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Dear Ms Thomas

I write in relation to the Higher Education Taxation Forum Meeting of the 24th October 2007 and the question of VAT zero-rate certificates for charity funded medical and veterinary equipment. As agreed I write to confirm the position.

It is the responsibility of suppliers to correctly account for their VAT liabilities and to be able to substantiate the correctness of any zero-rating they may have applied to their supplies. How they do so is up to them. However we recommend that they obtain a certificate from purchasers as part of the evidence to justify their decision to zero-rate.

As I explained at the meeting VAT certification in respect of most charity reliefs, including reliefs for charity funded medical equipment, is not a legal requirement, thus HMRC cannot, in these circumstances, direct the use or otherwise of certificates, whether hard copy or electronic, or their format. HMRC does however provide sample certificates in Notice 701/6 - *Charity funded equipment for medical, veterinary etc uses (supplement)* for those suppliers who wish to use them. None of the sample certificates are prescriptive and all contain a clear warning that production of a certificate does not authorise the zero-rating of the supply to which it relates. If suppliers choose to use the format of the samples they can equally use them for hard copy or electronic versions.

As a certificate, on its own, is not sufficient to confirm zero-rating HMRC accept any other supporting evidence of zero-rating, provided there is a clear link between it and a zero-rated supply. HMRC would usually expect such evidence to form part of the business's normal commercial records but again this is entirely a matter for them to decide.

Some suppliers may ask their local VAT offices to confirm the use of certification systems to facilitate their own sale processes or for other particular reasons. When this occurs and the

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local office is satisfied that the systems in place are suitable for audit by visiting officers, confirmation is usually forthcoming.

As I explained, at the meeting, HMRC Guidance V1-9 section 15.14, that is used by officers of HMRC and is generally available on the HMRC website www.hmrc.gov.uk (I annex the relevant section to this letter), explains the position. Should the Public Notice or the Guidance not be clear to suppliers or charities they can phone HMRC's dedicated Charities Helpline on 0845 302 0203. Similarly if HMRC's audit officers are in any doubt about the correct position they are able to refer, internally, to the Charities Unit of Expertise for assistance. We are always happy to receive and respond to customer feedback in relation to our information products.

I trust this explains the position. I am happy for you to distribute this letter and Annex to your members and for them to draw it to the attention of suppliers and officers of HMRC as they see fit.

Yours sincerely

David Bond

Senior Policy Adviser

Annex

15.14 Eligibility declarations

There is no legal requirement for the purchaser to provide a certificate or declaration. In order to qualify for relief you will need to be satisfied that a supplier has obtained the necessary information to confirm that the purchaser intends the criteria for zero-rating to be fulfilled. You cannot insist on this information being produced in a fixed format. However, the Department has produced various specimen declarations that are generally used. Specimen declarations are given in the relevant VAT notices. You should note that these have no legal basis and the absence or lack of completeness of any such documents would not, by itself, render the supply ineligible for zero-rating. If the supplier is able to demonstrate, in some other way, that the conditions for zero-rating have been met or, if they haven't, that they took reasonable steps to confirm eligibility, then, zero-rating is appropriate. The following paragraphs cover this in more detail.

An electronic version of a declaration is acceptable, but the supplier should ensure they have a full audit trail to prove the declaration has come from a genuine source. For example, the supplier should keep the email from the charity to which the declaration is attached.

Please see paragraphs 15.14.1 to 15.14.4 for more information on declarations.

15.14.1 Alternative evidence when specimen declarations are not used

When visiting suppliers you may find that the specimen declarations have not been used. In order to be satisfied that a supply qualifies for zero-rating, it is reasonable to expect a supplier to be in possession of the following information in some written form:

- name of the eligible body
- name and signature of an appropriate responsible member of the eligible body
- description of goods or services qualifying for relief
- statement that the goods or services are to be used for a purpose that qualifies for relief
- date of supply
- steps taken to confirm correctness of customer declarations.

15.14.2 Annual or bulk declarations

We would normally expect a charity to give a separate declaration for each purchase of relevant goods. However, where a charity places an order for a regular supply of identical products an annual or bulk declaration can be accepted.

Officers may receive requests from suppliers to enter into formal, written agreements regarding annual or bulk declarations. The decision whether or not to enter into such an arrangement should be made locally, taking into consideration local knowledge of the supplier and the systems they have in place.

In addition to the normal information required on individual declarations the supplier should also have systems in place that enable them to confirm with the customer that:

- the status of the organisation and/or the goods has not changed
- any goods said to be covered by such a declaration are indeed covered e.g. they have been purchased with charitable funds and are to be used for qualifying purposes.

The systems should be suitable for audit by visiting officers and the supplier should be able to demonstrate what steps **they** have taken to confirm that supplies are covered by the annual/bulk declaration. Details of the systems/procedures etc. to be used should be detailed within the written agreement. Any agreement should be time limited with provision for regular review by Customs.

The use of annual/bulk declarations, once Customs have agreed their use, is a matter of agreement between suppliers and their customers. Customers cannot be compelled to submit such declarations and, if they choose to, can continue to provide declarations on an individual transaction basis. Where officers find that suppliers have used annual or bulk declarations without entering into a formal agreement with Customs they should be strongly encouraged to do so. Lack of a formal agreement does not however prevent a supplier using annual/bulk declarations if they agree with some, or all, of their customers to do so. As this may increase the risk for both the supplier, the customer and Customs, suppliers should be reminded of their responsibilities to correctly account for VAT.