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| Meeting between HMRC, BUFDG and CTG re: Public Notice 701/6 | |
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| Location: CTG/Central Lobby, Church House, London – 9 July 2015 Attending: | |
| HMRC: Chris Maudsley, Michelle Stokell, Joanna Bigmore  CTG: John Hemming, Richard Bray, Chris Lane  BUFDG: Amanda Darley | |
| Meeting objective: To discuss possible updates and improvements to HMRC’s Public Notice 701/6 and guidance regarding charity funded equipment for medical and veterinary uses | |
| Abbreviations: |  |
| CTG:  BUFDG:  ESC:  HMRC: | Charity Tax Group  British Universities Finance Directors Group  Extra Statutory Concession  HM Revenue & Customs |

|  | *Topic* | *Details* | *Actions* |
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| 1 | **Specific assistance is available to help charities with queries over medical/veterinary zero-rating and other VAT reliefs** | The Charities VAT relief helpline/email, part of the Charities Enquiry team, Bootle – choose ‘VAT team’ on the options menu. | JB to send details of helpline to AD & CL (complete)  AD/CL to publicise this to BUFDG/CTG members |
| 1.1 | *Charities VAT relief helpline keeps a record of advice given* | This record contains details of med/vet zero-rating guidance given by members of the team and is shared by all the team. | HMRC to consider if this guidance can be shared more widely e.g. via letters to BUFDG |
| 1.2 | *Sharing information on med/vet zero-rating rulings between taxpayers could be more formalised* | Individual taxpayers sometimes share information on these rulings informally e.g. on BUFDG discussion boards or at networking events, but this could be formalised where the ruling is one which could apply to a large number of taxpayers or to generic items. | AD to invite BUFDG members to share rulings with her to be shared anonymously with all members if appropriate |
| 2 | **All 3 basic conditions must be met to be eligible for VAT relief on charity funded equipment for medical or veterinary use** | Consider:  1. Eligible body for purposes of relief (all universities are);  2. Qualifying use (medical/veterinary research, training or diagnosis/treatment);  3. Qualifying item. |  |
| 2.1 | *Most areas of confusion are over qualifying items* | Sometimes this is lack of understanding by employee making the purchase or by supplier – some mistakenly think everything used for med/vet research qualifies.  Usually, however, this is due to constant change and advancement in this area, and complexity and sheer variety and volume of items purchased. |  |
| 2.2 | *HMRC have some concerns over whether all research treated as qualifying is really medical or veterinary research* | There may be areas outside of medical/veterinary departments which could be carrying out medical research, but there are some areas which might be treated as medical which are not for VAT relief purposes e.g:   * Sports Science is generally research into performance improvement and is not generally considered medical research for VAT relief purposes; * Biomechanical engineers could undertake medical research into improving prosthetic limbs to treat amputees; * Plant scientists/botanists/biologists could undertake medical research by researching areas where specific diseases are prevalent due to plants or insects etc. |  |
| 3 | **HMRC agreed in principle to review Notice 701/6, but do not currently have resource to do this** | HMRC are happy to discuss making improvements to the Notice but have to balance this with the needs of other users of the guidance. They agree that the notice will be updated but cannot commit to a timeline to do this at present. |  |
| 3.1 | *Definition of scientific equipment/a scientific function needs to be improved* | At present, it could be read to apply to an ordinary ruler, but it was agreed that the measurement undertaken would require more precision equipment than an ordinary ruler in order to qualify. | HMRC to consider how best to redraft this, with input from BUFDG & CTG.[[1]](#endnote-1) |
| 3.2 | *The list of ‘Examples of qualifying goods and services’ at section 4.11 does not state that it is not an exhaustive list* | It would help with some disputes with suppliers if the list clearly stated it is not exhaustive (as well as already being titled as ‘Examples’) | HMRC to add a note to the list that it is not exhaustive.i |
| 3.3 | *The first column of the table at section 4.11 is not set out clearly.* | The table would read better if the first column was titled ‘Eligible for relief or not’ or ‘Eligible for relief?’ and completed with ‘Yes’ or ‘No’. However, the final column ‘Eligible for relief as’ should be retained as it is a helpful reminder of how the relief works i.e. there are specific qualifying categories and any item must fit within one of the categories or it does not qualify. | HMRC to update the table in this manner.i |
| 3.4 | *VAT relief on purchase of substances is not included in Notice 701/6 as this is a charity relief whereas ‘equipment relief’ is not necessarily only for charities.* | However, more detailed information in *Notice 701/1 Charities* would be appreciated as per the pre-meeting discussion document e.g. table of common items, and guidance on the phrases ‘directly used for testing’ and ‘for mixing with other substances in the course of that research’. A link to *Notice 701/1* from *Notice 701/6* would help. | HMRC to consider this and balance this request with the needs of other users of the Notice.  MS to check whether there is some specific restriction around genetically engineered animals/material.  HMRC to consider including a hyperlink in *Notice 701/6* where *Notice 701/1* is mentioned. |
| 4 | **Specific items in the example list were discussed as per the appendix to these minutes** | Please see the attached appendix for details | AD to provide further information on Howie-style lab coats.  AD to provide further information on the design intention re air showers.  AD to provide further information on animal bottle washers.  HMRC to check position re rulings on sharps bins.  HMRC to consider DVD players/ recorders/discs.  HMRC to incorporate the qualifying and non-qualifying items on the appendix into the (current) section 4.11 table.i |
| 5 | **Guidance around certificates could also be improved for suppliers** | Many suppliers are still not clear that the certificates given by HMRC are only examples, that electronic certificates can be used, that certificates don’t have to be signed and that if a purchase order is very clear which items do/don’t qualify for relief and includes all the necessary information for a certificate these can also be accepted. | HMRC to bring certificate guidance up to date.i |
| 5.1 | *Certificates are currently named A to M, but you can’t tell which is for what until you have clicked through to it.* | It would be helpful for the name to indicate what it is for to save time selecting the correct certificate. | HMRC to consider renaming the certificates/links to create an index of them.i |
| 6 | **Miscellaneous points discussed** |  |  |
| 6.1 | *ESC 3.11 regarding supplier’s liability for incorrect certificates has already been reviewed and will remain (though if it is subject to legal challenge the position could change.)* | This means that suppliers are not put at risk by customers issuing incorrect certificates, provided all reasonable checks have been carried out. |  |
| 6.2 | *BUFDG/CTG made HMRC aware of issues regarding imports where a certificate frequently does not accompany the goods and there are hold-ups at import* | This can cause problems were the items might be required quickly or be highly perishable (e.g. with substances relief). | HMRC to look into this. |
| 6.3 | *Software used for veterinary research does not qualify for relief, unlike medical research. Reasons are not known, but even if this is anomalous it cannot be changed.* | HMRC confirmed that even if this appeared to be anomalous as this is part of the legislation, not interpretation or guidance, it cannot be amended. HMRC were unable to provide any reasons for the apparent anomaly, but did not feel the reasons were important now as the legislation cannot be amended. |  |
| 6.4 | *Are general maintenance contracts for mixed qualifying and non-qualifying equipment, which could be subject to apportionment, common?* | It was not clear if this is a common arrangement. CRUK discussed their arrangements for contracting out of overall maintenance contracts with regular payments which cover potential maintenance of both zero-rated and non-zero-rated equipment. The set-up could in principle be apportioned but the detail of each case will first need to be considered by HMRC. | AD to survey BUFDG members to find if this arrangement is commonly used. |
| 6.5 | *HMRC agreed that sector-specific guidance prepared and distributed by umbrella organisations such as BUFDG could work well in this area.* | HMRC could not ‘approve’ guidance provided by third parties to their members but it could be discussed with them. | AD to produce guidance for BUFDG members (also available to appropriate CTG members). |

Amanda Darley, 28 July 2015

## Appendix to Minutes of the meeting between HMRC, BUFDG and CTG, 9 July 2015 re: Medical/Veterinary Zero-Rating Relief

#### A. Examples list in (current) section 4.11 of Notice 701/6

List of qualifying/non-qualifying items to be added to the Examples list when HMRC update the notice.

NOTE – ANY QUALIFYING ITEM MUST, OF COURSE, MEET THE QUALIFYING USE CRITERIA AS WELL.

| **Information provided by A Darley (BUFDG) in advance of meeting** | | | | | **Update 9 July 2015** |
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| **Ref** | **Item** | **Issue** | **Current Notice 701/6 table 4.11 states:** | **Suggested inclusion in Notice 701/6 table 4.11:** | **Discussion outcome** |
| 1 | Digital cameras with video capability | These should qualify as video equipment, but as still cameras don’t qualify, this isn’t currently clear | ‘Cameras, still’ do not qualify.  ‘Cameras, video’ do qualify as video equipment. | ‘Cameras, still with no video capability’ do not qualify.  ‘Cameras, still with video capability’ do qualify as video equipment.  ‘Cameras, video’ do qualify as video equipment. | HMRC do not agree that digital still cameras with video capability qualify for relief as video equipment as the main function they are designed for is still photography. |
| 2 | Thermal imaging cameras | Are these scientific equipment? They measure heat and display it. | ‘Cameras, still’ do not qualify. | ‘Cameras, thermal imaging’ qualify as scientific equipment. | HMRC agree these can be considered as scientific equipment as they measure heat. |
| 3 | Other specialist cameras which takes stills but are used in a lab context but not attached to a microscope e.g. a camera used to take thousands of stills to look at someone’s gait | Are these laboratory equipment? Some may be used in other contexts. | ‘Cameras, still’ do not qualify. | Unclear – to be discussed – see issue. | HMRC believes this would be case specific and that the design intention of the product needs to be considered. It is possible that some specialist cameras may qualify for relief, probably as scientific equipment (being used to measure something). Guidance from the Charities VAT Relief helpline can be sought if needed. |
| 4 | Tablets e.g. iPads | Not clear whether these can be treated as computer equipment, but are essentially portable computing devices (as laptops are) | Silent | ‘Tablet computers’ qualify as computer equipment. | HMRC agree that in principle these qualify as computer equipment, but were sceptical that many, if any, would be solely used for medical/veterinary research. It would be very hard to provide evidence that use was mainly for medical/veterinary research etc. so may not qualify for relief in many cases. |
| 5 | Smartphones e.g. iPhones | Not clear whether these can be treated as computer equipment or whether they should be treated as (non-qualifying) mobile phones – not clear what their main/primary function is these days – are they used more for email and data than for telephony in reality? | Silent | Unclear – to be discussed – see issue. | HMRC do not believe these qualify as they believe they are telecommunications equipment. |
| 6 | Printer cartridges | Can these be treated as parts to accessories? What is the current position on this? Needs to be specifically covered as cartridges are often very expensive |  |  | HMRC consider these to be consumables and not equipment or accessories/parts so they do not qualify for relief. |
| 7 | Lab coats | * Are they all lab equipment? * At least one HEI has a ruling that these are lab equipment (on the basis that if surgical gowns qualify as medical equipment, then clothing is ‘equipment’ and lab coats are therefore lab equipment). * If not all lab coats, then surely at the very least ‘Howie’ style lab coats qualify (these were designed to comply with 1978 Howie report setting out standard clinical laboratory practices). * Why the distinction in section 4.2.1 between stating that clothing is not ‘equipment’ unless it is ‘specialist, medical equipment’? If it is specifically ‘designed’ for a lab, surely this is equipment too? | Silent in table 4.11  Section 4.2.1 states “The following items are not equipment and do not qualify for zero-rating….   * clothing (other than specialist medical equipment such as surgical masks, gowns and gloves)” | Table 4.11:  ‘Lab coats’ qualify as Laboratory equipment.  Section 4.2.1:  “The following items are not equipment and do not qualify for zero-rating….  clothing (other than specialist medical equipment such as surgical masks, gowns and gloves, or clothing specifically designed for use in a laboratory such as ‘Howie’ style lab coats)” | HMRC would like more information regarding Howie-style lab coats and what makes them specialist items that have been specifically designed for use in a lab. |
| 8 | Specialist animal cages | No update has been made to include these items as eligible as per the tribunal case 18247 ‘Supplier Ltd’ | Silent | ‘Specialist animal cages (e.g.  free from chemicals and not available for consumer use)’ qualify as laboratory equipment | HMRC agreed the notice should be updated to reflect this case law. (HMRC internal manuals include this). |
| 9 | Specialist bedding, cage liners and nesting materials for specialist animal cages | No update has been made to include these items as eligible as per the tribunal case 18247 ‘Supplier Ltd’ | Silent | ‘Specialist bedding, cage liners and nesting materials for specialist animal cages (e.g. free from chemicals)’ qualify as parts or accessories to laboratory equipment | HMRC agreed the notice should be updated to reflect this case law. (HMRC internal manuals include this). |
| 10 | Air filtration and filtering systems for animal facilities | Accessories to cages? Need to be differentiated from normal air conditioning which does not qualify | Silent | ‘Air filtration and filtering systems for animal facilities’ qualify as laboratory equipment  ‘Air conditioners’ do not qualify. | HMRC agreed specialist systems for animal lab facilities that are built to meet specific and individual circumstances would qualify but the notice must be clear that air conditioners and normal air filters do not qualify. |
| 11 | Air control systems | No update has been made to include these items as eligible as per the tribunal case 19095 ‘Research Establishment’ | Silent | ‘Specialist air control systems capable of precisely controlling pressure as well as temperature and humidity’ qualify as laboratory equipment.  ‘Air conditioners’ do not qualify. | HMRC agreed the notice should be updated to reflect this case law. (HMRC internal manuals include this). |
| 12 | Data (e.g. sequence reads) supplied on specialist software | Is this a supply of qualifying software or non-qualifying data? | Silent | Unclear – to be discussed – see issue. | This very much depends on what the intention of the purchase is – is it to purchase the data or the software? If it is to purchase the data it will not qualify. |
| 13 | Parts to construct qualifying equipment where those parts are not qualifying items in their own right | If constructing some equipment in-house which would be qualifying equipment if purchased externally, can the purchase of the parts to construct it be treated as qualifying for zero-rating, even if they would not qualify in their own right? E.g. pipes, metal, springs etc. | Silent | Unclear – to be discussed – see issue. | The construction as a whole will not qualify for relief. The component parts will only qualify for relief if they qualify in their own right.  [Note – not for Notice 701/6 -Potentially the parts could be purchased by a subsidiary company where the equipment is constructed and the constructed equipment sold as a qualifying zero-rated item to the eligible body). |
| 14 | Alcohol spray, Sterilizing wipes, Stericlean spray, Clean room wipes, Specialist bactericides, Biocidal sprays e.g. Aquaclean or Biocidal ZF | Used to clean research areas and keep heating baths free from growths. Are these laboratory or sterilising equipment? Presumably not as they are not equipment. | ‘Sterilising solutions’ do not qualify. | ‘Sterilising solutions, Sterilizing wipes, Stericlean spray, Clean room wipes, Specialist bactericides, Biocidal sprays’ do not qualify. | HMRC to add these clarifications to the notice to make it clear these are consumables not equipment. |
| 15 | Air showers | Used when entering/leaving a lab facility which houses animals to create a clean room environment | Silent | ‘Air showers’ qualify as laboratory equipment. | HMRC feel the design intention is important here – were these designed to be used specifically in labs? |
| 16 | Animal bedding dispenser – a machine to dispense bedding for animal cages | Based on the ‘Supplier Ltd’ case (18247) these should qualify as accessories to the animal cages (which are qualifying equipment) | Silent | ‘Animal bedding dispensers’ qualify as accessories to laboratory equipment | HMRC will consider updating the notice to reflect this case law. (HMRC internal manuals include references to bedding material but not to a separate machine that is used to dispense bedding. HMRC would need further evidence that this is an accessory to the qualifying cages). |
| 17 | Bottle washer – which washes (but does not sterilize) and fills animal water bottles | This cannot be used for anything else so should qualify for zero-rating but is it laboratory equipment in its own right, or an accessory to the cages (which qualify as laboratory equipment)? | Silent | Unclear – to be discussed – see issue. | This does not appear to qualify HMRC would need more information about these in order to decide on revising the guidance. |
| 18 | Sharps bins | Designed specifically for disposal of syringe needles – would these specific items qualify as medical or laboratory equipment? | ‘Waste disposal bags, boxes, jars and sacks’ do not qualify | Unclear – to be discussed – see issue. | HMRC agree that these qualify as medical equipment. |
| 19 | Nitrile gloves which are not sterile but are used in the labs – these aren’t surgical gloves, but they’re used extensively in labs | More granular detail needs to be added to the table – either to include nitrile gloves in the zero-rating or to make it clear they do not qualify | ‘Gloves, surgical’ qualify as medical equipment.  ‘Gloves, other’ do not qualify. | Either:  ‘Gloves, nitrile’ qualify as laboratory equipment.  Or:  ‘Gloves, other (including nitrile)’ do not qualify. | Agreed that this was a complex area, but although low value it is very high volume and a common area of confusion. Need details of the types of gloves that are only used in laboratories to reach a decision on whether they should qualify as lab equipment, e.g. including the design intention. This needs to be considered further as HMRC is concerned that it could become and unlawful extension of the zero-rate. |
| 20 | Printers | Printers qualify, but does this include networked printers, and multi-function printers which also photocopy and scan – needs to be clear. | ‘Computer printers’ qualify as accessories to computer equipment. | ‘Computer printers, including networking and multi-function printers’ qualify as accessories to computer equipment. | In principle HMRC agree that these qualify as accessories to computer equipment as they mainly function as printers. Obviously the use that the printer will be put to also needs to qualify for relief. |
| 21 | General purpose power supplies for use in labs – things like UPSs (uninterrupted power supplies) | These are vital in some laboratories to ensure uninterrupted, continuous supply of power. However, as they do not fall into any of the categories of equipment they don’t appear to qualify for relief. Would be useful to state this for clarity and to avoid time wasted on disputes. | Silent | ‘Uninterrupted power supplies (UPSs) and other power sources’ do not qualify | Do not qualify – HMRC to consider if this should be covered in the notice. |
| 22 | Alarm systems for specialist rooms (cold rooms and liquid nitrogen stores) e.g. cryogenic monitor alarms | Cryogenic preservation (storage below –130°C) of cell cultures and tissue samples is widely used and these low temperatures are achieved by using liquid nitrogen in cell dewars.  As liquid nitrogen turns into a gas (as it gets warmer), the vapour is replaced by more liquid and hence expelled from the dewar into the store room where it displaces atmospheric oxygen. This is critical since oxygen depletion can very rapidly cause loss of consciousness, without warning. Therefore, low oxygen alarm systems are required on the cryogenic tissue bank stores. | Silent | Alarm systems for specialist rooms (cold rooms and liquid nitrogen stores) e.g. cryogenic monitor alarms qualify as accessories to laboratory equipment or accessories to refrigeration equipment. | Will probably be a case by case basis depending on detail of what the alarm was designed for. HMRC require more information on how the alarm system is different to others. |
| 23 | DVDs/DVD players/recorders [[2]](#footnote-1) | Digital video discs | Silent | DVDs/DVD players/recorders qualify as video equipment. | HMRC will look into this. |

#### B. Relief for substances, drugs and chemicals

| **Information provided by A Darley (BUFDG) in advance of meeting** | | | | | **Update 9 July 2015** |
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| **Ref** | **Item** | **Issue** | **Current Notice 701/6 states:** | **Suggested inclusion in Notice 701/6, new section/table re substances:** | **Discussion outcome** |
| 1 | Gases | When do these qualify? |  |  | See meeting minutes 3.4. |
| 2 | Reagents & other consumables | Needs clarity on when these qualify under the substances zero-rating | Section 4.2 states that the following do not qualify under the relief for equipment:  “consumables such as chemical reagents, fuel, ink, medicines, oil, paper, and cleaning and sterilising fluids. However, medicines and chemical reagents may qualify for zero-rating under a separate relief when supplied to certain charities. Further information can be found in Notice 701/1 Charities”. | Information should be included in a separate table in a new section of the notice relating to the separate VAT relief for substances (with text stating that all other conditions must also apply) e.g:  ‘chemical reagents’ qualify as substances  ‘medicines’ qualify as substances. | See meeting minutes 3.4. |
| 3 | Whole but genetically engineered animals e.g. mice to use for the antibodies, tissue etc.  Insects purchased for their DNA such as fruit flies | Despite animals not qualifying as equipment, could these types of animal purchase qualify under the substances relief because they are purchased in order to use the substances rather than the whole animal? | Table 4.11 of Notice 701/6 states that ‘Animals’ do not qualify under the relief for equipment. | Unclear – to be discussed – see issue. | As it stands this does not qualify and is an animal. HMRC will check if there is any other guidance on genetically engineered animals – MS to check. |

1. Please note all references to HMRC updating the notice are for when resource permits redrafting the notice. [↑](#endnote-ref-1)
2. Note – this item added after discussion at the meeting, not on pre-meeting document. [↑](#footnote-ref-1)