

## Discussion Paper – VAT & Library Services

### Background

Heading 33 of the HM Treasury Contracting Out Direction allows NHS Trust's and other relevant public bodies to reclaim VAT incurred on the contracting out of "Library services". The backing commentary to this heading as provided by HMRC on the gov.uk website is as follows:

*"This heading covers the use of external libraries such as university libraries, independent academic libraries and electronic/online library services.*

*Includes:*

- *Internet hosted library services which provide access to backdated journals, periodicals, medical books etc.*

*Excludes:*

- *Subscriptions to publications, electronic journals, single online journals, magazines etc."*

### What is a Library?

The Meriam Webster online dictionary defines a library as follows:

*"A collection of sources of information and similar resources made accessible to a defined community for reference or borrowing. Provides physical or digital access to material and maybe a physical building or room or a virtual space or both"*

This appears to be a very helpful definition and provides some context for the VAT reclaim issues referred to in this paper.

### The Contracting-Out of Library services by the Public Sector

The issue of VAT reclaims on library services has been raised before for discussion at this committee. It became clear from these discussions that the current guidance issued by HMRC on this subject is considered confusing, didn't provide enough detail and could be easily misinterpreted – there was certainly a lack of consistency from committee members as to what the correct VAT treatment should be of the services they were receiving.

What became clear from the discussions was that many Trusts / NHS Bodies do action reclaims using COS Heading 33 and that further clarity around what is and is not reclaimable would be very welcome.

### **Areas requiring further clarity**

The main questions which arise from the published guidance re Heading 33 are as follows:

*What is an internet hosted library service?*

A lot of NHS bodies contract out for the services of companies who provide online licence agreements which enable NHS staff to access backdated journals. Typically these agreements would also include an inbuilt search function. Is this the provision of an “internet hosted library service”? If these services don’t fall under this definition, what further services would HMRC need to see provided by a supplier in order for their service to qualify for reclaim under this heading?

*What is the relevance of the word “backdated” within the narrative to this heading?*

Heading 33 allows for VAT reclaims on “services which provide access to backdated journals, publications, medical books etc.” The heading excludes from reclaims “subscriptions to publications, e-journals, magazines etc.” Taking this at face value, the fact that services which provide access to “backdated” publications are VAT reclaimable would appear to imply that this is therefore only restricting VAT reclaims for subscriptions to ongoing publications and that any service which provides online access to historic issues of medical publications could be seen as an “internet hosted library service”. Further clarity would be appreciated.

*What is a subscription with reference to this heading?*

The OED definition of a subscription is as follows:

*“an arrangement to receive something, typically a publication, regularly by paying in advance”*

DHSC Has been made aware of cases where public bodies have been refused VAT reclaims on services provided which HMRC have classed as being similar to “subscriptions” but which in fact provide access to publications going back over 100 years. Clearly there is a distinction between those services and an annual subscription service which would not fall for VAT reclaim under this or any other COS heading. We would be grateful for further clarity in this area.

### **Summary**

VAT reclaims under COS Heading 33 is a very common area of confusion for both NHS Trusts and other public bodies. The fees paid for access to backdated periodicals are very substantial and are clearly for more than a subscription service. Further clarity around the definition of an “internet hosted library service” would be very welcome. The examples provided in Appendix A to this letter will hopefully help drive these discussions forward.



**Appendix A – Examples of services provided to the Public sector**

<b>Service Provided</b>	<b>Proposed VAT Treatment</b>
Subscription to current and future online editions of the Health Service Journal	Not reclaimable – payment for subscriptions
Access to backdated journals including search functionality. Creation, maintenance and publishing of databases. Provision of cataloguing services. Onus on supplier to collect and update an all encompassing service.	Reclaimable COS Heading 33 – internet hosted library services therefore reclaimable as “Library services”
Access to backdated journals including search functionality. New journals included by supplier as and when published.	<i>Further clarity required</i>