



Department  
of Health

Christopher Young  
Finance Director  
Department of Health  
Quarry House  
Quarry Hill  
LEEDS  
LS2 7UE  
[Christopher.young@dh.qsl.gov.uk](mailto:Christopher.young@dh.qsl.gov.uk)

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NHS Provider Finance Director

Dear Colleagues

#### **Tax Avoidance Issues in the NHS**

Whilst the challenge facing NHS organisations in delivering efficiency savings remains a clear priority; within that context this letter seeks to clarify the Departmental of Health (and Government) view on the use of tax advisors, with particular reference to tax avoidance.

You will be aware that an element of VAT incurred on the supply of any applicable services "contracted-out" of the public sector is genuinely 'reclaimable' and this is accepted practice worth in the region of £2 billion per annum across the NHS.

However, The Department has been made aware of a number of tax advisors offering tax solutions to health bodies which, although legal, avoid the payment of tax for which that body has been funded. The fees chargeable to the tax advisors represent a direct leakage out of the health system and while at a local level there may be an immediate financial benefit, there is an overall net loss to the exchequer as a result.

The only tax advice the Department deems acceptable is that necessary for the fulfilment of statutory functions or to assist in compliance with tax rules beyond in-house expertise. Tax avoidance schemes should not be entered into under any circumstances: for the avoidance of doubt, HMRC's definition of tax avoidance is:

*"...bending the rules of the tax system to gain a tax advantage that parliament never intended....it often involves contrived, artificial transactions that serve little or no purpose other than to produce this advantage. It involves operating within the letter, but not the spirit, of the law."*

HMRC are actively investigating the health sector in relation to tax avoidance schemes and the level of scrutiny is likely to increase in the future. Any findings indicating systemic issues will likely have significant implications, both locally for those organisations directly involved and nationally for the future use of the contracting out regime by the NHS.

I ask that careful consideration be given by NHS organisations when looking into contractual arrangements which give rise to a tax advantage. If there are genuine commercial reasons for entering into contracts which, as a by-product, have a tax benefit this is considered acceptable. However, arrangements considered solely to gain a tax advantage is clearly tax-avoidance and should not be entered into for the reasons set out above.

For further information and any advice on this matter, please do not hesitate to get in touch.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Young', written over a circular stamp or mark.

Chris Young  
Finance Director