

# CRS VAT Consulting – NHS VAT Report – November 2011

## 1. New Health VAT Public Notices

HMRC has published two updated VAT Notices (701/31 – Health Institutions and 701/57 – Health Professionals). These include a few areas of clarification which are of interest to NHS bodies.

These are:

### 1.1 Self employed locums

As part of the Health Professionals update, the VAT treatment of supplies made by self-employed GP locums, has been clarified. This now states that when self-employed GP locums supply their services to an employment business which makes an onward supply to a third party who is legally responsible for providing health care to the final patient, both the supplies to and from the employment business are taxable.

Doctors supplying locum services via employment agencies or on a self-employed basis where the recipient of the service (e.g. an NHS body) is legally responsible for the care should consider whether VAT registration is required.

It must also be noted that where an NHS body utilises agency locums or locums operating through their own company or on a self-employed basis, any VAT charged will not be recoverable by the NHS body.

### 1.2 Contracted-out pharmacy arrangements

The updated Health Institutions notice now provides additional guidance on independent pharmacies operating within hospitals. By concession, HMRC allow pharmacists (including those operating from an independent pharmacy within hospital premises) to zero-rate drugs, medicines and other qualifying goods that are supplied to:

- an in-patient of a hospital or
- any person attending the premises of a hospital for medical care or treatment where all of the following conditions are met:
  - The items dispensed are qualifying goods designed or adapted for use in connection with medical or surgical treatment
  - The items are dispensed by a pharmacist in the normal way, on the prescription of a medical practitioner who is providing primary health care services
  - The items are intended for self-administration by the person named on the prescription
  - The items are supplied separately from, and do not form any part of, any medical services, treatment or care provided in the hospital or nursing home
- In the case of NHS prescriptions, the pharmacist is acting under the appropriate NHS Pharmaceutical regulations, and is reimbursed for the dispensed items by one of the NHS bodies that pay for community pharmacy services.

The notice goes on to state that the application of this concession must not give rise to any abuse of the VAT system and HMRC may withdraw or restrict the application of this concession if they have reasonable cause to believe that it is being used for tax avoidance purposes.

The full revised notices can be obtained from the following links:

[VAT Notice 701/31 - Health Institutions](#)

[VAT Notice 701/57 - Health Professionals](#)

## **2. VAT on medical equipment supplied in patient's homes**

Under the VAT rules, certain medical equipment can be zero-rated where the equipment is a medical or surgical appliance that is designed solely for the relief of a severe abnormality or a severe injury, and has been purchased for the personal or domestic use of a person defined as 'chronically sick or disabled'. This particular relief is not however available when the purchase is funded by an NHS body.

Zero-rating is however available for certain equipment purchased by an NHS body wholly from charitable funds.

Therefore, where NHS bodies make purchases of this nature from non-charitable funds, suppliers should charge VAT at the standard-rate (20%).

Generally speaking, there is no VAT recovery available for such products by NHS bodies under the contracted-out services ("COS") rules and there is unlikely to be VAT recovery under business VAT rules. However, if the NHS body purchases maintenance, repair or support in respect of such products, VAT recovery under COS may be available subject to the normal conditions.

## **3. VAT cost sharing exemption – possible inclusion into UK VAT law**

HMRC are currently considering enacting the VAT Cost Sharing Exemption. This is a provision of EC VAT law not currently applicable in the UK which allows businesses and organisations making VAT exempt and/or non-business supplies to form groups in order to achieve cost savings.

The principal benefit of the exemption is that by removing a VAT charge on supplies of goods and services between certain organisations, it will facilitate efficiency savings for organisations working together which are unable to recover all of their VAT on purchases.

If enacted, this exemption may enable cost savings on transactions between NHS bodies and social enterprises or charities, where these types of organisation have taken responsibility for previous NHS functions and the addition of VAT on re-charged costs can be a burden.

HMRC are due to publish their findings from a consultation process on policy design and a framework for possible future implementation. We will inform you of this as soon as further details are available.

### **About us**

CRS VAT Consulting is a firm of chartered tax advisers specialising in pro-active and innovative VAT solutions. Since 2002 we have grown to become a leading provider of VAT services to the NHS. We have achieved this by consistently identifying increased levels of VAT recovery and providing flexible services tailored to the specific needs of our clients.

We never advise or recommend NHS organisations to enter into contrived transactions designed purely as tax avoidance as defined by the Department of Health circular EL(97)70 and HM Treasury DAO(GEN)08/03.

Our credentials can be checked with the Chartered Institute of Taxation, which is the senior professional body in the United Kingdom concerned solely with all aspects of taxation.

For further advice about items in this VAT report, or to find out about our comprehensive range of NHS VAT services, please contact us.

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