

# VAT in *Black & White*



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## Introduction

Berthold Bauer is the VAT & TAX specialist, working with the National Health Service and Government Bodies throughout the United Kingdom.

The NHS 'VAT in Black & White' provides recent VAT and Tax news and developments which affect all NHS and Government bodies.

## PCTs and Social Enterprise Trusts / Community Interest Companies

A number of PCTs are now putting in place proposals to establish Not-for-Profit companies to run the NHS provider arm in their localities.

It should be noted that SETs/CICs will not be permitted to use the Section 41(3) Contracted Out Service rules. Therefore, any VAT previously reclaimed would now be a significant added cost and should be worked into the budgets.

We would also highly recommend careful planning in order to lower the VAT cost burden to be incurred by the new entity. This can be achieved by considering any SLAs / contracts with the [PCT] Commissioning body.

Taxable income should also be maximised where possible, avoiding burdens to NHS/GPs, thus permitting certain amounts of VAT recovery.



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## VAT Penalties Guide for NHS ~ further information

There appears to be a growing concern in the industry in relation to HMRC's impending introduction of VAT penalties for the NHS (1<sup>st</sup> April 2011).

We have included below a few bullet points to highlight how these may be applied and also a few tips to assist with good housekeeping (thus helping to avoid a penalty in the first place).

### Scope of penalties:

- HMRC may apply penalties against administration errors or inaccurate VAT Returns
- Penalties will be calculated as a percentage of the unpaid, understated, overclaimed or under-assessed VAT amount
- The penalty percentage rate applied will vary depending on who originally prompted disclosure error, on any attempts to conceal the error and on the Trust's co-operation
- Trust's who directly (or via their advisers) identify and correct errors would be unlikely to incur a penalty

### Housekeeping:

We would recommend a VAT checklist is kept in order to identify potential errors before submission of a VAT return. This could include:

- ➔ Has a period check of income (cash and invoiced) been undertaken to check for undeclared taxable income and associated Output Tax due (this should include GP rental)?
- ➔ Has the reverse charge been applied for applicable overseas purchases?
- ➔ Has Contracted Out Services recovery been adjusted for likely overclaims (e.g. capital and agency staff)?
- ➔ Has VAT been considered for Joint Loan Store agreement recharges?
- ➔ Has VAT been charged to Hospices and GPs on taxable recharges?
- ➔ Have timescales been met for submitting returns?

Procedures should be specific to your individual Trust. For any further help and assistance please feel free to contact us.



### Quotation

*"Common-sense and the law applicable to VAT are not well acquainted"*

[ C&E Commissioners -v- Arbib 1995, STC 490 ]

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**The new VAT fractions:**

Gross / 6 = VAT

Gross / 6 x 5 = Net

Net / 5 = VAT

Net / 5 x 6 = Gross

VAT x 5 = Net

VAT x 6 = Gross

## GP Commissioning – TAX impact

The Department of Health has now identified many of the 'Pathfinder' GP nominees whom they expect will be leading reforms and effectively commissioning NHS and Healthcare services in the near future.

Whether the GP consortiums will actually be given NHS status, have ownership of certain land and assets, or how they will operate on a day-to-day basis is yet to be fully established.

There are certainly some Tax issues to investigate and to be wary of; including the possibility of greater running costs if their VAT expenses are largely irrecoverable.

Whilst the NHS has the luxury of a Divisional VAT Registration, the GP consortia may also have to treat many supplies with other NHS bodies and other GP consortia as 'Business' supplies as opposed to Non-Business. This could lead to much greater administration and possible costs.

Whilst Corporation Tax issues may be unlikely, certain other taxes (e.g. Stamp Duty) may give rise to a few surprises.

As always, the devil will be in the detail and we encourage all relevant parties to engage informal advice at the earliest stages.

## Compliance Training

Compliance with HMRC's regulations is an important requirement for all organisations.

We are happy to assist with the provision of [CPD qualifying] bespoke workshops to assist with your own department's procedures.

Please feel free to contact us to discuss any requirements.



**FREE Helpline and Advice**

If you have any VAT enquiries, Berthold Bauer are always happy to offer their FREE expert VAT advice

Telephone: **0800 328 9254**  
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