

NHS VAT UPDATE: April 2009

Introduction

Berthold Bauer is the Healthcare VAT specialist, working with the National Health Service throughout the United Kingdom.

The NHS 'VAT in **Black & White**' provides recent VAT news and developments which affect all NHS bodies.

This issue

Revised COS Headings

New Treasury Directions

We have now received confirmation of the planned changes to the Contracted Out Services listing. Please note these are not yet in force but will become effective as and when they are advertised in the London Gazette (**date to be confirmed**).

There are some important changes and NHS Trusts are advised to ensure they have been made fully aware and have a full understanding to aid immediate compliance for when they are introduced.

Heading 69

"Typing, secretarial, telephonist and clerical services, including agency staff"

amended to:

"Typing, secretarial, telephonist and clerical services"

It is possible that there has always been a 'misunderstanding' that Heading 69 allowed for Agency staff hired directly by a NHS bodies.

The likely intention of the phrase 'including agency staff' was meant to convey that when an NHS body enters into a fully outsourced contract (e.g. for a typing pool), the contractor may employ agency staff themselves. It was NOT intended that VAT recovery may be sought on specific agency staff directly employed by NHS bodies.

We concur with the HM Treasury that the revised criteria does reflect the original principles of the Contracted Out Services legislation (i.e. "the hiring in of staff to support a particular activity is not the same thing as contracting out that activity to the private sector" [as an economies of scale exercise]), however, this will now be an added financial burden to many NHS Trusts.

Heading 52

"Professional services, including those of any manager, advisor, expert, specialist or consultant"

amended to:

"Professional advice or opinion on departmental efficiency or policy issues, legal advice or opinion and internal audit"

The revised wording to the heading, again, is a clarification rather than an alteration. As the heading suggests, the only services now permitted are Legal, Internal Audit and Professional Policy/Efficiency advice.

The clarification has caused issues with regards to fees incurred on certain NHS buildings projects and the HM Treasury is currently in discussion with NHS representatives. Therefore, the proposed changes to this heading are not yet finalised.

Heading 14

"Computer services supplied to the specification of the recipient, including the provision of a fully managed and serviced computer infrastructure"

amended to:

"Computer services supplied to the specification of the recipient including:

- ***the provision by one or more suppliers of a fully managed and serviced computer infrastructure either using the recipients' own hardware or hardware provided by the supplier as part of the infrastructure; &***
- ***development, delivery and support of bespoke software***
[nb: this excludes the purchase of software with minor modification]

Excluding:

- *supply and support of off-the-shelf software;*
- *hire of hardware alone;*
- *line rental alone (telephony); and*
- *hire of computer consultants to add expertise to in-house IT teams"*

The re-wording of this heading is intended to be a modernisation to better reflect current IT practices and incorporates no significant changes. We have requested further clarification on IT data lines.

Heading 41

"Nursing services"

This heading currently allows for the hire of agency Nursing staff, though is also under review.

Heading 45

There is a rewording to Heading 45 with no alteration to the original scope:

"Operation of hospitals, health care establishments and health care facilities including the provision of any related services"

Other new headings

Lastly there is the addition of three new headings which are not applicable to the NHS (i.e. intended for other Government agencies).

Heading 5 – *"Agricultural services of the kind normally carried out by the Farming and Rural Conservation Agency"*

Headings 72 and 73 are replaced with by a new [merged] heading: *"Careers guidance, mentoring, counselling and other related services..."*

Heading 76 – *"Probation services delivered under the Criminal Justice and Courts Services Act 2000"*

The above information is for guidance purposes only and should not be acted on without proper consideration of the particular circumstances or seeking Professional advice. Every effort has however been made to ensure statements are as accurate as possible

If you have any VAT enquiries, Berthold Bauer are happy to offer their FREE expert VAT advice

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