

VAT Treatment of Day Care Services Clarified by HMRC... Exempt or Not?

In their release of Revenue & Customs Brief 9 (2021) on June 11th 2021, HMRC addressed the VAT treatment for day care services provided by non-regulated (CQC/Ofsted) private organisations in England and Wales. This puts beyond doubt HMRC's view that day care provision, by organisations such as this, is subject to VAT. So, what are the implications for these operators and are they required to be registered for VAT?



Day Care – A Summary of the Appeal

In summary, the appeal concerned the provision of day care services by private organisations (which are not charities) and whether they can be treated as exempt welfare services under [Item 9, Group 7 of Schedule 9 to the VAT Act 1994](#). This Act outlines that for this exemption to apply the provider of the services is required to be either a charity or state regulated (CQC/Ofsted). However, two non-regulated operators who offer day care services (LIFE Services Ltd and The Learning Centre (Romford) Ltd) contended that treating charities and non-regulated private welfare organisations differently breached fiscal neutrality. The Court of Appeal disagreed.

LIFE Services Ltd also contended that they were entitled to treat their day care services as exempt as they were monitored by their Local Authority and inspected under guidelines similar to those of the Care Quality Commission ("CQC"). The Court of Appeal disagreed that this was sufficient to meet the definition of state regulated which is set out in the notes to Group 7 of the VAT Act 1994 as being '*approved, licensed, registered or exempted from registration by any Minister or other authority pursuant to a provision of a public general Act*'.

How Does This Decision Potentially Impact VAT Strategy for Your Day Care Provision....?

The court case confirms HMRC's view that day care services provided by non-regulated (CQC/Ofsted) organisations are subject to VAT at the standard rate.

However, the resulting brief also demonstrates how the solution offered by VAT Solutions' Group VAT Registration/Contract Restructuring service is in accord with HMRC and should certainly be a consideration for care providers required to be VAT registered.

For more details on how our Contract Restructuring/Group VAT Registration service could enable your business to reclaim VAT on an ongoing basis as well as its associated benefits for your care provision, please contact **Emma Harrison** at **VAT Solutions** emma@vatsol.com Tel: 0114 280 3630