

April 2004

## MONTHLY NHS VAT NEWS BULLETIN

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### 1. Contracted-out Services - 30 June Deadline Reminder

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For several years now Customs have enforced an annual 30 June deadline for VAT recovery on Contracted out services on the basis that Treasury funding for the NHS and other Government departments is designed to take account of VAT paid or recovered on an annual basis. Any deviation from this would therefore in theory distort the Treasury's figures.

Last year, over 200 NHS bodies' submitted a VAT return to Customs which included a 2002/03 claim but was received after 30th June 2003. HM Revenue & Customs at first refused to pay these claims however following discussions within Customs and Treasury and also considering representations from Department of Health, it was agreed that those NHS bodies that were informed they had missed the deadline for 2002/03 were permitted to recover the VAT that they were advised to repay.

Customs have now re-iterated that the 30 June deadline for 2003/04 is to be treated as an **absolute** deadline with no exceptions and they reserve the right to turn down claims for 2003/04 received in Southend after the deadline.

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### 2. Patient Appliances

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The term 'patient appliances' refers to items worn by patients such as footwear, callipers, wigs, etc and also applies to aids such as wheelchairs and walking frames. The following guidance aims to clarify the VAT recovery treatment under the contracted-out services rules.

#### a. Custom made items

The supply of bespoke surgical footwear or of a wheelchair or other appliance specifically designed for a particular patient is not eligible for VAT recovery as the supply is primarily of goods. If however, the manufacturer clearly differentiates on the invoice between the goods element and any service element of modifications and/or

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adaptations, Customs allow VAT recovery on the services element under contracted-out services item 52, 'Professional services, etc.'. Examples of modifications are:

- Raising a sole or heel
- Fitting bespoke straps/supports/callipers

In these circumstances, VAT can be recovered on the **parts and spares elements** which form a part of the service. VAT cannot however be recovered on the main supply of the goods, (e.g. the 'base' shoes).

## **b. Ready made items**

The supply of ready-made patient appliances such as standard wheelchairs or boots is not eligible for VAT recovery as these are treated as goods only.

## **c. Maintenance & repair**

Repair services such as re-heeling or re-soleing is eligible for VAT recovery under item 37, 'Maintenance, repair and cleaning of equipment, etc.'.

## **d. Orthotist/prosthetist session fees**

These services are exempt from VAT under item 1c, group 7, schedule 9, VAT Act 1994, therefore the suppliers should not be charging VAT on their invoices. Up until 30 March 2003, these were being treated as standard-rated by most suppliers and as such, VAT was eligible for recovery under contracted-out services item 52, 'Professional services, etc.'

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## **3. Partial Exemption - Statutory Obligation**

Customs currently allow NHS bodies to complete a Partial Exemption calculation annually in conjunction with a business activity claim. This is a concession, as the legal requirement is that the calculation is completed for each monthly VAT period, with an annual adjustment made at the end of the year.

It has been Customs' policy in recent years **not** to accept annual business claims without a partial exemption calculation also being completed.

Even if Trusts choose not to submit a business activities claim, there is still a statutory requirement to carry out the partial exemption calculations to ensure that trusts meet their legal requirements regarding Partial exemption.

We wish to remind our clients and other NHS Trusts that when we calculate annual business claims on behalf of our clients, we also complete a separate partial

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exemption calculation as part of this exercise to ensure that you meet your statutory obligations.

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#### 4. NHS Land and Property Sales

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Some of our clients have asked us recently about the VAT treatment of land & property sales, e.g. disposal of surplus hospital sites. Transactions involving land and property are often complex and the VAT liabilities can vary. Generally, the supply of land and property is exempt from VAT unless specifically excluded from exemption. Such supplies may therefore be standard-rated or zero-rated depending upon the circumstances.

When disposing of land and property or granting other interests (e.g. leases, rents, licences, etc), the NHS must apply the correct VAT liabilities in the same way as everyone else. Professional advice should be sought in each particular case and we would therefore be happy to help in these circumstances.

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