

Coastal Conference 2019

VAT - The most frequently asked questions of Aesthetic Practitioners

Presented by

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HMRC are looking at my business

What they're doing

- Phone call
- Correspondence
- Visit

HMRC Review

Actions

1. Don't panic!
2. Speak to your accountant and get help from a VAT specialist
3. Find out who you are dealing with at HMRC
4. Make sure your records are up to date and available

Common questions from HMRC

- How many GP referrals do you get/make?
- How many clients do you turn away?
- What training have you had in psychology?
- Why do your notes all look the same?
- Do you have a post treatment follow up with your patient?
- What is the split on your income?

Things to think about

- The VAT registration threshold is £85k pa for **Taxable** sales only
- You cannot recover VAT on costs incurred in the making of exempt supplies
- You cannot estimate exempt supplies. You need proof of supply and income
- If you are VAT registered HMRC can review your records for up to 4 years previously, if you are not VAT registered they can go back as far as necessary to the point when you first breached the taxable turnover limit

Previous VAT registration thresholds

Period		Annual limit
From	To	£
21 March 1990	19 March 1991	25,400
20 March 1991	10 March 1992	35,000
11 March 1992	16 March 1993	36,600
17 March 1993	30 November 1993	37,600
1 December 1993	29 November 1994	45,000
30 November 1994	28 November 1995	46,000
29 November 1995	26 November 1996	47,000
27 November 1996	30 November 1997	48,000
1 January 1997	31 March 1998	49,000
1 April 1998	31 March 1999	50,000
1 April 1999	31 March 2000	51,000
1 April 2000	31 March 2001	52,000
1 April 2001	24 April 2002	54,000
25 April 2002	9 April 2003	55,000
10 April 2003	31 March 2004	56,000
1 April 2004	31 March 2005	58,000
1 April 2005	31 March 2006	60,000
1 April 2006	31 March 2007	61,000
1 April 2007	31 March 2008	64,000
1 April 2008	30 April 2009	67,000
1 May 2009	31 March 2010	68,000
1 April 2010	31 March 2011	70,000
1 April 2011	31 March 2012	73,000
1 April 2012	31 March 2013	77,000
1 April 2013	31 March 2014	79,000
1 April 2014	31 March 2015	81,000
1 April 2015	31 March 2016	82,000
1 April 2016	31 March 2017	83,000

UK Legislation

Exemptions; VAT Act 1994, Schedule 9, Group 7

The supply of services [**consisting in the provision of medical care**] by a person registered in any of the following:

Item 1

- a) The register of medical practitioners or the register of medical practitioners with limited registration;
- b)
- c) the register kept under the Health and Social Work Professions Order 2001;.....

Note (2) Paragraphs (a) to (d) of item 1 include supplies of services made by a person who is not registered or enrolled in any of the registers or rolls specified in those paragraphs where the services are wholly performed or directly supervised by a person who is so registered or enrolled.

What is exempt care?

Exempt

- Health Services by a qualified and registered health professional, using the knowledge, skills, judgement and experience acquired in the course of his/her professional training **and** where the primary purpose is the protection, maintenance or restoration of the health of the patient
- Cosmetic services where they are undertaken as an element of a health care treatment programme

Standard rated

- Health services not performed by an appropriately qualified and registered health professional, unless directly supervised by one
- Services not aimed at prevention, diagnosis, treatment or cure of a disease or health disorder
- Services directly supervised by a pharmacist
- General administrative service such as countersigning passports, providing character references
- Certificates and reports

Ancillary goods and services

- If goods or services are provided as part of the provision of exempt care then they will be exempt
- Any items separable from the treatment are not exempt and are usually standard rated
- The supply of drugs, medicines and other items can be standard rated, zero rated or exempt

HMRC Notice 701/57

4.4 Cosmetic services

Each case will need to be considered on its individual merits. However, we will generally accept that cosmetic services are exempt where they are undertaken as an element of a health care treatment programme. Where services are undertaken **purely** for cosmetic reasons, they will be standard rated. For services undertaken by hospitals and state-regulated institutions, see Notice 701/31 Health institutions.

Health institutions

2.1 A qualifying institution

An institution is qualifying when any of the following conditions are met:

- the institution is a hospital
- the institution is either a hospice or nursing home, and is either approved, licensed or registered under the relevant social legislation, or exempted from obtaining such an approval or registration by the relevant legislation
- the institution is any other state regulated institution providing medical care

An institution may be qualifying regardless of whether its activities are carried out on a charitable or commercial basis.

When services provided by a qualifying institution are exempt from VAT

Supplies made by a qualifying institution are exempt when both these conditions are met:

- the supply consists of **care or medical or surgical treatment** in connection with the health of the beneficiary
- this care or treatment is provided under the terms of:
 - an approval, license or registration
 - an exemption from registration under the appropriate social legislation
- **2.3 Medical care or treatment**
- Examples of medical care or treatment supplied by a qualifying institution include:
 - performing medical or surgical procedures **with the aim of protecting, maintaining or restoring the health of an individual**
 - nursing sick or injured patients in a hospital, hospice or nursing home
 - other state regulated institutions providing diagnostic services or services helping to enable another health professional or health institution to make a diagnosis, for example, pathology laboratories or scanning units

Lasers

2.6 Class 3B and 4 lasers and Intense pulse light source (IPL) machines

- Class 3B and 4 lasers and IPL machines are now used in many medical and cosmetic procedures carried out on the premises of approved, licensed or registered institutions. But it should not be assumed that all treatments using this equipment are exempt from VAT
- Where the procedure using this equipment is supplied as part of a treatment programme drawn up by a registered health professional following the diagnosis of a medical condition, this treatment is exempt from VAT. But where it is carried out for a cosmetic reason rather than as an element of medical or surgical treatment, this service is taxable at the standard rate of VAT.

HMRC view of medical care

- Care must be of a medical or surgical nature
(Kingscrest Associated Ltd -v- Montecello Ltd)
- A supply does not qualify for exemption merely because it takes place on hospital premises
(VATHLT3040)
- Purpose Test – must be to protect, maintain and restore health of individual
(VATHLT2000)

UK Case Law

British College of Aesthetic Medicine tried to take a case to Tribunal. Not now proceeding. HMRC are looking for a new test case.

Case C-86/09 Future Health Technologies [2010]

Medical care covers services which have as their purpose the diagnosis, treatment and, in so far as possible, cure of diseases or health disorders.

Whilst medical care must have a therapeutic purpose it does not follow that the therapeutic purpose must be confined within a particularly narrow compass.

Accordingly medical services effected for the purpose of protecting, including maintaining or restoring human health could benefit from the exemption.

European Case Law re Aesthetics

Questions:

- Do cosmetic and reconstructive surgery and treatments constitute medical care?
- Does it matter that patient may wish to alter or improve their appearance?



PFC Clinic AB, C-91/12 (21/3/13)

According to the CJEU Judgement, whether an operation qualifies as “purely cosmetic” or not is determined based on an evaluation of the surgeon involved, and not on based on the patient's (subjective) opinion.

The CJEU found that the concept of "therapeutic purpose" is not to be strictly interpreted, and that there may be an underlying psychological reason for health problems to be corrected by the surgery.

Dentists: Cosmetic Dentistry

[VATHLT2480]

British Dental Association have advised that while appearance might be a factor influencing the decision to undertake cosmetic work, it is rare for dental work to be done purely for cosmetic reasons. We are therefore content to accept that where cosmetic services are performed as part of a supply of dental treatment, then there is a single supply of exempt healthcare. Where cosmetic dentistry is performed outside of any healthcare, it is standard rated.

What are HMRC looking for in your records?

- Detailed records; show whether cosmetic or medical
- Identify medical treatments; show diagnosis and treatment plan
- For psychological diagnoses, show how you got there
- A monthly rolling turnover split, exempt and taxable
- Consider website content; medical qualifications?
- CQC/HIS registration?

Client Questionnaires

Forms generally identify:

1. Current medical conditions
2. State of mind
3. Current medications
4. Last treatment
5. Treatments being sought now
6. Might have practitioner notes added



Sorting these into the right order is a start,
6 is essential!

Be prepared!

Potential questions from HMRC

How many GP referrals do you get/make?

How many clients do you turn away?

What training have you had in psychology?

Why do your notes all look the same?

Do you have a post treatment follow up with your patient?

What is the split on your income?

Recommended Protocol

You are required to give HMRC information about your business

- **Medical Qualifications**
GMC number etc, additional training qualifications etc
- **Medical Care**
Copy records; Anonymised documents, consultation notes
- **Show them around your premises**
- **Business records**
Income details - not yet!
Registration threshold of £85k of **taxable** turnover

Take Control!

What do I need to consider?

Records are key

Client consultation questionnaires

- Underlying medical conditions which you can treat
- Underlying medical conditions or treatments which may cause side effects or risk

Other sales (exempt or taxable)

- Rental income
- Speaking fees

Stock sales

- Sold as part of treatment
- Sold separately

Accounting

- Cloud?
- Making Tax Digital

Any Questions?

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