HM Revenue & Customs

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Date 1 February 2019
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Dear Mr Clarke

Thank you for your email dated 3 January 2019 in which you provided amended contracts and information for a revised People PAYE Ltd model (PPL). My letter of 21 November 2018 set out my understanding of the application of VAT notice 700/34 with specific focus on what costs would be covered under disbursements between joint employers. These opinions remain unchanged. I have now completed my review of the revisions made to the PPL model and can comment as follows:

Firstly, I had to consider if the agreement between parties constitutes a joint employment as per VAT notice 700/34 following amendments to the contract. In my opinion the revised contracts do not change the nature of the agreement detailed in the original contract. Provided that the model operates as stated, this should meet the requirements to be deemed a joint employment. If there is a joint employment, guidance in VAT notice 700/34 would apply.

In regards to the operation of VAT notice 700/34 on the PPL model. My letter of 21 November 2018 provided a comprehensive overview of my opinion on the guidance and how it should apply. To summarise: when a joint employment exists, salaries and other direct employer costs paid between joint employers are disbursements and are not subject to VAT. Any other payment made between joint employers would need to be considered against standard disbursement rules to determine whether they meet the criteria. Any other payments between joint employers that do not meet the disbursement criteria would need to be accounted for under standard VAT rules.

I must make it clear that VAT is a self-assessing tax and that HMRC does not 'pre approve' specific models of operation. If a company operates within the parameters of the legislation and guidance then there should be no issue when checks are conducted on the business tax returns.

Revised contracts provided in your email dated 3 January demonstrate a change in the proposed charging structure to account for VAT on payments that cannot be attributed to direct employee costs. This would appear to amend contracts and billing arrangements in line with the view on legislation set out in my letter dated 21 November 2018. A clear distinction is now made concerning disbursements between relevant parties for direct employment costs and other charges at standard rate that do not arise from their responsibilities as a joint employers.

I understand that the PPL model is not yet operating as described. When the model is in operation I would like to arrange a meeting to discuss the working particulars and review the operation of the model in practice.

If you have any further queries then do not hesitate to contact me

Please note that our new address is Fraud Investigation Service, S1250, NEWCASTLE, NE98 1ZZ. If you write to us but do not use this address then we may not get your post.

Yours sincerely

James Mullen
Investigator

To find out what you can expect from us and what we expect from you go to **www.gov.uk/hmrc/your-charter** and have a look at 'Your Charter'.