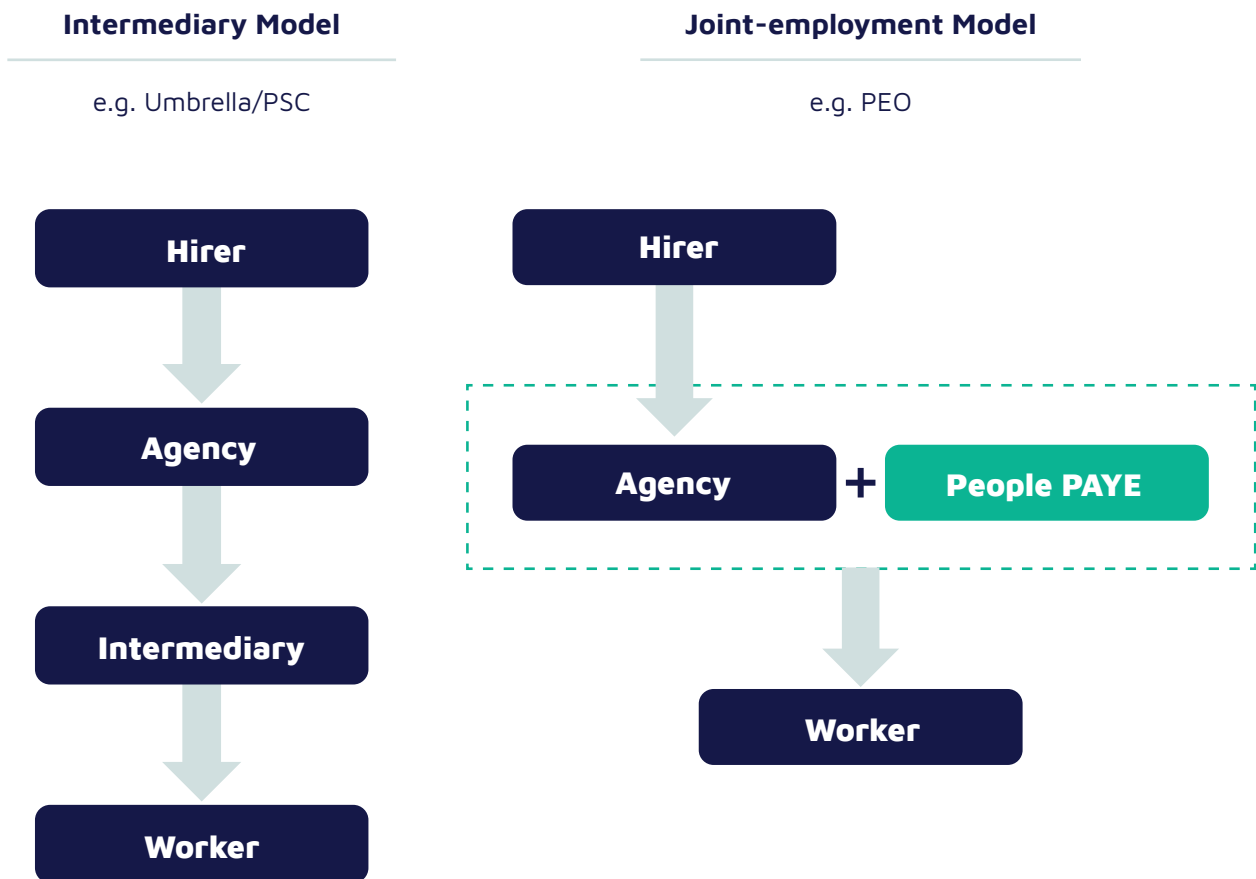


Illustration 1. The difference between Intermediary model and joint employment model.



“Where a joint contract of employment is entered into with Practice A and Practice B jointly employing the staff member there is no supply for VAT purposes. Reimbursement of costs between Practice A and Practice B is not subject to VAT.

British Medical Association

“Where staff are jointly employed there is no supply of VAT for purposes between the joint employers”

HM Revenue & Customs - VAT Notice 700/34

GOV.UK VAT Supply and Consideration

<https://www.gov.uk/hmrc-internal-manuals/vat-supply-and-consideration/vatsc06000>

Excerpts:

What constitutes a supply of staff?

There is a supply of staff when one party makes available its employee to another party...

Not the case under joint-employment

What is the position with employee services generally?

It is important to remember that tax is due on the supplies of staff because an employer is making available the use of its staff to another, non-employer party. Otherwise the provision of services by an employee to his or her employer is outside the scope of VAT.

What significance has joint employment for supplies of staff?

It follows from Article 10 that if staff are jointly employed by two or more parties it is not possible for one of the employers to make a taxable supply of the staff to another, even where it may charge part of the wages etc costs of the staff. See 700/34.

This is how joint-employment between Agency and People PAYE operates (in practice and contractually)

VAT Notice 700/34: Staff. Para 3.2: Joint Employment

<https://www.gov.uk/government/publications/vat-notice-70034-staff/vat-notice-70034-staff>

Excerpt: 3.2 Joint employment

Where staff are jointly employed there is no supply for VAT purposes between the joint employers. Staff are jointly employed if their contracts of employment or letters of appointment make it clear that they have more than one employer. The contract must expressly specify who the employers are for example 'Company A, Company B and Company C', or 'Company A and its subsidiaries'.

Confirms no VAT due where jointly employed

Condition satisfied

Condition satisfied

British Medical Association Joint employment for shared staff

<https://www.bma.org.uk/advice/employment/gp-practices/gps-and-staff/how-to-employ-shared-staff/joint-employment>

In a joint employment situation, an employee is appointed by more than one employer, and a joint contract of employment is held between the employee and the relevant employers.

An employee is jointly employed if their offer letter of appointment and contract of employment clearly states that they have more than one employer. The offer letter and contract would state who the employers are, e.g. 'Practice A and Practice B'. The joint employers should ideally set out their obligations or requirements in a service level agreement between them to avoid uncertainty and misunderstanding.

Confirms no VAT due where jointly employed

Condition satisfied as per 700/34

Condition satisfied as per 700/34

Joint staff of universities and NHS organisations memorandum

<https://www.bma.org.uk/advice/employment/contracts/academics-contracts/joint-staff-memorandum>

The purpose of this Memorandum of Understanding is to:

- set out the NHS and University understanding of the role of joint staff of NHS organisations and Universities who are engaged in both teaching and/or research as well as the delivery of patient care
- clarify selected duties and responsibilities of their employers
- document established practice in respect of those staff
- confirm that such arrangements are outside the scope of VAT

Additional precedent of cooperative joint employment

See 'Master Vendor Contract' and 'Agency/People - Responsibilities document'

This is how joint employment between Agency and People PAYE operates (in practice and contractually)

VAT considerations when employing shared staff

<https://www.bma.org.uk/advice/employment/gp-practices/gps-and-staff/how-to-employ-shared-staff/vat-considerations>

Outlined below is the differing VAT treatment between the secondment of staff members from one GP practice to another and the option of staff being employed jointly by two different GP practices.

Joint employment of staff

In case of Practice A and Practice B entering into a joint employment contract with an employee there is no supply of staff for VAT purposes between the Practices.

In order for staff members to be considered to be jointly employed their contracts of employment or letters of appointment must make it clear that they have more than one employer. The contract must specify who the employers are (e.g. 'Practice A and Practice B must both be named as joint employers).

When one practice acts as paymaster and pays the staff members salary, NIC and pension contributions etc, the reimbursement of its share of those costs by the other practice is treated as a disbursement for VAT purposes and is not subject to VAT.

Consistent with VAT notice 700/34 and joint employment model of People

Absolutely specific and relevant clarification of the exact joint employment business model in place between Agency and People PAYE