

Builders, hairdressers and taxi firms (Lecture B1380 – 15.06 minutes)

Who is making the supply is critical in many smaller businesses.

Builders

Consider a builder using self-employed tradesmen on a home extension for a customer – he is not VAT registered. He has quoted the customer £70,000 for the extension but he is not intending to charge VAT. And he does around three similar jobs each year!

How does he do this without falling foul of VAT?

Many operate on the assumption that they are acting as agent i.e., they will arrange for unregistered tradesman to perform work for the homeowner. So, when the footings need digging the builder will call in two unregistered labourers and maintain that they are contracting with the homeowner. He will do the same with bricklayers, plumbers, electricians, plasterers etc. Most of the tradesmen will not be VAT registered. The builder will have their own skill set e.g., carpentry, and they will charge the customer for their carpentry work plus a small agency fee for arranging the job on the customers behalf. In most cases the homeowner will be asked to open an account with the local builders' merchants so materials can be ordered on the homeowner's account. This will keep the tradesmen's invoices to labour only and this is how they manage to remain below the VAT registration limit.

Whether this works or not depends on whether the builder is actually acting as agent i.e., not principal. The quote document is very important in this regard. The agency arrangement needs to be explicitly stated and expanded upon in the quote. Terms like "we are acting as your agent", "we are arranging the tradesmen on your behalf", "your contract is with the tradesmen", "any problems with their work during or after the work should be taken up with the tradesmen", "you are responsible for settling their invoice within one week of issue" etc. Often the builder will provide the homeowner with a few quotes for various elements of the work – the homeowner will then choose the tradesman they want to engage.

The quote document is often the only paperwork between the builder and the homeowner, so it needs to be very precise when it comes to principal v agent. The builder should also have documented arrangements with the tradesmen and must ensure all their invoices are made out to the homeowner. The homeowner will normally provide the builder with a cash float and the builder will pay the invoices on the homeowner's behalf – this is acceptable as it is part of their agency service. Spreadsheets are provided to the homeowner confirming where their money is being spent – supported by the invoices.

Getting these arrangements wrong is a disaster as it will always result in a late VAT registration for the builder (as principal).

We see similar arrangements in hairdressers and taxi firms. In these businesses we must also ensure that the stylists and taxi drivers are bona fide self-employed. The agent v principal structure will only work when the stylists/drivers are self-employed.

Hairdressers

Essentially the customers are paying the stylist for their haircut and the stylist pays an agency fee to the salon owner – the so called "chair rent".

Salon owners are normally VAT registered as the chair rent they receive is taxable and will normally exceed £85,000. The VAT saving here is where a customer pays £50 to the unregistered stylist for their haircut and the stylist remits 30% (say) to the salon owner. VAT is accounted for on the £15 by the salon owner rather than the £50 paid by the customer.

Taxi firms

Taxi firms/taxi drivers have always operated a similar arrangement with VAT registered taxi firms and unregistered taxi drivers – quite often with a 40% agency fee.

Taxi firms will normally act as principal for their account customers as most of these would be VAT registered e.g., charging £300 plus VAT for their monthly fares before remitting £180 to the drivers. The VAT savings come on non-account customers where the drivers are acting as principal e.g., customer pays driver £30 and driver remits a £12 agency fee to the taxi firm for arranging the booking. The taxi firm will account for VAT on their £12 at 1/6. So, the customer has paid £30 but VAT only gets accounted for on £12.

Taxi firms have been under the spotlight recently following the UBER case. The case hinged on whether the drivers were employees for employment rights purposes – it was not a VAT case. UBER lost the case but have since amended their driver contracts to make it clear that the drivers are self-employed. This has however highlighted a VAT issue with their taxi licence.

In London for example, the licence stipulates that the taxi firm must be acting as principal for any booked fare. This would mean that they would need to account for VAT on the £30 fare before remitting £18 to the driver. UBER have therefore taken the decision to apply the Tour Operator Margin scheme (TOMS) to their arrangements. TOMS is mandatory where a business buys in and resells accommodation and/or transport. Applying TOMS they would only account for VAT on the £12 margin at 1/6 which essentially retains the same VAT advantage as before.

UBER have also taken a VAT case against Sefton Council which will test whether licences have the same impact outside of London. Most licences have a similar clause re principal on booked fares so TOMS might become the normal practice for taxi firms across the UK before too long.

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