies can be
 - exempt from VAT (QLX code 2);
 - standard rate (QLX code 3); or
 - outside the scope (QLX code 9)
- If we get the liability wrong, it could cost us!
- Can have an impact on level of costs, if University can reclaim VAT or get relief from VAT on purchases

Purpose



How do we tell the difference?

Definition: Supply of Staff

A supply of staff arises when:

- An individual who is **contractually employed** by an organisation is **made available** by that organisation to another person **in return for consideration**
- The determining factor is that the individual/s are **not contractually employed** by the recipient but come **under its direction**

Definition: Research

Research is:

- **Original investigation** undertaken in order to gain, advance or expand knowledge and understanding

Definition: Consultancy

A supply of consultancy or services arises when:

- An individual continues to operate **under the direction of their employing organisation** and a charge is made for the activities that they carry out or services that they supply

How do we decide?

Not an exact science!

- What do the contract, emails or other paperwork indicate?
- Has our research team been involved in negotiations?
- Has HR been involved – usually are if secondment?
- What does the member of staff think they are going to do; what have they actually done?

How do we decide?

Problem areas

- Descriptions on purchase orders from third party or invoices often wrong or misleading
- How we COST a project does not mean that that is what we are supplying
- How we have treated a supply in the past for VAT purposes is not necessarily correct (there can be subtle differences in arrangements that impact on VAT liability) or we could have just got it wrong!

How do we decide?



Look at each area in turn

Supply of Staff

Could be...

- Full time secondment for stated period
- Part time secondment (e.g. working at third party on a Monday and Tuesday each week, or first week in the month)
- Ad hoc arrangement (e.g. Joe Bloggs goes to work for third party for certain days)
- Key point is that whilst our member of staff is with the third party, **the third party tells them what to do**

Supply of Staff

Indicators...

- Usually a named individual – work cannot be done by just anyone
- HR has been involved if formal secondment
- Third party will specify where, when and what the member of staff does
- Staff may work at third party's premises
- Staff may be allocated line manager
- May be to expand individuals level of experience
- May be to “plug” gap at third party; e.g. cover an existing post

Supply of Staff

VAT liability – usually standard rated but a few exceptions

- The supply of **teaching staff** from **one eligible body to another qualifies as** a supply of **education** in its own right and is therefore exempt from VAT (QLX code 2)
- Staff must be involved in teaching/training individuals or groups
- Design and delivery of a course = exempt
- Design only of a course = standard rated

VAT liability (cont.)

- A narrow concession for secondment to charity – University cannot make ANY profit on recharges and member of staff cannot be working on business activity of the charity. If you think it is applicable ask first
- Concession for supplies of medical professionals to NHS – but must have contract of employment with NHS as well (being paid by University). If you think it is applicable ask first
- Other supplies : if in UK, standard rated (QLX code 3)
- If overseas: outside the scope of VAT (QLX code 9)

If in doubt ask!

Supply of Staff

Wording on invoice should make it clear what we are supplying, such as:

- *Charge for Secondment of Joe Bloggs for the period of [date] as per agreement signed on [date]*
- *5 days of Joe Bloggs during [date] for [day rate]*
- *25 hours of Joe Bloggs during [date] for [hourly rate]*

Research is:

- New – advance human knowledge rather than for a business reason
- Funding tends to come directly (or via a lead University collaborative partner) from a funding body, such as a Research Council, government and charities
- Something is done but there is no supply to funder
 - results are for general public good– no direct benefit for the funding body
 - Project is not expected to generate intellectual property – if it does results and findings are freely available to others

Easier to say what is NOT research:

- confirming existing knowledge
- business efficiently advice
- collecting/recording/collating statistics or data
- market research
- writing computer programmes (unless small part of a research project)
- routine testing of materials or components
- developing a course or training program without the provision of tuition

Research

Funding generally comes from

- Research Councils
- EU funders
- Charities
- Government/health

Can come from Commercial providers, but if commercial need to look closely to establish what they get out of the funding

If genuine research and for public benefit VAT code 9, but CRUCIAL that description on sales invoice is clear:

- *e.g. Drawdown of funding in relation to [name and ref number of research project] for the period from [date]*
- NOT – “3 days of Jo Bloggs” – even if that is how project has been costed
- Agree the wording with the University’s Research Office

Consultancy/Supply of services



Could be...

- Course design for third party
- Development of item or method with IP transferring to a third party and NOT publicly available
- Being involved in “research chain” but not named collaborator; e.g. sample testing
- Admin services – including consolidating existing knowledge
- Turnaround work

Basically anything we do that is not teaching students!

Indicators...

- Usually not a named individual carrying out work – generic in name of University
- Funder gets something out of arrangement (e.g. right to IP that it can use commercially)

VAT liability can be difficult to determine as often similar to research so please ask

VAT liability

- If not to another eligible body, usually standard rated
- If to another eligible body and tuition involved, then exempt

Invoice needs to make it clear what we are supplying

- *Testing of 200 samples as per agreement dated [date]*
- *Design of course in relation to [description]*
- *Desk review of data relating to [description]*

Examples

- ISE is asked to check how effective a Hoover filter is for UK Hoover Ltd in filtering out mites?
- ISE is asked to test samples for another University to establish how many mites per square centimetre in a mattress?
- ISE gets a grant from the NHS to look at what level of mites in a bed could cause asthma attack?
- ISE named member of staff spend 2 days working on a project for the NHS looking at mites in beds?

How do we get it right?

- Open communication with the Research Office
- Talk to me when a project is at the discussion stage
- Get me involved at the costings stage
- Challenge the description on an invoice
- Look at the flowchart!

Questions?