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# Act now to cut the risks of being the taxman's next target

GPs are still in the taxman's sights – even with the HMRC's Tax Health Plan (THP) disclosure deadline now past. **David Walker\*** explains why and shows how to cut your risk factors

HM Revenue and Customs has utilised its powers to obtain information from third parties that leads it to believe some doctors have not declared income in their tax returns.

For GPs, we are probably talking about cremation fees, BUPA medicals fees, insurance reports, and out of hours income. If the disclosure opportunity was unused, then GPs suspected of tax malpractice will now be pursued and may suffer severe penalties.

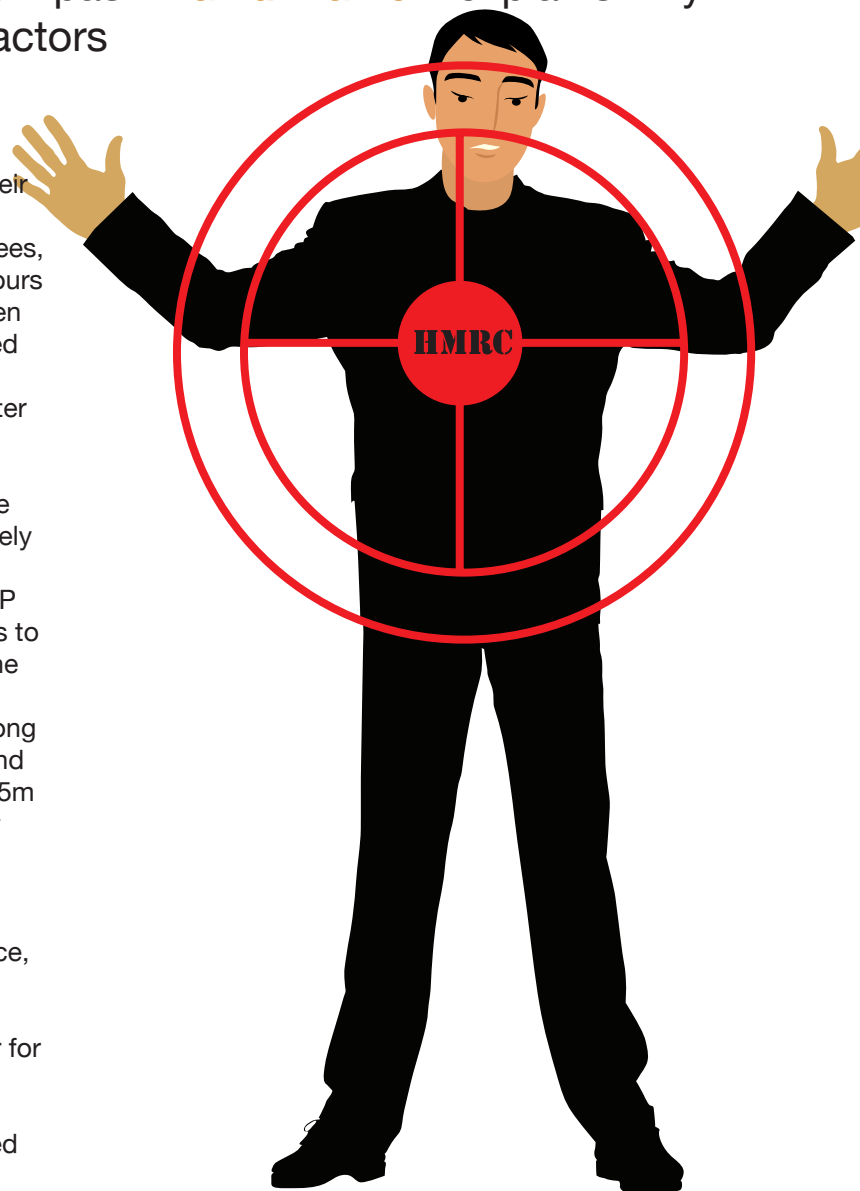
The taxman intends to go after other professions later but believes doctors will produce a substantial initial return. Dave Hartnett, permanent secretary for tax at HMRC, said recently that medics were chosen 'on the basis of risk-assessment which showed there was likely to be non-compliance.'

GPs had a ridiculously short deadline to use the THP facility. It was announced in January, required doctors to notify their intention to use it by 31 March, and pay the tax and penalties by 30 June 2010.

Personally I believe the HMRC is barking up the wrong tree with this initiative. I can imagine it did its sums and found that, say, insurance companies paid UK GPs £5m for completing medical reports yet could only identify half of this from GPs' tax returns.

But doctors have complex tax affairs. Numerous income streams can be fed into numerous different business structures. Insurance report fees, for instance, may be taken personally as self-employed income, pooled within a GP partnership, or paid to a personal service company - sometimes all of these in one year for a single GP.

All are legitimate vehicles for the receipt of such income and, in the continued absence of the promised



income shifting legislation, could well involve a spouse.

So it will be extremely difficult, if not impossible, to specifically match income entries from a doctor's tax returns to the information received from third parties.

I suspect the tax recovery will be relatively small. But what we see here is a new way of tax collection and it will become more common. The HMRC is undergoing an internal efficiency drive, staff morale is low, and 130 offices are earmarked for closure with the loss of 1,700 jobs.

For the first time in recorded history this year the Government had to borrow money in January and there is huge pressure to increase tax revenue. But rather than mend a broken system, schemes like the THP merely put sticking plasters over it. Meanwhile, protect yourself by following these tips:

### Don't be a target!

■ If you are resident, ordinarily resident and domiciled in the UK, you are taxable in the UK on your worldwide income, no matter where it arises, even if foreign income is not brought in to the UK. Do not hide it.

■ Your income and expenses for tax purposes should be calculated on an accruals basis, not just on a cash received or paid basis. Speak to your accountant – get it right.

■ Keep your records for the requisite period – this is reducing to four years from 2011, but is now seven. If there are no records, worst case scenarios will be taken. All funds banked will be treated as taxable if they cannot be identified specifically as private money, and no expenses will be allowed without a receipt. Do not let this be an option.

■ The above applies to your statement of personal income and expenses as well. It should be prepared with just as much diligence as the main practice

accounts and on the same principles. Do not cobble it together at the last minute using the 'a bit up on last year' method.

■ Expenses for a self-employed/partnership business must be incurred wholly and exclusively for the purposes of the profession.

Technically that means you cannot even have car expenses and capital allowances as there is some private use and the expense is not therefore 'wholly incurred'.

To allow a business element you need to be able to specifically identify the business portion of the usage. So, no mileage log, no car claim. Remember that.

■ Yes, your spouse has to do enough work for you, payable at a market rate, to earn the wage that is claimed against your income. And yes, you have to pay them the money.

■ A claim for the use of a room in your home as an office is perfectly legitimate, but must be justifiable and based upon fact. Is yours?

■ Interest and dividends from savings and investments are still income and need to go on your tax return. Keep on top of your portfolio.

■ You should not entertain a single thought of tax evasion, through either undeclared income or fictitious/overstated expenses. This is illegal, and the THP does not prevent a criminal prosecution should HMRC deem it necessary.

■ If you had undeclared income and used the THP then begin again with a clean sheet. If you did not use the THP, prepare to face the full range of charges HMRC can impose.

■ The rules are the rules but with planning, tax can generally be saved. Make sure that is done legitimately.

## Opinion

# Too many practices still lose money in key areas

David Clough, Chairman, AISMA

The medical press over the past few months has been quite depressing reading for GPs and their managers.

More and more legislation has emerged together with restrictions on pay, errors on notional rent payments and the opening up of competition between practices.

The Government spews out rules, regulations and legislation with no thought for those who have to administer them. Little wonder, then, that many doctors are concerned about their future.

This is compounded with the lack of confidence of UK GPs in their local primary care managers, whom some see as incompetent and disorganised.

Regretfully the average GP will have no way to combat or object to the forthcoming changes in rules. But they do have the opportunity to get their own house in order.

It is still a sad fact that many GP practices do not claim

for fees earned and drug reimbursement. Enhanced services are a major fees area suffering from inadequate claims.

A good fee claiming system must be run with responsibility levied on a partner to ensure the proper claims are made.

Notional rent is another area where practices still lose out. Appeals against the rent set by the district valuer should almost always be made. Notional rents are often 15-20% lower than the correct level.

The good news is that an efficient, profitable practice will survive. But those who are not will struggle. And as it seems likely that 'quality accounts' will be required from GP practices from 2011, the extra burden of producing even more information to the PCO could break a practice with higher administration costs.

# Beware the cost of mergers and federations

Practice federations and mergers are increasingly on the agenda for many GPs and their managers. **Kathie Applebee** outlines some useful guidance on the cost areas to be aware of at the outset



The map of general practice is changing as practices of all sizes seek closer working with their neighbours in order to reduce costs and provide a more robust defence against potentially predatory private providers.

It is a theoretically straightforward overall picture. Bigger is generally better in terms of economies of scale.

But the disadvantages are, however, myriad. They range from people problems to start-up costs. This article considers the latter but it should be borne in mind that the former are likely to be the most difficult to manage.

## Federations

Federations are groupings which can be hard or soft.

A hard federation might involve a form of merger, for example, by setting up a third-party company with practice members or representatives as directors or shareholders and using legal agreements to bind members to their commitments.

A soft federation might be a looser arrangement based on practices sharing services in return for costs being met or favours returned.

So, for example, a hard or formal federation might employ bank (relief) staff whereas the softer model might simply loan them with recompense for their salary costs.

A hard model would incur legal expenses and fees from financial advisors consulted about tax implications, and also start-up costs such as employing staff, renting space, or providing computers.

The softer version could be achieved through a so-called gentleman's agreement with little or no expense, especially in the cautious early stages while those involved got to know each other and become more comfortable with their intentions. Of course, a soft federation could migrate to a hard model, and even lead to merger activity.

## Mergers

Mergers occur when practices join together, either through merging contracts or by one practice taking over the other practice's contract. The latter might be referred to as a take-over rather than a merger, being the result of a successful bid following the resignation or termination of a practice contract.

Because two businesses are joining together, even if one is surrendering its contract to the other, each will require professional financial and legal advice.

The latter is also likely to include dealing with the TUPE (Transfer of Undertakings (Protection of Employment)) regulations which are designed either to protect or compensate employees who may be adversely affected by such mergers.

In addition to professional fees, and possible redundancy payments, practices face a range of other costs relating to changes which would enable them to adapt to, or absorb, their new elements.

There may be IT costs, depending on the systems used and the reimbursement available. Premises will need revaluing and will incur costs relating to the transfer of ownership.

Marketing aids, such as logos, signage, leaflets, and websites, will need updating, and 'hidden' costs such as procedural, protocol and training expenses should not be

under-estimated.

A key hidden cost is the amount of time required by the project lead(s). Meetings with new colleagues and professional advisors will be required, as will the drawing up of detailed plans, financial calculations and advisory documents.

Practice members, patients, PCOs, LMCs and other interested parties will need to be involved. Do not forget the practice banks, for example. And contingency plans will need to be made for the inevitable problems that will arise.

A final cost that should be borne in mind is that merger plans can fall through, and individual practices should enter into negotiations in the knowledge of the prospect of having to pay all their own fees and expenses should the

merger eventually fail.

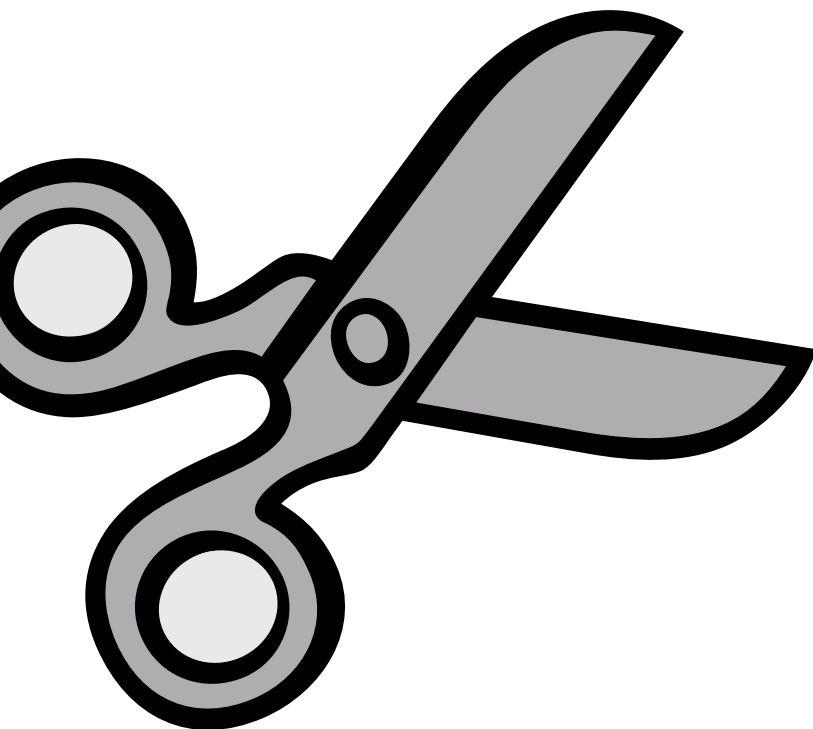
Although both the costs and the time commitments required for a successful merger or takeover are likely to be greater than first estimated, a merger, like a Christmas-present dog, is a long term commitment.

The final tally should be viewed in the context of the eventual gains whose draw underpinned the merger activity rather than as a short-term cost which has to be recouped within months rather than years.

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*Kathie Applebee, organisational psychologist for primary care, and strategic management partner at Tamar Valley Health Group Practice*

# Is it worth you taking another pay cut?



Next week from 6 April is when GPs with incomes in excess of £100,000 will start feeling the bite of some big tax increases.

From then there is a new 50% rate of tax on income over £150,000 coupled with the loss of the personal allowance where income exceeds £100,000.

Given the squeeze on GP funding, the 50% tax rate will affect an ever-reducing number of GPs, at least for the time being.

As the new higher tax rate kicks in, **Malcolm Jones\*\*** suggests key areas where GPs can turn the tables in their favour

But the effective rate of tax for income between £100,000 and £112,950 is 60% and this will catch most full-time GPs. Those earning significantly more than £112,950 may find there is little they can do about it.

However, GPs who have total earnings within the band or just slightly over may find it worthwhile to look at ways to reduce their income – after all not only are they paying 60% tax in this band, but also 22.5% superannuation. It may seem hardly worth the effort.

## Reducing income

There are a number of opportunities to reduce income, which include;

- Transfer of investment assets, such as property or shares to your spouse, assuming that they are a lower earner.
- For GPs who own the surgery premises, you could consider sharing ownership of those premises with your spouse (there are other tax complications here,

and partnership matters, which would require more detailed discussions with your accountant).

■ Although not a straightforward option, you can consider diverting eligible income into your own limited company, which may include you and your spouse as shareholders.

You would need to be in receipt of income that can legally be earned by the company rather than by the partnership (medical reports and locums are a possibility) and afford to let some or all of the money accumulate in the limited company rather than withdrawing it.

If the income needs to be withdrawn, then input from your accountant is important to utilise the most tax effective method/s of profit extraction from the limited company.

When considering any of these options, future complications should also be considered - such as divorce.

Another option is simply reduce your workload. If you are not taking home 30% of your earnings, you might conclude a goal for increased holidays a better option.

And, at the extreme, 24-hour or complete retirement are also being considered by many GPs.

### Restricted tax relief on pension contributions

From 6 April 2011 GPs with gross income of £150,000 or over will see higher rate tax relief on pension contributions tapered out until income reaches £180,000 where tax relief on pension contributions will be 20%.

A lot of GPs I know feel they are unaffected as their earnings are well below the starting point. Unfortunately the earnings to be considered are those before pension deductions and I believe a large number of GPs will be caught.

These changes were introduced in last year's finance act, which also introduced anti-forestalling measures from 22 April 2009 to prevent high earners rushing to top-up their pension plans in 2009-10 and 2010-11.

The rules are complex and GPs planning to pay significant pension contributions should seek the advice of their accountant.

I know that an increasing number of GPs will be taking 24-hour retirement perhaps earlier than they otherwise would have done. Once you stop paying superannuation contributions, this particular tax bite ceases.

### The changing face of HMRC

Now is the time for GPs to review their personal expenses claim (see story page one), not only to ensure that all expenses can be justified, but also that adequate evidence has been maintained, particularly for such items as motor expenses, telephone and things like internet costs.

HMRC dislikes round sums or estimated expenses and will seek to disallow any unsubstantiated expenditure.

We are often asked what a typical business use percentage of motoring expenses is. But in reality no two GPs will be the same and each case needs to be taken in isolation.

Given the new penalty regime and the recent Tax Health Plan disclosure opportunity, HMRC is looking for GPs to come forward where they have made errors or omissions in earlier years and this includes where expenses have been claimed, but cannot be justified.

We believe that where a GP does not utilise the disclosure opportunity, and it is later discovered that taxable profits have been under declared, HMRC will levy steeper penalties upon the taxpayer.

### Capital gains tax

For gains that attract entrepreneurs' relief, capital gains tax can be as low as 10% (subject to lifetime limits) but the highest rate of capital gains tax is currently 18%.

At the time of going to press, capital gains tax rates look extremely favourable when compared to the new income tax rates and, as a result, many are seeking to convert income profits into capital gains to take advantage.

However, there is much speculation regarding the effectiveness of the new 50% tax rate in raising the tax take by the Treasury and therefore many expect to see a rise in capital gains tax rates in the near future.

It is difficult to predict whether such increases would be implemented in an election year or what effect a change of government might have.

GPs holding assets with large gains, and those nearing retirement, might consider bringing forward disposals so as to avoid a possible future increase.

To all I would say seek advice from your accountant and seek it early. GPs should bear in mind that because of the way the self assessment payment system works, any increased tax liability will not be felt until 31 January 2012. It is a long way off now...

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# Financial Diary



Topical jottings of a money-minded GP

## Review Body award makes cuts a priority

The Government has cut the uplift recommended by the Doctors' and Dentists' Review Body from 1.34% to 0.8%. This full uplift was required to meet practices' increased expenses.

So to protect profits, practices must do what they are doing better, for example ensure all QOF points are earned, reduce expenses or find new income sources.

Most practices I know are already stretched with workload so reducing costs must be the priority. My practice manager is a good networker and recently implemented a couple of money saving ideas she had learnt over a coffee break chatting to other managers at a national meeting.

The first of these was to change our photocopier. It is only two years old and works well. But by switching to a new company and taking out a four year lease we have saved 20% on rental costs and 10% on copying costs. This amounts to about £400 a year.

A second savings area was by changing to a NHS approved stationery provider. One of our biggest costs was on toner for printers. The new stationers have an equivalent generic toner that is compatible with our printers and half the price of the branded toner we were using. They also offer 10% discount on all orders. Again the annual saving is in the order of £400.

## Spotting our pay shortfall saves £1,196

An important activity for practice managers is to check that the practice gets all payments from its local health authority and that the payments are accurate. Our practice has been in dispute about the PE8 QOF points for 2008-09.

These are based on the centrally administered patient experience survey which asks about the ability to book with any GP two days in advance. We had only scored 77% and the threshold was 90%.

As we always have book-in-advance appointments we suspected patients had answered about seeing the GP of their choice rather than any doctor. Our dispute became academic when it was agreed that due to the extra workload around H1N1 the threshold would be cut to 50%.

This meant we should be paid an extra £1,788 but we only got £592. Our eagle-eyed practice manager spotted this, the health authority apologised that its sums were wrong and the full amount has now been paid.

## Drive a better tax deal

A colleague is looking at buying a new car. He is keen to do his bit for the environment and is looking at low emission vehicles.

An accountant friend told him that the tax rules on new cars changed on the 6 April 2009. Those that emit under 111 gm/km are eligible for 100% first year allowances.

Cars up to 160 gm/kg get 20% and cars above this 10%.

## Top Tips

- Reduce practice costs using preferred NHS providers
- Check all payments to the practice from the local Health Authority are accurate
- Ask for private fees up front to eliminate bad debts
- Buying a low emission car has significant tax advantages
- Take advantage of the cycle to work scheme if eligible

This would mean a GP claiming 50 % business use and buying a car worth £20K would be able to set £10K against tax as opposed to £1K for a car over 160gm/kg.

Under the old system there was a flat rate of 25% or £3K maximum. Most GPs have the prospect of paying more income tax this year due to the changes in personal allowances for those earning over £100K. For some it could make financial sense to buy a new car this tax year and reduce their tax liability.

## How we cut bad debts

Colleagues at a local educational meeting were speaking over lunch about practice finances. One moaned that every year his practice has a substantial entry, usually of £500-£700, in the bad debts column of their accounts. The work involved is usually personal work for patients like travel insurance forms and private sick notes.

His practice is near the local university and they have a large student population. They often request private notes when they miss classes or fail to hand in projects on time. However the students often claim that they cannot afford the fee when they come to collect them.

I said we used to have the same problem but now ask patients and companies to pay up front before the report is done. This means we never have a bad debt problem. It also reduced our workload as patients very often change their mind about requesting private reports and medical certificates when they realise they have to pay for them.

## New cash boost for cycling to work

Many GPs work part time and have other medical commitments outside their practices. I know some locally who work as GPs with special interests and are salaried through the local NHS trust.

One, a keen cyclist, tells me that the local NHS Trust has signed up to the Government's cycle to work scheme. He was thinking of getting a new bike and as he cycles to his GPwSI job he qualifies for the scheme.

This lets him pay for the bike and accessories up to £1,000 directly from his salary on a monthly basis. This reduces his tax and national insurance payments and in effect reduces the cost of the bike by about 50%.