

# VAT refund scheme for hospices – detailed Q&A

## Introduction

Hospice UK were delighted to secure the introduction of a VAT refund scheme for hospices, which was passed into law as part of the Finance Act 2015 at the end of March.

Hospice UK have been working with the Treasury and HMRC for a number of years to develop this scheme. We are extremely grateful for the support from the [Charity Tax Group](#) and our [technical advisor Peter Ladanyi](#).

The information below is intended as a summary of the discussions we have had with HMRC and an introduction to the refund scheme.

It does not constitute tax advice.

Given the sums involved, all hospices are advised to seek independent professional advice in order to ensure they comply with the terms of the refund scheme and benefit fully from it.

## Who is eligible for the refund scheme?

The scheme is intended to benefit palliative care charities, both adult's and children's.

It is a UK wide scheme.

Organisations which are not charities may not benefit from the scheme. (This also means that trading subsidiaries of hospices may not benefit from the scheme). Similarly, organisations that are not hospices, but which provide some palliative care (e.g. a nursing home) cannot benefit from the scheme).

## What is the precise definition of palliative care charity?

Palliative care charity is defined in the Finance Act 2015 as a charity the main purpose of which is the provision of palliative care at the direction of, or under the supervision of, a medical professional to persons who are in need of such care as a result of having a terminal illness.

A medical professional is defined as a registered medical practitioner, or a registered nurse.

Therefore, hospices which provide a nurse led service are eligible for the scheme.

HMRC have also confirmed that the inclusion of the term "terminal illness" is not intended to exclude children's hospices, and that children's hospices are definitely considered eligible for the scheme.

## How is primary purpose defined?

HMRC are still considering exactly how they will satisfy themselves as to an organisation's primary purpose. They are likely to focus on the objects of the charity, and the proportion of its income, expenditure and staff numbers that focus on palliative care as opposed to other areas of activity

## What if a charity provides palliative care as well as other services (e.g. running a grant funded domiciliary care agency)

It depends on whether they meet the primary purpose test.

If the organisation meets the primary purpose test, they can recover the input VAT on all their non-business activities, not just their palliative care activities

But if they do not meet the primary purpose test, they cannot recover any of the input VAT on their non business activities.

HMRC have indicated that in the instance of a charity not meeting the primary purpose test, if they wanted to move those palliative care activities into a separate charity under common control that would benefit from the refund scheme, this would not be considered tax avoidance.

## What VAT could hospices recover before the refund scheme was introduced?

The amount of tax hospices could recover on the inputs (costs) depends on the VAT treatment of their outputs (income).

All income will fall into one of three categories:

- Taxable (also referred to as business; current rates are 20%, 5% and 0%).
- Exempt from VAT.
- Outside the scope of VAT (also referred to as non-business).

In turn, the costs of a hospice will either relate to activities directly linked to one of the above categories, or they will be overheads (costs that relate to more than one of the above categories).

For example, consider a very simple hospice which has:

- A shop which sells donated goods (income is taxable at 0%).
- Runs its own lottery (income is exempt from VAT).
- Has an inpatient unit funded by the profits from the above plus a government grant (non business/outside the scope of VAT).

The treatment of its costs would be as follows:

- It would be able to recover all the VAT it incurs on costs that solely relate to the shop.
- It would **not** be able to recover any of the costs that solely relate to the lottery.
- It would **not** be able to recover any of the costs that relate solely to the inpatient unit.

- It would be able to recover a proportion of the costs that do not relate specifically to any of the above activities (e.g. costs of an IT contract to support the entire business).

For the average hospices, this meant they could recover little or none of their VAT, which was therefore a significant cost to the charity.

## What VAT can hospices recover after the refund scheme has been introduced?

The refund scheme is to cover the costs incurred on the non business activities.

Hospices can continue to recover the vat on their business activities and will still not be able to recover the VAT on their exempt activities.

Since most activities for charitable hospices will be non business, this means that from 1 April they move from a position of being able to recover very little of their input VAT to being able to recover the majority of their VAT.

It is also likely that hospices will be able to recover more of the VAT on their overheads than they did previously.

## How do I know whether my income for a certain activity is taxable, exempt or non business?

This is an area where hospices should take specialist advice if they are in any doubt.

The main issue hospices are likely to have is with their government funding, and whether this constitutes non business or exempt income.

The key question is whether the government income is considered to be a grant or contractual income.

If it is considered a grant (albeit there may be some general conditions attached) then the income will be classed as non business income, and hospices will be able to recover the input VAT.

But if it is considered a contract, then this is likely to be classed as exempt income, meaning hospices cannot recover the input VAT.

The decision as to whether a form of income will be considered non business or exempt will depend on the exact terms of any agreement. Broadly speaking, if the funding relates to a specific named individual or care plan then it is likely to be classified as exempt, whereas if it just has some general conditions (e.g. the hospice will provide palliative care to 500 individuals in its inpatient unit during the year) then it is likely to be classified as non business. If in doubt, hospices should seek advice.

HMRC have reviewed an example of a hospice which receives income under the NHS Standard Contract, and concluded that because the terms were still fairly general, this constituted non business income.

However, where a hospice received income under a Continuing Care Contract, HMRC have concluded that because the contract refers to care for specific named individuals, it constituted contractual income and should be treated as exempt from VAT.

It therefore all depends on the exact terms of the contract, and how specific it is.

## **Some or all of my income is from Continuing Care Funding (or other exempt income), does this mean that my hospice cannot benefit from the refund scheme?**

If some of a hospice's income is exempt income, but it is also part funded by a grant (or under the NHS Standard Contract in England) then they will still benefit from the scheme, but the level of benefit will be reduced proportionately.

If all of the income for running a particular service – e.g. inpatient unit – is exempt income, then the hospice would not currently be able to recover any of the costs for that area of activity.

However, we have put forward an argument to HMRC that even where the government funding for a particular service is contractual, if the hospice is subsidising that service by at least 15% of the cost from its fundraising income, then the funding should be treated as non business rather than exempt.

HMRC are currently considering this point, and we will update hospices when they respond.

## **How will proposed changes to NHS funding in England affect the refund scheme?**

As no specific funding scheme has yet been proposed, it is not possible to comment definitively.

There is a risk that if the new funding scheme focusses more on funding related to specific individuals, it will affect the refund scheme.

However, Hospice UK took the view that it was more important to get a refund scheme enshrined in law and operating rather than holding it up (or preventing it entirely) based on what might happen in the future.

In addition, as noted above, we have put forward an argument that where services are at least 15% subsidised, they should always be considered non business income.

## **How do hospices calculate what proportion of VAT they should recover on their overhead costs?**

This is a very technical area which is likely to require specialist advice.

In particular, hospices who are VAT registered and therefore already have a method in place for calculating this should note that the method used prior to 31 March 2015 may well not be the most appropriate (or efficient) after 1 April 2015. This is particularly true of income based methods which could result in a lower recovery than other methods under the new rules.

Therefore it is strongly recommended that all hospices seek professional advice and review existing methods. It will also be sensible to have new methods agreed by HMRC.

## How much will the refund scheme be worth?

Because there has been no need to track the information in the past, it is not possible to give a precise figure for how much the refund scheme will be worth.

However, in their supporting papers for the budget, the Office for Budgetary Responsibility estimated the annual value of the refund at £25M.

This is roughly equivalent to a 10% increase in the level of statutory funding for hospices across the UK

## Have HMRC issued any official guidance?

Yes, download the [official HMRC guidance](#) from the gov.uk website.

## How do hospices claim the refund?

VAT registered hospices will claim the refund as part of the normal process of submitting their VAT returns.

## Will hospices need to register for VAT to benefit from the scheme?

No. Hospices who are not VAT registered can still claim the refund using a [VAT 126 form](#).

## What should hospices be doing now?

We have suggested to HMRC that it would be in both their and hospices interests to allow hospices several months to adapt to the new rules - i.e. our suggestion is that if hospices wish to they can submit their first claim for 2015/16 under the old rules (resulting in them under claiming) and then put in an adjusted claim later in the year for the difference once they have confirmed their methodology for dealing with the refund scheme.

**We are waiting for HMRC to confirm this to us but would be surprised if they do not agree to it.**

The immediate step that all hospices should take from 1 April is to make sure that they are recording separately the VAT on all their costs by department. Wherever possible, costs should be directly allocated to a specific department, rather than treated as overheads to be apportioned.

Secondly, hospices should review their methods for deciding how much overheads they recover for VAT – i.e. their business/non business apportionment and partial exemption calculation). If in doubt hospices should seek expert advice.

## What will Hospice UK be doing to ensure the introduction of the refund scheme operates smoothly?

As well as offering seminars and information via our website, we will be meeting with HMRC on approximately a monthly basis during the first six months of the scheme to feedback any concerns or issues hospices are experiencing.

## Where can I get more help?

For any general queries, please email [finance@hospiceuk.org](mailto:finance@hospiceuk.org).

Additional technical Information can be found on the [PL VAT Consultancy external website](#). Please note that Hospice UK is not responsible for the content of external sites.