

UPDATE ON IMPLEMENTING VAT ON MEDICAL SERVICES

HM Revenue and Customs (HMRC) have announced that implementation of the VAT ruling on Medical Services will take effect from 1st May 2007. It will not apply retrospectively. The BMA has been negotiating with HMRC for three years and there are two key sources of guidance practices can refer to:

- 1) The HMRC Reference Notice 701/57 January 2007. This is available on the HMRC website www.hmrc.gov.uk and gives a comprehensive summary. You can also contact their national helpline 0845 0109000 and email service: enquiries.estn@hmrc.gsi.gov.uk
- 2) The BMA VAT on Medical Services information sheet available at www.bma.org.uk/ap.nsf/content/Vatonmedicalservices (log in required).

The LMC can signpost any queries practices may have and try to answer specific questions, but cannot provide detailed legal or accountancy advice. The BMA has recommended practices should alert their accountants to the VAT change, although it estimates the majority of practices will not be affected. The following Q&A section will hopefully be helpful.

- 1) *What was the d'Ambrumeril ruling?*
This represents a decision from the European Court of Justice in 2003 ruling that the then current UK VAT exemption for medical services was too wide. It introduced a 'purpose test' to determine whether a medical service should be VAT exempt.
- 2) *What is the 'purpose test'?*
The European ruling means that if the principle purpose of the medical service is the protection, maintenance or restoration of individual's health it will remain VAT exempt. Thus core medical services (whether provided through the NHS or privately) remain free from VAT liability. Medical services which are primarily for the purpose of enabling a third party to make a decision are liable to standard rate VAT, currently at 17.5%. GP Practices whose turnover falls below the VAT threshold can register if they wish, although there seems little value in this at present.
- 3) *Do I need to VAT Register?*
You will need to register if your turnover of services which are subject to VAT exceeds the threshold (currently £64,000). Note that VAT is an indirect tax on turnover and not final profit. VAT registration is based on your legal or commercial existence as a partnership and reflects actual working arrangements. It is possible for a GP to be a partner **and** a sole proprietor for VAT purposes but HMRC is likely to take an interest in any arrangements which appear to artificially separate business activities and GPs are advised to obtain specialist professional advice if contemplating this.
- 4) *What if I am already VAT registered?*
If, because of the April 2006 Department of Health regulations relating to VAT liability of dispensing GPs, you are already registered for VAT you need to apply VAT on appropriate services from 1st May 2007. Practices need to consider both the dispensing regulations and d'Ambrumeril ruling to determine their potential VAT liability.
- 5) *What about Insurance Services?*
Although under the purpose test these would appear to be VAT liable, the Morganash ruling (from a VAT tribunal case) decided certain insurance services were exempt. HMRC did not appeal this decision and therefore medical services provided in connection with an insurance contract and administration of policies (including claims), are excluded from VAT under the UK Insurance Exemption. (see Q9)
- 6) *How will this affect my professional fees?*
The BMA Fees Guidance schedules will be revised to indicate which are subject to VAT. The BMAs advice is that 17.5% should be applied in addition to the current recommended (or discretionary) fee. Clearly this may mean that some practices will levy VAT as a surcharge whilst others (who may fall below the VAT registration threshold, or who have decided to subsume the 17.5% within the charged fee) will not and therefore fees may vary amongst neighbouring practices (but this can occur already).

7) *Should patients and other charged organisations be informed?*

In line with BMA Guidance on informing patients in advance of prospective fees, it is recommended a notice is placed in the surgery (and within the practice website, if applicable) advertising this charge, and, if registered, your VAT reference number included with the appropriate charge on all applicable invoices.

8) *What should I do 'in house'?*

Practices are advised to keep accounts that clearly separate income subject to VAT from income that is not, even if you are below the VAT threshold. This is general advice, but you should seek detailed advice from your accountants.

9) *So, what services are subject to VAT and what are not?*

This section is not inclusive, and is based on the latest BMA advice. The LMC will flag up any further information or re-interpretation of existing advice as it becomes available.

Access to Medical Records under:

Data Protection Act 1998

Access to Medical reports Act 1988

Access to Health Records Act 1990

If provided for these statutory reasons, the activity is outside the scope of VAT, but if access to medical records is provided for other reasons, this is a VAT liable service.

Appraisal: As part of CPD the LMC believes this is VAT exempt, but has not received final confirmation.

Collaborative Arrangements: Most of these will be VAT liable, but those involving assessments for children "at risk" will be exempt under the 'protection' exemption

Cremation Fees: (under forms B, C and F) These are not subject to VAT.

DVLA Work: Medicals to assess initial or continuing fitness to drive are liable to VAT.

DWP and DS1500 forms: These are VAT liable, as are all forms certifying entitlement to benefits.

Insurance Reports: The ABI is aware of VAT changes and should identify to doctors work that is specifically VAT liable, however, the LMC understands that:

- Income/credit protection insurance services where the policy holder has fallen ill
- Health screening under private medical insurance policies, which represents a health check to identify early signs of disease

represent VAT exempt services.

Medical Education Lectures (one-off or regular) as part of CPD or medical training are regarded as a supply of private tuition and are VAT exempt under the education exemption. Presentation or lectures aimed at promoting health are exempt under the 'purpose test', but applying this exemption depends on the purpose of the lecture.

Medico-Legal Work: This will be subject to VAT and the BMA believes many doctors undertaking medico-legal work more than on an occasional or part-time basis will need to register. (see also Q 3)

Mental Health Act (1983): Assessments are VAT exempt.

Private Patients:

If the purpose of your medical service is the 'protection, maintenance and restoration' of health, then whether this is done via the NHS or not this service is not subject to VAT.

Please contact the LMC office with any further specific queries.

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