LETTERS OF AUTHORISATION

It has always been a requirement that anyone making representation, on behalf a Trust or Health Board to the Department must present evidence that they have authority to make such representation.

This Authorisation needs to be specific to the representation being made. We will no longer accept ‘blanket’ Authorisations. The Authorisation must be Original, of a current date, on Headed notepaper, signed by a ‘responsible’ member of the Trust or Health Board who must give their position and a contact telephone number, with the nature of the representation quoted in the authorisation.

We will strictly enforce this and any communication without specific Authorisation will be returned.

PARTIAL EXEMPTION

We currently allow Trusts to complete their Partial Exemption calculations annually in conjunction with their business activity claims. This is a concession, as the legal requirement is that the calculation is completed for each monthly VAT period, with an annual adjustment at the end of the year.

Whilst Trusts may choose not to submit a business activities claim, there is still a requirement to carry out the partial exemption calculations. Again, as a concession, this is completed at the end of the year.

A number of Trusts have still not completed their partial exemption calculations for the years-ending 2004/2005, 2005/2006 and 2006/2007. Would you please make every effort to submit these as soon as possible.

CAPITAL BUILDING PROJECTS

An increasing number of capital building projects now include a significant element of business activities within the scheme. The most common examples are buildings with catering facilities, mortuaries, car parks, and health centres with an Option to Tax in place.

Before calculating the amount of VAT recoverable under COS rules, the scheme must be separated out between business and non-business. The first step is to identify any VAT that is wholly attributable to either business or non-business. Any remaining non specific VAT must then be apportioned between business and non-business.

Once this has been done, the non-business portion of the scheme can be considered under COS rules in the normal way. This means that not all of the professional fees incurred will be eligible for COS VAT recovery under Heading 52 – only that percentage of the fees that relate to the non-business portion of the scheme.

Similarly, the banding scheme or a line-by-line review must only be applied to the non-business portion of the scheme.
A separate claim can then be calculated in respect of the business Input Tax incurred. Once two separate claims have been prepared, they should be submitted to the NHS Team under the normal rules.

**VAT LIABILITY OF POST MORTEMS**

The VAT liability of certain services provided by Health Professionals changed with effect from 1st May 2007. From this date, the VAT liability of post mortem examinations and reports changed from Exempt to Standard-Rated.

The only exception to this is in cases where the pathologist has been appointed by a coroner to carry out the post mortem under Section 19 of the Coroners Act 1998; because the pathologist is compelled to accept this appointment, the charge is made under statute, and is therefore Outside the Scope of VAT.

In many cases, the pathologist will act on a self-employed basis, and charge the coroner separately for his services. The Trust or Health Board itself may still charge the coroner for the use of their facilities, which is a standard-rated supply for VAT.

To summarise, VAT should be charged on any amount invoiced to the coroner, Local Authority or Procurator Fiscal by an NHS Trust or Health Board – unless the charge is solely for a post mortem conducted under Section 19 of the Coroners Act 1998.

These changes are explained further in Notice 701/57 (January 2007) and Leaflet VATHLT2130 (Doctors: Table 3 Liability of Services Provided by Doctors). Both of these publications are available on the HM Revenue & Customs Website.

**NHS AND ZERO RATED CERTIFICATES**

Zero rated certificates are not acceptable by an NHS Trust, or any other supplier, when issued by a handicapped person who is receiving medical or surgical treatment or care, as an in/out patient at any hospital where such treatment or care relates to the goods being supplied. There is only one exception to this rule, and that is wheelchairs. A NHS Trust can accept a zero rated certificate for wheelchairs ONLY from a handicapped person.

**DR FOSTER-CLINICAL BENCHMARKING**

There have been ongoing discussions as to the eligibility of VAT recovery on this service. We have taken advice on the issue and visited various NHS Bodies to see first hand what is actually received. The charge is primarily a subscription fee for access to internet sites. It does not fall under any of the Treasury Headings and consequently there is no scope for VAT recovery within the provisions of Contracted Out Services.

**IMPORTANT INFORMATION RELATING TO CONTRACTED OUT SERVICES Heading 41- NURSING SERVICES**

Please be advised that our Policy team is formally reviewing Heading 41 with a view to determining what staff fall within this heading. Exceptionally, while the review is in progress NHS bodies may continue to recover VAT that they incur on nurses, nursing auxiliaries, and nursing/healthcare assistants.

If NHS bodies have previously restricted recovery or had VAT disallowed by this team for these services, you may recover the restricted VAT on the next appropriate VAT return.
CONTRACTED OUT SERVICES (COS)-CORRECTIONS OF REFUNDS

In our VAT Newsletter Issue 1/2007 March we requested that COS claims exceeding £10,000 in any three month period be submitted to this office for approval. Due to increased compliance, this requirement will not be required for all invoices paid after 01/04/08. However please be aware this requirement may be reinstated should compliance fall.

NO NEED TO PANIC!

There is a new system for printing VAT Returns at HMRC, and Trusts may find their VAT Returns arrive a few days later than usual. Trusts only need to contact our Southend office (01702 366328) if their VAT Returns are more than a week late.

SPLITTING INVOICES FOR RECOVERY

It has come to our attention that Trusts are under the wrong impression that just because an invoice lists different types of supply, that the Trust are receiving different supplies. This is incorrect, it is one supply made up of different components. What Trusts have to decide is what is the overall supply being received. It is not appropriate to recover Contracted out Services VAT on the different components within one invoice.

CAPITAL PROJECTS- BANDING SCHEME

The introduction of the Banding Scheme was intended to simplify VAT recovery on Capital Projects. At the outset of a scheme you have the choice of analysing the Bills of Quantity or Schedules of Work to arrive at a recoverable VAT percentage or you can opt to use the Banding Scheme based on the nature of the work to be undertaken. What you cannot do is jump ship halfway through or change your mind at the end of the project.

We are still finding instances where NHS Bodies are allowing their advisers to review ongoing and completed schemes and then reverting back to percentages in order increase (usually by minor amounts) the VAT recovery and generate additional fees.

As previously stated this defeats the object of the Banding Scheme

SUPPLIES TO GP’S

There still appears to be some confusion, particularly among PCT’s and Health Boards, as to the correct VAT procedures to follow with regard to supplies made to GP’s where the NHS body pays for the services that are essentially supplied to GP’s and recovery of VAT under the Contracted out services regulations.

For VAT purposes, GP’s remain outside of the Divisional VAT Registrations for England, Scotland and Wales.

Therefore, if the responsibility lies with the NHS body to secure the service in question, eg, the collection of clinical waste, and it is the NHS body who have entered into the contracts and pay for them, then it is accepted that the supply is being made to the NHS body and they can recover the related VAT under the Contracted out services regulations.

However, if the responsibility to secure the service does not lie with the NHS body and they are not entering into the contract for the supply but merely paying for the service, then the supply is not being made to the NHS body but to the GP’s. Accordingly the related VAT on the supply would not be recoverable under the Contracted out services regulations.
CONTRACTED OUT SERVICES
CORRECTIONS OF REFUNDS

It has been brought to our attention that there have been two reviews submitted for the same 3 month period for the same Trust, thus seeking VAT recovery twice for the same 3 month period. This is not acceptable and the NHS Team will only accept the first review submitted to this office to which written approval will be given. Any secondary claim for the same 3 month period will be disallowed on the basis that the VAT for the said period concerned has already been given. Clear guidance on what is required for reviews was stated in the last newsletter Issue 1/2007 March as appropriate.

FINALLY

The NHS compliance Team has responsibility for all the VAT affairs of NHS bodies and it is the only team within HM Revenue & Customs that should be contacted regarding your VAT affairs. We can be contacted at:

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