



CCG Chief Financial Officers

Financial Control
NHS England
8E62, Quarry House
Quarry Hill
Leeds
LS2 7UE

0113 82 50838
Adrian.snarr@nhs.net

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Dear colleagues

Potential CHC Redress Income Taxation Liability

HMRC has notified us (please see attached letter) of a potential income taxation liability in respect of the indexation element of CHC redress payments. We are working with our specialist tax advisors to resolve this issue. However I need to brief you regarding the steps which we need to take in order to ensure that we respond to this issue effectively. I have outlined these steps below.

I must stress that it is imperative that we receive the returned form from CCGs (as detailed below) by the required deadline so that we can lodge our appeal with HMRC.

Overview

HMRC has conducted a review of the CHC redress guidance issued initially by the Department of Health and Social Care and more recently by NHS England and has asserted that the indexation element of these redress payments constitutes “yearly interest” for income tax purposes. For this type of interest there is a requirement for the paying organisation (in this case the CCG) to deduct 20% income tax before making the payment. HMRC intend to seek retrospective tax settlements from CCGs for tax amounts not deducted, starting with the tax year 2013/14.

We intend to dispute their assessments with support from our specialist tax advisers, as it is our view that that the indexation is not liable to income tax.

Until this matter is resolved there will be a couple of interim actions required however, which are;

- HMRC will be issuing assessments for their estimate of uncollected income tax for redress payments in 2013/14, by the end of March 2018. NHS England will appeal to HMRC on behalf of all CCGs regarding these assessments
- From 06 April 2018, as a precautionary measure, CCGs should withhold 20% of the value of indexation element of future redress payments pending final agreement of treatment with HMRC

They have issued a letter (see attached) which they have asked us to circulate to all CCGs due to receive an assessment notice for 2013/14

Assessment and appeals process

HMRC will be issuing assessment notices directly to CCGs. Therefore each CCG affected for 2013/14 will shortly receive an assessment directly from HMRC.

We will issue an appeal to HMRC within the 30 day appeal timescale on behalf of all CCGs affected. In order for us to make an appeal on your behalf, however, we must be able to demonstrate to HMRC that we have received CCG authorisation to act on your behalf on this matter.

Therefore please could your Chief Financial Officer or other responsible officer sign and return the attached authorisation form to us as soon as possible, and no later than 12 April 2018, so that we can evidence to HMRC that we are acting under your authority in this instance. This will enable us to confirm to HMRC that each CCG wishes to give us authority to act, appeal against the assessment and to have the tax “stood over” (payment postponed) in its entirety. We can also accept an email from the Chief Financial Officer with the same wording as in the attached form to be sent to england.finance-admin@nhs.net.

If we do not receive such authorisation then there is risk that the CCG will need to bear any related financial liability directly themselves.

There is no requirement for CCGs to take any direct action with HMRC regarding an appeal. We will distribute a copy of the appeal to the CCGs who have received an assessment.

We have taken expert taxation advice to support our discussion with HMRC. CCGs should not seek further expert advice as this is being handled centrally by ourselves.

2017/18 accounts treatment

HMRC has estimated the assessment income tax liability per CCG in respect of 2013/14 payments by applying an estimated indexation % to the legacy CHC provision returns completed by CCGs for that year. NHS England will account for this potential liability centrally and the Accounts Directions will confirm this requirement. CCGs should not account for any potential liability in their own books.

Any potential liability for interest on redress payments in 2013/14 other than for legacy PUPoC payments is considered to be insignificant.

NHS England will similarly account for potential liabilities for tax years after 2013/14 on the same basis.

Income tax deduction process from 06 April 2018

HMRC has advised that 20% of the indexation element of future redress settlements should be withheld from payments made after 05 April 2018. These amounts will be required ultimately to be paid either to the claimant or remitted to HMRC, depending on the outcome of the appeals process which we will be instigating.

HMRC will provide further details in due course regarding the process for paying over deductions, if required.

We will confirm the correct balance sheet subjective code to hold the income tax deduction amounts within the next two weeks.

Email address for queries and form return

Should you have queries then please contact; england.finance-admin@nhs.net

With kind regards



Adrian Snarr

Director of Financial Control

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CC Regional Directors of Finance
DCO Directors of Finance
CCG Accountable Officers
CCG Clinical Leaders

Authorisation for NHS England to act on CCG's behalf

Please return this form by email to england.finance-admin@nhs.net by 12 April 2018.

I (Name of person giving authorisation),

Of..... CCG (organisation)

..... CCG

..... CCG

..... CCG

hereby authorise NHS England to act on behalf of the above named CCG(s) in relation to matters referred to in the letter from HMRC dated 16 March 2018, namely "Continuing Healthcare (CHC) Redress - Payments including interest element".

I also confirm that the above named CCG wishes to appeal against the assessment raised by HMRC in respect of the above matter and wishes for the tax to be postponed in its entirety.

Signed

Date

Position (Responsible Officer)