



VAT Guidance for General Practitioners

GREENBACK ALAN LLP
November 2015

VAT Guidance for General Practitioners (GPs) involved in Clinical Commissioning Group Contracts

Background

As you are aware Primary Care Trusts (PCTs) were abolished with effect from 31 March 2013 and were replaced by Clinical Commissioning Groups (CCGs). CCGs are statutory bodies similar to PCTs and all General Practitioner (GP) practices in England are members of a CCG. The CCGs are responsible for designing local health services and they do this by commissioning or buying in health and care services.

With effect from 1 April 2013, the CCGs formed boards and seconded GPs to become office holders and have issued contracts to GP's for specialist services. CCGs have been granted the same VAT status as PCTs under the Finance Act 2013 which entitles them to reclaim VAT incurred under certain conditions as laid out in section 41 of VATA 1994.

VAT Basic Principles

UK VAT is a tax levied on the supply of goods and services made in the UK (or deemed to be made in the UK) by a taxable person in the course or furtherance of an economic activity.

Certain supplies fall outside the scope of VAT and certain supplies are specifically exempted from VAT. Unless a supply falls outside the scope of VAT or is exempt from VAT then it will be subject to VAT at the standard rate (currently 20%), the reduced rate (currently 5%) or the zero rate of VAT. Supplies made that are subject to VAT at any of these rates are referred to as "taxable supplies".

It is very important to differentiate between the zero rate of VAT and supplies that are exempt from VAT as there is a common misconception that these are one and the same. Supplies at the zero rate are considered to be taxable supplies for VAT purposes, albeit they are taxable at 0% and VAT incurred in connection with making these supplies is recoverable. Whereas VAT incurred in connection with making onward exempt supplies normally cannot be recovered.

Generally speaking, the predominant supply of health care provided by GP practices is exempt from VAT but most practices also make other supplies that are taxable and supplies that are outside the scope of VAT.

The aim of this guidance is to address the VAT implications of the change from PCTs to CCGs and advise on the VAT liability of supplies made by GPs under the new arrangements.

This guidance is designed in Q and A format to enable GPs to refer only to sections relevant to their individual circumstances.

Specialist advisory or other services supplied by GPs to CCGs

Services supplied to the CCGs by the GPs, which are non clinical under the new arrangements are not healthcare services which are exempt from VAT but are considered to be taxable supplies of special projects which are not healthcare.

Previously, some GPs were paid by the PCTs for their involvement in Practice Based Commissioning (PBC) activities. The involvement of the GP in PBC initiatives was entirely voluntary and could be initiated by the GP or by the PCT requesting the GP to consider particular ideas for improved healthcare delivery. There was no actual contract for services under this arrangement.

HMRC confirmed that the payments received by GPs for their involvement in PBC initiatives were considered to be compensation paid to the GPs for any financial loss suffered by the GP and his/her practice whilst the GP was assisting with PBC. For example, the GP practice may have hired a locum doctor to replace the absent GP. Compensation payments are outside the scope of VAT as they are not deemed to be consideration for a supply of services.

The advisory services supplied to the CCGs by the GPs under the new arrangements are provided under a contract for services (work stream) and are not provided on a voluntary basis albeit GPs will volunteer in the first instance. HMRC have confirmed that the payments made under these contracts are deemed to be consideration for a supply and are not considered to be compensation. On this basis, the payments do fall within the scope of VAT and are subject to VAT at the standard rate (subject to the VAT registration rules).

- 1. I am a GP and have been appointed as a board member/office holder of a CCG and, in accordance with HMRC guidelines Section 5 ITEPA 2003, I am being paid on a PAYE basis. An extract of HMRC guidance is at Appendix 1. How does VAT affect me?**

A GP being paid by the CCG as a board member/office holder is deemed by HMRC to be an employee of the CCG. The services supplied by the GP are, therefore, outside the scope of VAT. There are no VAT implications for the GP.

- 2. I am an individual GP and have been awarded a project to supply services (work stream) to a CCG. How does VAT affect me?**

Project services supplied by a GP to the CCG fall within the scope of VAT and are subject to VAT at the standard rate of 20%. If your income received from the project was in excess of the UK VAT registration limit which was £79,000 in 2013 (see appendix 1), then you would have been required to register for VAT, if you were not already registered. You should note that if you have any other business income as an individual then your total self employed taxable income must be taken into account to determine your turnover for VAT registration purposes from 1st April 2013 in accordance with the VAT compliance section on page 5 of the notes.

- 3. My GP practice, as a partnership, has been awarded a project to supply services (work stream) to a CCG, what do we need to do?**

The same principle applies as in 2 above but must be applied to the partnership as a whole. If the partnership was not already registered for VAT then it will need to do so from April 2013 if the income from the CCG contract exceeded the VAT registration threshold, which was £79,000 in 2013.

If the CCG income did not exceed the VAT threshold of £79,000 (see appendix 1) you need to check if the partnership taxable income together with the CCG income exceeded the VAT threshold of £79,000 in April 2013 and therefore you should have registered for VAT in accordance with the VAT compliance section on page 5.

- 4. My GP practice used to receive compensation payments when I supplied PBC services to the PCTs. Why can't this apply to the new arrangements with the CCG?**

The payments received previously from the PCTS were deemed to be compensation payments as the services were supplied on a voluntary basis. The services currently supplied to the CCGs are supplied under a contract for specific project services and are not made on a voluntary basis. For this reason, the VAT treatment is different and the payments received from the CCGs are subject to VAT.

Impact on Dispensing Practices

In addition to providing exempt health and welfare services, some GP practices have an in-house dispensing pharmacy. The VAT treatment of the dispensing of drugs from the pharmacy differs from the VAT treatment of drugs administered at the surgery by the GP.

Administered drugs are deemed to be part and parcel of the healthcare provided by the GP and are exempt from VAT. Drugs prescribed by the GP and supplied to the patient by the pharmacy are zero rated.

- 1. My GP practice has a dispensing pharmacy - how does this affect me under the new CCG arrangements?**

The VAT liability of your dispensing activities will not change. If you are already VAT registered, you will continue to recover VAT incurred in connection with your zero rated dispensing pharmaceutical activities. However, you will charge VAT on the project work (work stream) you invoice to the CCG.

- 2. What if my practice is not VAT registered as my current zero rated activities are below the VAT threshold?**

If the level of zero rated (and other standard and zero rated activities) pharmaceutical dispensing in your practice was below the VAT registration threshold of £79,000 in April 2013 you may not have been required to register for VAT.

In this case you must monitor the level of your taxable (standard and zero rated income) turnover and ensure that you register for VAT at the appropriate time. You need to include the amount of income from the CCGs and add this to your other

taxable supplies when determining your level of turnover and liability to register for VAT.

Other Services Supplied By GP Practices and the VAT Implications

In addition to their primary service of providing health care and the services mentioned above, GPs typically provided a range of other services. The VAT liability of these services differs depending on the nature of the service and the VAT liability of each supply has to be considered.

The VAT legislation states that:

The supply of services by a GP are exempt from VAT when both of the following conditions are met:

- 1. The services are within the profession in which you are registered to practise.*
- 2. The primary purpose of the services is the protection, maintenance or restoration of the health of the person concerned.*

Clarification is sometimes required to ascertain the VAT liability of certain other supplies where they can be exempt from VAT in certain circumstances but subject to VAT in other circumstances. For example:

- Cosmetic services undertaken as part of a healthcare treatment programme are generally exempt from VAT. However, cosmetic services undertaken purely for cosmetic reasons are subject to VAT at the standard rate.
- A fitness report provided for an employer to protect an individual from having to carry out activities that they are unable to do for health reasons is exempt from VAT. However, such a report provided to an employer in a more general capacity or for the purpose of a sporting activity is subject to VAT at the standard rate.

Further examples of services typically supplied by GPs that are not exempt from VAT are as follows:

- Countersigning passport applications - standard rated
- Writing articles for journals - standard rated
- Dispensing contraceptive products - zero rated
- Dispensing smoking cessation products - zero rated
- Medico legal work - standard rated

The above are examples for illustrative purposes. Full details of the VAT liability of the different supplies made by GPs can be found in the HMRC Public Notice 701/57 "Health Professional and Pharmaceutical Products". An extract is at Appendix 2.

What if I receive all of my income from the CCG as one payment, including fees for consultancy services and practice income?

Your practice income must be split to enable the correct VAT treatment to be supplied to each source of income.

The payments can be made as one lump sum but could, for example, be accompanied by a statement breaking down the amount into the different income sources.

VAT Registration and Compliance

There are two different tests used to determine when a business should notify its liability to register for VAT and to determine the effective date of registration for VAT. These tests are referred to as the “backward look” and the “forward look”.

A business is required to register for VAT either:

- a) Under the backward look - once the value of its taxable supplies (including zero rated supplies) exceeded the VAT registration limit which was £77,000 prior to April 2013 (which then increased to £79,000 on 1st April 2013) over a rolling 12 month period; or
- b) Under the forward look- if it knows that the value of its taxable supplies will exceed the limit within the next 30 days alone

1. The value of my taxable supplies has exceeded the VAT registration limit this month. What do I have to do?

HMRC must be notified of a liability to register for VAT within 30 days of the liability occurring. The latest registration date will be the first day of the month after the month in which the limit is exceeded.

For example: a business whose taxable supplies exceeds the limit during February is required to inform HMRC and apply for VAT registration by 31 March. The business will be registered for VAT with effect from 1 April.

2. I have been awarded a large contract to make taxable supplies that will immediately cause my taxable turnover to exceed the VAT registration threshold. What do I have to do?

You must notify HMRC of your liability to register within 30 days of your expectation arising. The date of registration will be the date that your expectation to exceed the limit arose, ie the date that you knew you had secured the contract.

For example: a business signs a contract for £100,000 on 1 March. It must notify HMRC of its liability by 31 March and it will be registered for VAT with effect from 1 March.

It is possible for a business to register for VAT on a voluntary basis before it is required to do so. Advice should be sought on this on a case by case basis to establish whether or not it is beneficial for the GP or practice to register for VAT. However, as GP

practices make predominantly exempt supplies, we would not generally recommend registering for VAT on a voluntary basis as the VAT recovery would be minimal compared to the administrative burden.

3. What does my “Effective Date of Registration” for VAT mean?

This is the date that your VAT registration legally takes effect and you must account for VAT on all of your taxable supplies made from this date. This is the case even if HMRC take some time to process your VAT registration application and do not notify you of your VAT number until sometime after this date. You are liable to account for VAT from the date that your VAT registration is effective, not the date that you are notified of your VAT number.

4. How do I report my VAT liability when I am VAT registered?

Once registered for VAT you will have to submit a quarterly VAT return to HMRC reporting your VAT liability for the period. You can request to be allocated a particular quarter end when you submit your application for registration. For example, you may wish to have your VAT returns align with your financial year end.

Your VAT return will run for a three-month period and will be due for submission to HMRC by the end of the following month. Businesses who submit their VAT returns online (virtually all businesses are required to do this) and pay their VAT electronically are afforded a 7 day extension to submit their VAT returns and pay any VAT due to HMRC.

For example: a VAT return covering the quarter 1 Jan to 31 March would be due for submission to HMRC by 30 April or 7 May if submitted and paid electronically.

5. I heard that I can reclaim VAT incurred on my expenses once I am registered for VAT. How does that work?

You can reclaim VAT incurred on making your taxable supplies. Subject to certain conditions, VAT can be recovered on expenses incurred on services up to six months prior to the date of VAT registration. VAT can be recovered on the purchase of goods up to four years prior to the date of registration, again subject to certain conditions.

There are restrictions on reclaiming VAT incurred in relation to making exempt supplies.

6. If I make both taxable and exempt supplies, how do I calculate how much VAT I can recover?

Businesses such as GP practices who make exempt supplies and taxable supplies must apply a formula to work out how much VAT they are entitled to reclaim.

VAT incurred that can be attributed directly to making taxable supplies can be recovered in full. VAT incurred that can be attributed directly to making exempt supplies cannot be recovered, unless it falls within a certain limit called the de minimus limit.

Each VAT quarter a calculation, called the “partial exemption” calculation must be carried out to determine how much of the VAT incurred in making both taxable and exempt supplies can be recovered. This VAT is usually VAT incurred on overheads such as the cost of running the practice and that cannot be accurately split between the different types of supplies. This VAT is known as “non attributable” VAT. The standard calculation is known as the “partial exemption standard method” and this is used by most businesses.

The standard partial exemption method is based on turnover of taxable and exempt supplies and recovery apportioned according to that ratio.

For example: If a business makes exempt supplies to the value of £500,000 and taxable supplies of £100,000, it will be entitled to recover 16% of its non attributable VAT. (calculated as taxable supplies over total supplies to arrive at the percentage).

The above VAT position has been agreed with Mr M Barlow, NHS Team, HMRC Public Bodies Group.

Greenback Alan LLP

Disclaimer

The guidance notes have been prepared on documents and information available at the time. The guidance notes have been commissioned for The General Practitioners Defense Fund and no responsibility or duty of care is extended to any other party.

Appendix 1

HMRC Legal Reference

Application to offices and office-holders

1. The provisions of the employment income Parts that are expressed to apply to employments apply equally to offices, unless otherwise indicated.
2. In those provisions as they apply to an office—
 - a) references to being employed are to being the holder of the office;
 - b) “employee” means the office-holder;
 - c) “employer” means the person under whom the office-holder holds office.
3. In the employment income Parts “office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders.

VAT Registration Limits

- 2013 £79,000
- 2014 £81,000
- 2015 £82,000

Appendix 2

VAT Liability of Other Miscellaneous Duties Performed and Services Supplied by General Practitioners

Standard rated

- Supply of staff to other GP practices
- Supply of non medical services to CCGs
- Contracts for management of GP practices (ie practice manager involved in non clinical care)
- Performance Assessments of fellow colleagues
- Paternity testing
- Writing articles for journals
- Medico legal work
- Countersigning passport applications
- Providing character references
- Analytical testing services with no patient contact (the monitoring of a patient involved in trials for adverse reactions is exempt from VAT)
- Fitness certificates provided ref an individuals profession or sporting activity (such a report provided to protect the individual from undertaking certain activities due to their health, for example, is exempt)
- Cosmetic services undertaken purely for cosmetic reasons
- Completion of forms for disability badges

Zero Rated

- Dispensed Contraceptive Products
- Dispensed smoking cessation Products