THE VAT ISSUES IN HEALTH AND SOCIAL CARE INTEGRATION

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Health and social care integration, driven by the Health and Social Care Act 2012, is held out as the answer to the growing problem of having an ageing population with complex health needs, at a time when we also have rapidly declining public sector resources. Its efficacy remains to be seen.

However, with the introduction of the Better Care Fund from 1 April 2015, some substantially improved outcomes and savings are now being projected.

The Better Care Fund arrangements have been set up as pooled budgets – a type of partnership arrangement between NHS organisations and local authorities, whereby the partners contribute an agreed level of their resources into the pooled budget from which health and social care services are delivered or commissioned.

Each party retains its statutory obligations but one of the partners must be nominated to act as the "host" partner who is then responsible for the budget's overall accounts and audit.

There are many variations of these arrangements, including those with a "virtual" pooled budget where each party retains its own commissioning activity and pays its own bills from its own funds.

It is important that all pooled budget arrangements should be documented in a signed agreement, which sets out

- the responsibilities of the partners,
- the accounting and reporting considerations,
- the governance arrangements which clarifies the accountability of each party.

The Chartered Institute of Public Finance (CIPFA) and Healthcare Financial Management Association's own joint guidance recommends that particular consideration is given (amongst others) to:

- setting out a common understanding of the pooled budget's aims
- documenting the statutory responsibilities of each partner and how they will be met
- providing clarity on the scope of the arrangement; what is and what is not covered
- setting out the governance and decision-making responsibilities
- the financial elements of the agreement, the contributions, payment timings, performance payment metrics etc.

The clarity of this agreement is instrumental in determining the potential impact of VAT on the available budgets.

The VAT implications of pooling budgets

This was covered by a recent CIPFA Finance Advisory Network Tax Advisory Service series and has been discussed by the CIPFA VAT Committee at recent meetings.

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The NHS is only able to recover VAT incurred in relation to its taxable business activities and under the Contracted Out Services rules. However, a local authority is able to recover VAT it incurs on both business and non-business activities, so long as it remains within its VAT partial exemption de-minimis thresholds.

This means that the operational structure of the pooled budget, and specifically the terms of the S75 agreement that is signed up to, can mean that VAT forms more or less of a part of the whole cost of the pooled budget.

So what questions do you need to ask yourself regarding VAT implications when considering health and social care collaborative working?

Unfortunately, there is no black and white guidance from HM Revenue & Customs which is specific to the Better Care Fund, but some basic principles are set out in their manuals referring to Section 75 partnership arrangements[1].

[1] http://www.hmrc.gov.uk/manuals/vatgpbmanual/VATGPB6640.htm

The parties to a relevant pooled budget will need to work together to establish the appropriate VAT treatment for expenditure in a pooled budget – there is no easy answer!

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Checklist

So what questions do you need to ask yourself regarding VAT implications when considering health and social care collaborative working? I have set these out in the left hand column below. However, if you are not a VAT expert, you should seek professional advice and list the answers that you are hoping to hear too. That way you will be able to identify the problem more quickly.

What questions should you be asking?	What kind of answers would you be hoping for so you can judge the responses?
1. Is this a H&SC integration that will pool budgets, or make payments between partners?	
2. What VAT bearing costs are likely to be met by the integrated service?	
3. Who are the partners and what is their VAT status?	
4. Is this integration likely to create a VAT entity in its own right?	
5. How does each partner reclaim VAT?	
6. Who is going to be the lead body?	
7. Does the pooling agreement set out who is delivering the supply?	

This article is provided to inform your understanding of the subject. It does not provide a decision-making solution. Always seek professional, informed advice before making final decisions on these matters in your projects.