

# VAT Alert

## *HMRC changes policy on Care Homes*

*Revenue & Customs Brief 02/2017*

### *Summary*

HMRC has announced a change of policy in relation to the construction of new buildings that are to be used for a relevant residential purpose as a care home.

Historically, HMRC has denied zero-rating for the construction of such buildings. This was on the basis that, in some cases, care for the occupants of the home received more than personal care. In such cases, HMRC viewed the buildings as hospitals the construction of which is specifically excluded from zero-rating under UK VAT Law.

A recent tribunal case (Pennine Care NHS Trust) tested this approach. The tribunal found that care can include both therapeutic and clinical treatment. Similarly, the length of stay by the occupant is also a determining factor.

HMRC has issued [Revenue & Customs Brief 02/2017 – VAT – Care Homes and Hospitals](#). The Brief announces a change of policy in relation to the construction of residential care homes. UK VAT law zero-rates the construction and first supply of a major interest in a building that is intended to be used for a relevant residential purpose. Such buildings include accommodation for students and buildings intended to be used as a care home. By contrast, the construction of a hospital is specifically excluded from zero-rating. The construction of a hospital is, thus, liable to VAT at the standard rate.

Historically, HMRC has considered that where occupants of a care home receive any degree of medical care, the building is no longer to be classed as a care home but as a hospital. Consequently, the construction of the building did not qualify as a relevant residential building and was standard rated. This issue has been challenged by various taxpayers over the years. The latest challenge was by Pennine Care NHS Trust where the Tribunal found (and HMRC now accepts) that personal care may involve a high level of medical treatment where it is essential to the accommodation that is being provided. Hospitals, by their nature, offer short-term accommodation but a care home can often be a place of residence for a much longer period. HMRC now accepts that personal care can go beyond the basics of feeding and washing etc but this does not turn a care home into a hospital. A care home may be set up to offer an extended period of in-house treatment or to offer treatment that assists recovery or rehabilitation. In either case, HMRC now accepts that the home would remain a care home for VAT purposes.

***Comment – It is often a very fine line that divides the boundary between what constitutes a care home and what constitutes a hospital. HMRC has now accepted that its previous policy was too restrictive. It has also advised that if, as a result of its previous policy, VAT has been charged and accounted for within the last four years, care home operators should approach their suppliers for a VAT refund.***

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### Contact

Karen Robb	London	<a href="mailto:karen.robbs@uk.gt.com">karen.robbs@uk.gt.com</a>	(0)20 772 82556
Vinny McCullagh	London	<a href="mailto:vinny.mccullagh@uk.gt.com">vinny.mccullagh@uk.gt.com</a>	(0)20 772 83150
Stuart Brodie	Scotland & North	<a href="mailto:stuart.brodie@uk.gt.com">stuart.brodie@uk.gt.com</a>	(0)141 223 0683