

NHS VAT REPORT - CRS VAT CONSULTING - NOVEMBER 2010

Introduction of VAT penalties to the NHS

HMRC have heralded a major change to the NHS VAT rules by announcing their intention for the first time to apply 'penalties for VAT infringements' for periods beginning on or after 1 April 2011.

There have always been penalties for VAT errors made by other taxpayers but these have never before been implemented in the NHS. The recent introduction of a new penalty regime for all taxpayers has however caused HMRC to conclude that the NHS should be treated no differently.

What are the penalties?

There are a range of VAT penalties for different types of infringement, however the main penalties are for incorrect VAT returns, which can apply where a VAT return contains either a 'careless' or 'deliberate' inaccuracy (action) which leads to an understatement or over-claim of VAT.

These penalties are designed so that if a taxpayer takes 'reasonable care' when completing a return, they will not be penalised for an error, however the definition of reasonable care can vary depending upon the person, their circumstances and their abilities. These can be reduced or eliminated depending upon whether the error is voluntarily disclosed before HMRC discovers it (unprompted) or after HMRC makes enquiries (prompted).

Penalties are expressed as a percentage of the potential lost revenue and can be summarised as follows:

Reason for penalty	Penalty	Possible reduced penalty for unprompted disclosure	Possible reduced penalty for prompted disclosure
Careless action – failure to take reasonable care	30%	0%	15%
Deliberate but not concealed action	70%	20%	35%
Deliberate and concealed action	100%	30%	50%
Error in HMRC assessment	30%	0%	15%

There are other penalties which may apply for other infringements including such things as issuing incorrect certificates, however HMRC have yet to provide any detailed guidance on how and which of the penalties will be levied to the NHS.

What this means to the NHS

With the introduction of penalties, it will be more important than ever to have robust and documented VAT procedures in place for the correct accounting of VAT and preparation of VAT returns.

The penalty regime will certainly apply to input tax and output tax errors, so it will be important to ensure that the correct VAT liability is recorded for all business transactions.

Although little detail has been provided to-date, we have also been told that HMRC see no reason why the penalty regime wouldn't apply to contracted-out services ("COS") VAT errors, i.e. VAT claimed incorrectly under the COS rules.

There are still quite a few questions unanswered such as whether COS VAT corrections will require 'disclosure' to HMRC, or whether the annual June deadline for COS VAT will be extended to four years to allow a 'level playing field' for the correction of COS VAT underclaims and overclaims.

We will therefore provide further updates once this information is known.

If you have any questions concerning the above, please do not hesitate to contact us.

Getting added to our list

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About us

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