Cass Business School
CITY UNIVERSITY LONDON

# Report on the tax advantages of charitable status for private hospitals

## prepared for Pielle Consulting

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Centre for Charity Effectiveness
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# Contents

## Executive Summary

Charities are entitled to a range of tax reliefs. This report has been commissioned by Pielle Consulting on behalf of HCA International to identify the tax advantages of charitable status for some of its leading competitors in the private hospital market.

The report provides an overview of the tax regulations affecting companies trading as private hospitals highlighting the exemptions and reliefs available to those with charitable status. We have focussed on the three main taxes affecting private hospitals: corporation tax, VAT and business rates. We have also analysed the publicly available data of four charitable private hospitals to identify the value of the tax relief afforded them. The organisations included in this study are: St John and St Elizabeth Hospital, Edward VII Hospital, the London Clinic and Nuffield Health

There are significant charity tax reliefs attached to both income and business rates. In general terms, income is exempt from corporation tax provided that the activities have been carried out solely for charitable purposes and charities only have to pay 20% of their business rates. The situation for VAT is more mixed. VAT rules apply to charities with business activities just as they do for any other businesses but VAT reliefs give private hospitals savings for purchases of certain medical equipment and medical supplies, including medicines.

Our analysis of publicly available data has enabled us to estimate the value of tax relief for corporation tax and business rates in 2011.

| | Corporation Tax Relief £m | Business Rates Relief £m | TOTAL £m |
|---|---|---|---|
| **St John & St Elizabeth** | 0.8 | 0.4 | 1.2 |
| **King Edward VII** | 0 | 0.2 | 0.2 |
| **London Clinic** | 6.3 | 0.5 | 6.8 |
| **Nuffield Health** | 2.8 | 2.1 (at least) | 4.9 |

This compares to the following tax paid by HCA International Limited in the same year.

| | Corporation Tax £m | Business Rates £m | TOTAL £m |
|---|---|---|---|
| **HCA International Limited** | 27.3 | 6.1 | 33.4 |

While it is possible to make a reasonable estimate of the corporation tax and business rate savings made by the charitable hospitals, the lack of detailed publicly available information about costs means that we are only able to provide high level estimates of potential VAT savings. These high level estimates have been made using information provided to us by HCA International about their own hospital costs and are not based on publicly available audited information. We have made the assumption that the hospitals under review will have, broadly speaking, proportionately similar cost bases to HCA International.

| | **High Level Estimate of VAT savings based on 'proportionately similar' cost base assumption** | | |
|---|---|---|---|
| | **Equipment** <br> **£m** | **Medicines/Medical Supplies** <br> **£m** | **TOTAL** <br> **£m** |
| **St John & St Elizabeth** | 0.1 | 1.3 | 1.4 |
| **King Edward VII** | 0.1 | 0.6 | 0.7 |
| **London Clinic** | 0.3 | 2.8 | 3.1 |
| **Nuffield Health** | 1.0 | 11.9 | 12.9 |

The purpose of this report was to identify objectively the advantages of charitable status for private hospitals rather than to pass judgement on whether this is fair in the context of a health market with charitable and non charitable providers. Although there is some debate about the 'public benefit' status of large, highly commercial, fee charging charities, we note that in general terms the tax policy makers show little sign of discontent with the status quo on the grounds that charities do not operate to earn profits for their shareholders and investors and where they do make profits, it is only to re-invest in more work for their causes and for public benefit.

## Background

The Competition Commission is currently undertaking a study into the private healthcare sector. To enable it to look at the possible financial advantages that hospitals operating as charities receive, economic facts and verifiable data are required to show that the St John and St Elizabeth Hospital, Edward VII Hospital, London Clinic and Nuffield Health, while operating as private hospitals, benefit from tax relief due to their status as charitable companies. This contrasts with private hospitals such as HCA International whose status is as a non charitable company.

In March 2013, Pielle Consulting, HCA International's communications consultancy, commissioned Cass CCE to analyse the tax advantages of charitable status for private hospitals. The analysis should cover corporation tax, value added tax (VAT) and business rates and be summarised in a written report.

## Approach

To meet the consultancy objectives this report provides an overview of the tax regulations affecting companies trading as private hospitals highlighting the exemptions and reliefs available to those with charitable status. We have also analysed publicly available data to identify the value of the tax relief afforded to the above named organisations. Our analysis gives our best estimate of the value of these reliefs. Publicly available data does not give us all the information needed to make precise tax relief calculations, so the figures cited are suitable to inform the policy debate about the tax advantages of charitable status but should not be used to take any commercial decisions.

Our report is presented in three sections covering corporation tax, VAT and business rates with a conclusion showing the overall tax advantage for each company.

# Corporation Tax

## Summary of regulations

Private hospitals operating through UK companies, whether limited by shares or by guarantee, are within the charge to UK corporation tax. This means that they are liable to pay corporation tax on their chargeable profits calculated in accordance with the Tax Acts and, in particular, the Corporation Tax Acts of 2009 and 2010.

However, it has been the clear intention of Government since the 19th century that charities should be entitled to exemption from tax in relation to their charitable activities. This has been done through the tax legislation which has always started by treating the income of charities as taxable in principle and then granting specific exemptions where a case could be made for doing so. Some private hospitals are established as charities and so benefit from these tax exemptions whereas others are structured and owned differently and do not.

Companies will normally have more than one source of profits, typically, trading profits, interest and other investment income, capital gains and, if part of a group, dividends from subsidiaries. Charitable companies may also receive donations and grants. Identifying different sources of profits is important as the amounts can be subject to different rules as to how and, indeed whether, they are taxable. This is particularly the case with charities as there are exemptions from tax on certain sources of profits earned by charities if the necessary conditions are met.

Each company in a group is looked at separately for tax purposes. If a company in a group has a loss, it can be set against the profits of another group company for the same year. This can mean the accounts show a very low tax charge compared to the disclosed profit. For this report, we are looking at the accounting and tax position of the hospitals concerned, as shown by their consolidated accounts.

It is not sufficient for a company to be a charity to qualify for exemption from tax on its profits. In addition to complying with the Companies Act, a charitable company must fulfil a number of other conditions in order to qualify for tax exemptions:

- It must be established only for charitable purposes, being the purposes given by section 2 Charities Act 2011. This is the same condition as required by that Act for a UK company to qualify as a charity and includes the requirement to deliver public benefit.
- The charity's governing document must restrict the charity to using all its income and assets for charitable purposes. It can therefore only spend its money in ways directly related to its charitable activities and its Articles must prevent it from distributing any profits or surplus funds to its members so that these are reinvested back into the charity.

- It must be within the court jurisdiction of a country in the EU, Norway or Iceland.
- It must meet the registration requirements of that country, which for England and Wales are in section 30 Charities Act 2011.
- It must be under general control and management by fit and proper persons. This is stricter than any requirement of directors under the Companies Act and Her Majesty's Revenue and Customs (HMRC) have the discretion as to whether it matters and who they apply the condition to. Usually, it will only be applied to persons involved in the financial affairs of the charity but it can extend beyond the trustees to persons in day to day management and control of finances.

Even if it has met the above conditions, the charitable company will lose tax exemption on any income or gains that are not actually applied for charitable purposes. This even includes making loans to associated businesses other than as bona fide commercial investments. This demonstrates the fundamental difference between a charitable company that can claim exemption from corporation tax and a company that does not qualify. Whereas a company normally exists to provide value to its shareholders in the form of dividends and gains on the value of its shares, all the income and assets of a charitable company are held on charitable trust and can therefore only be applied for charitable purposes. This means the charitable company has no shareholders' equity of any value and provides no income to its members.

## Exemptions for charitable hospitals

In order to understand properly how the exemption from corporation tax applies to a charitable company, operating as a private hospital, we need to look at the various sources of income and gains that are likely to make up the company's total incoming resources, assuming they are in fact applied only for charitable purposes. If taxable, the profits from these sources would all be calculated under separate rules in the Corporation Tax Acts and then ultimately aggregated as total profits chargeable to corporation tax. Each source of profits therefore needs specific exemption from corporation tax when comprised in the income of a charitable company.

- The hospital's main activity of supplying services to patients will constitute a trade carried on as part of the charity's primary purpose. If the profits are applied for charitable purposes, the profit is exempt.
- If the company were to extend its trading activities outside of carrying out its primary purpose (or a purpose ancillary thereto) any profits from those extended activities would be taxable in the same way as for any other company. This means that even if the charity wished to undertake a secondary trading activity, to raise funds to help fulfil those objects, subject to a *de minimis* turnover exemption of £50,000 and special treatment for certain fundraising events, the profits would be taxable.
- Most common forms of investment income and income from loan relationships, including bank deposit interest, are normally taxable as the income accrues but exempt if applied by a charity for charitable purposes.
- Dividends from UK companies are not subject to corporation tax when received by another company.

- Capital gains from the disposal of chargeable assets, as defined for tax purposes under the Taxation of Chargeable Gains Act 1992, are calculated according to the rules in that Act. The gains are subject to corporation tax but exempt if applied by a charity for charitable purposes. There are occasions where a gain can be deemed to accrue and be outside the charity exemption but this is rare in the course of a normal business.
- Donations and legacies are not generally subject to corporation tax.
- Grants are generally only subject to corporation tax if they form part of normal trading income. In those cases the grant income would qualify for the same charity exemption, if any, which applied to trading profits. If the grants are made to cover specific expenditure, then that expenditure cannot normally qualify for tax relief, if otherwise relievable.

Where a charity wishes to undertake a trading activity outside of its primary purposes, for example to carry on a fundraising activity, it will often do so through a trading subsidiary. Such a company will not qualify for any of the exemptions from corporation tax available to charities as it will be a normal company with members and will have no restrictions on the use of its income or assets outside of normal company law. However, corporation tax on the subsidiary's profits can still be avoided using tax legislation intended specifically for this purpose. If the subsidiary company's shares are wholly owned by a charity, it has up to 9 months from the end of its accounting period to make a payment donating the full amount of its profits to the charity and not pay corporation tax on the profits. Any profits not donated are subject to corporation tax in the normal way. A company not owned by a charity can only get tax relief for donations actually paid during the accounting period concerned.

In addition to the application of profits other than for charitable purposes, the tax legislation introduces other situations where charitable tax exemptions may be lost. However, since these are generally to prevent the misuse of charitable funds and to prevent charitable companies being used primarily for tax avoidance, we have assumed they will not apply in the cases we have looked at and so we are not looking at such situations in any more detail.

## Tax advantages of charitable status

In order to illustrate the effect of the above exemptions, we have reviewed the latest published accounts of four private hospitals operating in London through charitable companies. The details of their income and expenditure for the year, as shown by the Statement of Financial Affairs, the Income and Expenditure Account or the Profit and Loss Account, as published, are given in Appendices 1-4.

From this information we have produced as far as possible a calculation of the taxable profits (or losses) of the charitable hospitals, ignoring any exemptions from tax afforded to them as charities, subject to certain assumptions.

- While the hospitals may have subsidiaries, their accounts are consolidated. We have treated the accounts as if they were of a single company as we do not have a breakdown of the figures. This could, in some circumstances, produce inaccuracies, as tax law requires each company in a group to be looked at separately. However, any such difference should not be material for comparison purposes.

- Not having information about the detailed make-up of the figures, such as expenditure not allowable for tax purposes, we have only adjusted for any such figures disclosed separately in the accounts.
- We have assumed that the depreciation charge for plant and equipment equals the capital allowances that would be given for tax purposes. This is only a timing difference in the way capital expenditure is written off and so would normally result in a deferred tax liability rather than tax immediately payable. It is impossible to calculate the capital allowances without a full history of the company's capital expenditure over many years. This tax figure can then be compared with the tax charged in a non-charitable company's Profit and Loss Account which includes tax payable and deferred tax.
- We have also assumed that no assets qualifying for capital allowances are included in expenditure on buildings and therefore none of the charge for depreciation of buildings has been treated as an allowable deduction in computing taxable profits.
- There are other areas besides tax where the results of charitable companies do not directly compare with those not operating as charities. Two main examples are the fact that the directors, being trustees, cannot be remunerated and, being charities, they give discounts to beneficiaries. The latter is particularly so with the King Edward VII hospital, which provides care free or at reduced rates to the military and the London Clinic, providing similar care to military servicemen, the clergy and other sections of the community, in association with other charities. The charity of Saints John and Elizabeth operates a hospice without charge as well as a hospital charging fees. We have not made any adjustments to the published figures to take account of these factors, looking only at taxation issues.
- Nuffield Health operate a number of wellbeing and fitness centres, which now appear to be included in the charity's activities although some were operated separately when first acquired. According to the 2011 Chairman's Statement, the charity continues to focus on health and wellbeing services to improve the nation's health as part of its charitable objects and public benefit ethos. These activities therefore qualify for a tax exemption on the profits, being primary purpose trading activities.

As with all companies, there is income that is not subject to corporation tax and expenditure that is not deductible from taxable profits. We have therefore provided a reconciliation of what would be the taxable profits without charity exemptions with the net increase or decrease in funds as shown by the accounts.

Having established the level of taxable profit ignoring charity exemptions, we went on to calculate how much corporation tax would have been payable using the 26.5% tax rate applicable in the calendar year 2011 under review (see Appendix 5).This analysis shows that the charitable hospitals are benefitting from corporation tax relief as follows:

**Taxable profits ignoring charity exemptions - 2011**

| | Net Surplus Income £000 | Taxable profit/ (loss) £000 | Tax Relief £000 |
|---|---|---|---|
| St John & St Elizabeth | 3,369 | 2,961 | 785 |
| King Edward VII | (702) | (2,912) | 0 |
| The London Clinic | 16,447 | 23,763 | 6,297 |
| Nuffield Health | 3,800 | 11,000 | 2,815 |

In the year ended 31 December 2011 HCA International had profits before tax of £83 million and corporation tax of £27 million.

Tax charges can vary significantly year on year. Our analysis also includes figures for the previous year of account which produced the following results using the 28% corporate tax rate applicable in that year:

**Taxable profits ignoring charity exemptions - 2010**

| | Net Surplus Income £000 | Taxable profit/ (loss) £000 | Tax Relief £000 |
|---|---|---|---|
| St John & St Elizabeth | 1,756 | 1,537 | 430 |
| King Edward VII | 1,001 | (1,434) | 0 |
| The London Clinic | 19,831 | 23,772 | 6,656 |
| Nuffield Health | 100 | 15,900 | 4,052 |

# Value Added Tax (VAT)

## Summary of regulations

VAT is a tax on the supply of goods and services in a business and it is generally the nature of the supply rather than the charitable status of the supplier that determines whether and how much VAT is charged. For an organisation that is supplying goods or services above the registration threshold of £79,000 p.a., there are two aspects to VAT.

- Firstly, whether the supply is taxable and, if so, at what rate. There are currently 3 rates of VAT, the standard rate of 20%, the reduced rate of 5% and a zero rate i.e.0%. An organisation selling goods and services that are deemed to be taxable supplies will have to increase its prices by the amount of VAT charged and then account for that to HMRC.
- Secondly, the ability to recover VAT charged on supplies purchased (inputs). This can be either by refund or by deducting it from VAT charged on supplies made (outputs) before accounting for the difference to HMRC.

Some supplies are, by their nature, exempt from VAT. This means that VAT does not have to be charged on supplies made but it also means that VAT on inputs cannot be recovered and is therefore an additional cost. The same applies where organisations make supplies which are not in the nature of a business, which is often the case with aspects of the activities of charities. There are special rules for apportionment of VAT on inputs to determine the amount recoverable where the supplies made are partly taxable and partly exempt or non-business.

Certain State-funded organisations such as the NHS and Local Authorities do not have to charge VAT on supplies made but can nevertheless recover VAT suffered on supplies purchased. This gives them a distinct financial advantage over organisations supplying similar supplies if they are exempt or non-business, although this is something that Monitor is looking into in its “level playing field” study[1].

As far as medical supplies by private hospitals are concerned, both treatment and drugs are exempt from VAT, as are almost all the related supplies made by hospitals as long as they meet the purpose test set down by the European Court of Justice. Essentially, this means that health services provided by registered health professionals will only be exempt from VAT where their principal purpose is to protect, maintain or restore the health of the individual concerned. Services of cosmetic treatment, done purely for aesthetic reasons are standard-rated for VAT purposes.

Making exempt supplies means that hospitals, other than those operated by the NHS, cannot recover VAT on their inputs. This means that all private hospitals, whether charitable or not, are likely to be paying VAT that they cannot recover.

## Reliefs for charitable hospitals

The only difference, therefore, in the VAT treatment of hospitals operated by charities and those operated by other companies, is in respect of a limited number of supplies which, when made to charities, can be zero-rated or charged at the reduced rate rather than Standard Rate.

For each of these reliefs, specific conditions have to be met and charities wishing to take advantage of the reliefs must provide their suppliers with declarations certifying their eligibility. The reliefs and conditions that might be relevant to a charity running a hospital are as summarised below, full details being given in HMRC VAT Notices 701/1 (Charities) and 701/6 (Charity funded equipment for medical, veterinary etc. uses).

- The supply to a hospital charity of medical equipment is zero rated
    - Equipment can include consumables such as bandages and dressings but not medicines
- A charity engaged in the treatment or care of people can purchase medicinal products at the zero rate.
    - A ‘medicinal product’ is a substance presented as a medicine, or an ingredient for a medicine, capable of being administered to people for a medicinal purpose and absorbed into the body. The zero rate also covers medicinal products purchased by a charity for the purpose of testing the efficiency of those products.
- Supplies to charities of certain goods and services which the charities make available to disabled people for their personal or domestic use are zero-rated.

[1] ‘*A fair playing field for the benefit of NHS patients*’, Monitor, March 2013

- A charity engaged in medical research can purchase substances directly used for testing or for mixing with other substances in the course of that research, at the zero rate.
- The supply of medical equipment to a charitable institution (such as a hospice or day centre) for the treatment of the chronically sick or disabled, either for the charity's own use or to donate to an eligible body, such as a UK health authority, a hospital, a research institution or certain other charitable institutions, can be zero-rated.
    - Chronically sick means suffering from what the medical profession would regard as a chronic sickness. It does not therefore cover all patients.
- Zero-rating will also apply to certain goods purchased by a charity, whose sole purpose is to provide a range of care services to meet the personal needs of disabled people or which provides transport services for disabled people.
- The supply to a charity of a resuscitation training model that is to be used in first-aid training in cardiopulmonary resuscitation or defibrillation techniques is zero-rated.
- Charities have to pay VAT on supplies of fuel and power. However charities can claim the reduced rate where fuel and power is supplied for a qualifying use. Qualifying use means:
    - supplied for use in a dwelling or certain other types of residential accommodation, such as a children's home, hospice or care home for the elderly or disabled; or
    - supplied for use in charitable non-business activities, such as free day care for the disabled.
    - Running a hospital which charges for its services is not a qualifying use as it is a business activity.

## Tax advantages of charitable status

As can be seen from the above, there are savings in VAT to be made by a hospital operating as a charity on the purchase of equipment, small or large and the purchase of medicines. Also, other charitable institutions, treating mainly the chronically sick or disabled, benefit in the same way.

Unlike corporation tax and business rates, it is not possible to accurately estimate the cost of additional VAT that would have been incurred by the charitable hospitals if they operated at present but did not have charitable status. This is because detailed cost information about how much they spend on medical equipment and medicines, that would qualify for zero rating if all the conditions imposed by the legislation were met, is not disclosed in their published accounts.

We have instead made some high level estimates which give an indication of the order of magnitude of these potential tax advantages. These high level estimates have been made using information provided to us by HCA International about their own hospital costs and are not based on publicly available audited information. We have made the assumption that the hospitals under review will have broadly speaking proportionately similar cost bases to HCA International.

## *Equipment*

In 2011 HCA International spent £7.3 million on medical equipment purchases and refurbishment works relating to medical equipment projects such as CT or MRI scanners which would have qualified for zero rating had HCA International been a charity. This amounted to 27% of its total equipment capital expenditure.

Assuming that the hospitals under review have broadly speaking proportionately similar cost bases, we estimate the VAT savings as follows:

| | **Equipment Capital Expenditure 2011 £000** | **High Level Estimate of VAT saving based on 'proportionately similar' cost base assumption £000** |
|---|---|---|
| St John & St Elizabeth | 2,343 | 127 |
| King Edward VII | 1,816 | 98 |
| The London Clinic | 6,381 | 345 |
| Nuffield Health | 19,800 | 1,069 |

This estimate will not necessarily be a reflection of regular annual VAT savings because of wide variations in the timing and amounts of capital expenditure on relevant equipment. This will also affect the % of total expenditure we have used as each hospital could have a completely different mix of qualifying and non-qualifying expenditure.

A further indication of the VAT saving made by charitable hospitals on the purchase of qualifying equipment, such as cancer scanners, can be estimated by looking at the cost of such items. Both the London Clinic and St John and St Elizabeth provide advanced cancer services so can reasonably be expected to be making these types of purchases.

The latter's 2011 accounts state that they were: 'the first UK private hospital to purchase a 3T MRI scanner which became operational in June and is working in conjunction with our existing 1.5T Scanner. This has led to a significant growth in MRI volumes during the second half of 2011.' University College Hospital London also installed 3T MRI scanner in 2011 citing a capital cost of £2million.[2]Whilst we are not certain that the equipment is exactly the same make and model as that purchased by St John and St Elizabeth, it gives an indication of the cost involved. There would be a VAT saving of £400,000 for a charity purchasing a scanner costing £2million excluding VAT.

[2] http://www.uclh.org/News/Pages/Advancedscanner.aspx

### *Medicines and medical supplies*

In 2011 HCA International's private hospitals had operating costs of £477.9 million. The VAT element on purchases that would have qualified for zero rating if HCA International had been a charity equated to 3% of these operating costs.

Assuming that the hospitals under review have broadly speaking proportionately similar cost bases, we estimate the VAT savings as follows:

| | **Hospital Costs 2011** **£000** | **High Level Estimate of VAT saving based on 'proportionately similar' cost base assumption** **£000** |
|---|---|---|
| St John & St Elizabeth | 41,901 | 1,257 |
| King Edward VII | 19,877 | 596 |
| The London Clinic | 93,207 | 2,796 |
| Nuffield Health (excl. Wellbeing) | 396,100 | 11,883 |

# Business Rates

## Summary of regulations

Business Rates are the way that those who occupy non-domestic property contribute towards the cost of local services. Business rates are collected by local authorities and calculated from three key elements:

- the rateable value - this is the Valuation Office Agency's (VOA's) assessment of the annual rental value of a property on a set date
- the national multiplier set by central government (it usually changes each year in line with inflation) and representing the number of pence in each pound of rateable value that will be payable in business rates and
- any reliefs which are regulated by central government but applied by the local council.

The rates payable are calculated as follows:

| |
|---|
| Rateable Value *multiplied by* National Multiplier *minus* Business Rate Relief |

## Exemptions for charitable hospitals

Registered charities are entitled to mandatory 80% relief where the property is occupied by the charity and is wholly or mainly used for the charitable purposes of the charity (or of that and other charities).  We asked Westminster City Council if charities which operate more like businesses (eg private hospitals) ever waive their right to claim mandatory relief and they said they had no experience of this. It is therefore reasonable to assume that the hospitals in this review get this relief.

The local authority has discretion to give a further 20% discretionary relief on the remaining business rates payable. However, per Westminster City Council's guidelines[3], this is specifically not given to organisations with annual audited income in excess of £2million so this would not apply to the charitable hospitals in our study.

## Tax advantages of charitable status

Where possible, information about the rateable value and business rates was obtained from Westminster City Council and the VOA. Due to the number of sites involved, HCA International provided business rate data from its internal financial records. Nuffield Health run 31 private hospitals. We were only able to find rateable values for 20 of these hospitals on the VOA website so the figures shown for Nuffield Health are less than they would be in practice.

The following table shows the rateable value and business rates of the hospitals that we were able to review as well as our calculation of the value their mandatory charity business rate relief and of their business rates after relief.

| | **St John & St Elizabeth** | **King Edward VII** | **London Clinic** | **Nuffield Health** |
|---|---|---|---|---|
| Address | 60 Grove End Road London NW8 9NH | Beaumont Street W1G 6AA | 20 Devonshire Place WG 6BW | Various |
| Business rate ref | 400372606002 | 400142900204 | 400283202000 | Various |
| Rateable value | £1,030,000 | £382,500 | £1,180,000 | £5,545,000 |
| Multiplier | 0.471 | 0.471 | 0.471 | 0.471 |
| Business rates * | £505,730 | £187,808 | £579,380 | £2,611,695 |
| Mandatory relief (80%) | £404,584 | £150,246 | £463,504 | £2,089,356 |
| Business rates after relief | £101,146 | £37, 562 | £115,876 | £522,339 |

* The figures for London hospitals are slightly higher than you would get by just applying the multiplier due to the Cross Rail supplement of 2p/£ that is currently being levied on some buildings in central London.

HCA International's annual business rates charge was £6.1million for the year ended 31st December 2012. This figure covers its six London hospitals as well as

3 http://transact.westminster.gov.uk/docstores/publications_store/Policy%20for%20the%20award%20of%20Discretionary%20Rate%20Relief%20for%20Charities%20(3).doc

outpatient buildings in Golders Green, New Malden, St John's Wood, Harley Street and Manchester as well as its Corporate Offices in central London.

## Conclusion

This report has outlined the tax regulations affecting companies trading as private hospitals highlighting the exemptions and reliefs available to those with charitable status.

Our analysis of publicly available data has enabled us to estimate the value of tax relief given to four private hospitals operating in London for corporation tax and business rates in 2011.

| | **Corporation Tax Relief £m** | **Business Rates Relief £m** | **TOTAL £m** |
|---|---|---|---|
| **St John & St Elizabeth** | 0.8 | 0.4 | 1.2 |
| **King Edward VII** | 0 | 0.2 | 0.2 |
| **London Clinic** | 6.3 | 0.5 | 6.8 |
| **Nuffield Health** | 2.8 | 2.1 (at least) | 4.9 |

This compares to the following tax paid by HCA International Limited in the same year.

| | **Corporation Tax £m** | **Business Rates £m** | **TOTAL £m** |
|---|---|---|---|
| **HCA International Limited** | 27.3 | 6.1 | 33.4 |

While it is possible to make a reasonable estimate of the Corporation Tax and Business Rate savings made by the charitable hospitals, the lack of detailed publicly available information about costs means that we are only able to provide high level estimates of potential VAT savings. These high level estimates have been made using information provided to us by HCA International about their own hospital costs and are not based on publicly available audited information. We have made the assumption that the hospitals under review will have broadly speaking proportionately similar cost bases to HCA International.

| | High Level Estimate of VAT savings based on 'proportionately similar' cost base assumption | | |
|---|---|---|---|
| | Equipment<br>£m | Medicines/Medical Supplies<br>£m | TOTAL<br>£m |
| **St John & St Elizabeth** | 0.1 | 1.3 | 1.4 |
| **King Edward VII** | 0.1 | 0.6 | 0.7 |
| **London Clinic** | 0.3 | 2.8 | 3.1 |
| **Nuffield Health** | 1.0 | 11.9 | 12.9 |

The purpose of this report was to identify objectively the advantages of charitable status for private hospitals rather than to pass judgement on whether this is fair in the context of a health market with charitable and non charitable providers. Although there is some debate about the 'public benefit' status of large, highly commercial, fee charging charities, we note that in general terms the tax policy makers show little sign of discontent with the status quo on the grounds that charities do not operate to earn profits for their shareholders and investors and where they do make profits, it is only to re-invest in more work for their causes and for public benefit.

# Appendices

Corporation Tax Computations

## Appendix 1: St John & St Elizabeth

| | | | | |
|---|---|---|---|---|
| **SS JOHN AND ELIZABETH CHARITY** | | | | |
| **INCOME AND EXPENDITURE** | | | | |
| **YEAR ENDED 31 DECEMBER** | | | | |
| | **2011** | | **2010** | |
| | **£000** | **£000** | **£000** | **£000** |
| **Income and Expenditure per Accounts** | | | | |
| | | | | |
| Voluntary income | | | | |
| Donations and legacies | 1,690 | | 1,523 | |
| Income from shop | 126 | 1,816 | 47 | 1,570 |
| income from events and commumnity | | 116 | | 156 |
| Income from investments | | 23 | | 25 |
| Income from charitable activities | | | | |
| Income from fee-paying patients | 40,345 | | 40,524 | |
| PCT income | 3,601 | | 3,472 | |
| | | 43,946 | | 43,996 |
| | | | | |
| | | 45,901 | | 45,747 |
| | | | | |
| Cost of generating voluntary income | | 430 | | 449 |
| Fundraising: retail shops and events | | 105 | | 135 |
| Medical nursing and ancillary costs | | 41,901 | | 43,283 |
| Governance costs | | 36 | | 59 |
| Unrealised loss on investments | | 60 | | 65 |
| | | | | |
| | | 42,532 | | 43,991 |
| | | | | |
| Net movement in Funds | | 3,369 | | 1,756 |

## St John & St Elizabeth (cont'd)

| **Tax computation (ignoring charity exemptions)** | | | | |
|---|---|---|---|---|
| | | | | |
| Trading income | | | | |
| Income from charitable activities | | 43,946 | | 43,996 |
| Income from shop | | 126 | | 47 |
| income from events and commumnity | | 116 | | 156 |
| | | | | |
| | | 44,188 | | 44,199 |
| Trading expenses | | | | |
| Fundraising: retail shops and events | 105 | | 135 | |
| Medical nursing and ancillary costs | 41,901 | | 43,283 | |
| Governance costs | 36 | | 59 | |
| Less depreciation of buildings | ( 815) | | ( 815) | |
| | | 41,227 | | 42,662 |
| | | 2,961 | | 1,537 |
| Other taxable income | | - | | - |
| | | | | |
| Profits chargeable to corporation tax | | 2,961 | | 1,537 |
| | | | | |
| **Non-taxable** | | | | |
| Donations and legacies | 1,690 | | 1,523 | |
| Dividends | 23 | | 25 | |
| Costs of raising voluntary income | ( 430) | 1,283 | ( 449) | 1,099 |
| | | | | |
| Depreciation of buildings | ( 815) | | ( 815) | |
| Unrealised loss on investments | ( 60) | ( 875) | ( 65) | ( 880) |
| | | | | |
| | | 408 | | 219 |
| | | | | |
| Total to reconcile | | 3,369 | | 1,756 |

# Appendix 2: King Edward VII's Hospital

| | | | | |
|---|---|---|---|---|
| **KING EDWARD VII's HOSPITAL SISTER AGNES** | | | | |
| **INCOME AND EXPENDITURE ACCOUNT** | | | | |
| **YEAR ENDED 31 MARCH 2012** | | | | |
| | **2012** | | **2011** | |
| | **£000** | **£000** | **£000** | **£000** |
| **Income and Expenditure per Accounts** | | | | |
| | | | | |
| Patient charges | 18,761 | | 17,883 | |
| Other income | 489 | | 494 | |
| Total Income | | 19,250 | | 18,377 |
| Hospital expenditure | ( 19,877) | | ( 17,942) | |
| Pension recovery plan | ( 920) | | ( 156) | |
| Hospital Operating (Deficit)/Surplus Before Depreciation | | ( 20,797) | | ( 18,098) |
| | | | | |
| | | ( 1,547) | | 279 |
| Depreciation | | ( 1,680) | | ( 1,537) |
| | | | | |
| **Hospital Operating Deficit** | | ( 3,227) | | ( 1,258) |
| Investment income and interest receivable | | 368 | | 366 |
| Fundralsing Office | | | | |
| Income (excluding legacies and special donations) | | 431 | | 452 |
| Expenditure | | ( 99) | | ( 96) |
| Hospital Grants | | ( 12) | | ( 10) |
| | | | | |
| Other | | | | |
| VAT reclaim and related interest (note 5) | | - | | ( 476) |
| | | | | |
| Other Recognised Gains and Losses | | | | |
| Defined benefit pension scheme FRS 17 adjustment (note 18) | | 865 | | 112 |
| Legacies and special donations (note 2) | | 1,308 | | 1,481 |
| Sister Agnes Benevolent Fund —net income/(expenditure) | | 5 | | ( 9) |
| | | | | |
| **Net (Deficit)/Income for the Year** | | ( 361) | | 562 |
| | | | | |
| Actuarial gain/(loss) on defined benefit pension scheme | | 203 | | ( 101) |
| | | | | |
| Investment Gains/(Losses) | | | | |
| Losses on disposal of investment assets | | ( 102) | | ( 713) |
| Unrealised (loss)/gains on investment assets | | ( 442) | | 1,253 |
| | | | | |
| **(Deficit)/Surplus for the Year** | | ( 702) | | 1,001 |

## King Edward VII (cont'd)

| | | | | |
|---|---|---|---|---|
| **Tax computation (ignoring charity exemptions)** | | | | |
| Trading | | | | |
| Hospital operating deficit | | (3,227) | | (1,258) |
| Add depreciation of buildings | | 315 | | 300 |
| VAT adjustment | | | | (476) |
| Loss carried forward | | (2,912) | | (1,434) |
| **Non-taxable** | | | | |
| Company distributions from investments | 368 | | 366 | |
| Donations and legacies | 1,744 | | 1,924 | |
| Direct cost of generating donations | (99) | | (96) | |
| Hospital grants | (12) | 2,001 | (10) | 2,184 |
| Accounting adjustments for pensions | 1,068 | | 11 | |
| Capital gains and losses (no realised gains) | (544) | | 540 | |
| Expenditure not allowable for tax | (315) | 209 | (300) | 251 |
| | | 2,210 | | 2,435 |
| | | (702) | | 1,001 |
| Discounts to the value of £119,000 (£120,000 2011) were given to beneficiaries in respect of medical treatment | | | | |

## Appendix 3: London Clinic

| | | | | |
|---|---|---|---|---|
| **THE LONDON CLINIC** | | | | |
| **INCOME AND EXPENDITURE** | | | | |
| **YEAR ENDED 31 DECEMBER** | | | | |
| | **2011** | | **2010** | |
| | **£000** | **£000** | **£000** | **£000** |
| **Income and Expenditure per Accounts** | | | | |
| | | | | |
| Donations and gifts | | 30 | | - |
| Investment income | | 60 | | 56 |
| Provision of hospital activities | | 124,338 | | 114,702 |
| | | | | |
| | | 124,428 | | 114,758 |
| Cost of providing hospital activities | 106,953 | | 97,152 | |
| Governance costs | 144 | | 134 | |
| | | 107,097 | | 97,286 |
| | | | | |
| Net income for the year | | 17,331 | | 17,472 |
| (Loss) / gain on investments | | ( 49) | | 77 |
| Pension fund actuarial loss /gain | | ( 835) | | 2,282 |
| | | | | |
| Net movement in funds | | 16,447 | | 19,831 |

## London Clinic (cont'd)

| | | | | |
|---|---|---|---|---|
| **Tax computation (ignoring charity exemptions)** | | | | |
| Hospital trading income | | 124,338 | | 114,702 |
| Trading expenses | (107,097) | | (97,286) | |
| Add Depreciation of buildings | 6,462 | | 6,300 | |
| | | (100,635) | | (90,986) |
| | | | | |
| Trading profit | | 23,703 | | 23,716 |
| Interest received | | 60 | | 56 |
| | | | | |
| Profits chargeable to corporation tax | | 23,763 | | 23,772 |
| | | | | |
| **Non-taxable** | | | | |
| Donations and gifts | | 30 | | - |
| Unrealised loss / gain on investments | | (49) | | 77 |
| Pension fund actuarial loss /gain | | (835) | | 2,282 |
| Depreciation of buildings | | (6,462) | | (6,300) |
| | | | | |
| | | (7,316) | | (3,941) |
| | | | | |
| Total to reconcile | | 16,447 | | 19,831 |
| | | | | |
| **Grants and discounts** | | | | |
| | | | | |
| Humanitarian and compassionate discounts | | 222,810 | | |
| UCL Cancer Institute Research Trust | | 92,000 | | |
| Discounts to New Victoria Foundation | | 34,631 | | |
| Prostate Action | | 1,000 | | |
| Others | | 3,339 | | |
| | | | | |
| Total | | 353,780 | | |

# Appendix 4: Nuffield Health

| | | | | |
|---|---|---|---|---|
| **NUFFIELD HEALTH** | | | | |
| **INCOME AND EXPENDITURE** | | | | |
| **YEAR ENDED 31 DECEMBER** | | | | |
| | **2011** | | **2010** | |
| | **£000** | **£000** | **£000** | **£000** |
| **Income and Expenditure per Accounts** | | | | |
| | | | | |
| Turnover | | 575,200 | | 552,200 |
| | | | | |
| Cost of services | ( 545,500) | | ( 522,700) | |
| Impairment of fixed asssets | 2,500 | | 1,100 | |
| Support and governance | ( 11,700) | | ( 10,700) | |
| Deferred pension valuation | - | | 8,200 | |
| | | ( 554,700) | | ( 524,100) |
| | | | | |
| | | 20,500 | | 28,100 |
| Share of joint venture losses | | - | | ( 1,800) |
| | | | | |
| Total operating surplus | | 20,500 | | 26,300 |
| Deficit on sale of business | | ( 200) | | ( 500) |
| Cost of restructuring | | - | | ( 9,000) |
| Surplus on disposal of fixed assets | | 700 | | 1,400 |
| Interest receivable | | 500 | | 900 |
| Interest payable and finance costs | | ( 17,700) | | ( 18,600) |
| | | | | |
| Surplus before taxation | | 3,800 | | 500 |
| | | | | |
| Tax | | ( 100) | | ( 400) |
| | | | | |
| Retained surplus | | 3,700 | | 100 |

## Nuffield Health (cont'd)

| **Tax computation (ignoring charity exemptions)** | | |
|---|---|---|
| Hospital trading surplus | 20,500 | 26,300 |
| Add Depreciation of buildings | 10,200 | 10,200 |
| Less impairment of fixed assets | ( 2,500) | ( 1,100) |
| Less deferred pension valuation | - | ( 1,800) |
| Less interest payable and finance costs | ( 17,700) | ( 18,600) |
| | | |
| Trading profit | 10,500 | 15,000 |
| Interest received | 500 | 900 |
| | | |
| Profits chargeable to corporation tax | 11,000 | 15,900 |
| | | |
| **Non-taxable** | | |
| | | |
| Impairment of fixed assets | 2,500 | 1,100 |
| Pension fund actuarial loss /gain | - | 1,800 |
| Depreciation of buildings | ( 10,200) | ( 10,200) |
| Deficit on sale of business | ( 200) | ( 500) |
| Cost of restructuring | - | ( 9,000) |
| Surplus on disposal of fixed assets | 700 | 1,400 |
| Tax payable by subsidiary | ( 100) | ( 400) |
| | | |
| | ( 7,300) | ( 15,800) |
| | | |
| Total to reconcile | 3,700 | 100 |

# Appendix 5: Corporation Tax Advantage of Charitable Status

**HOSPITALS AS CHARITIES**
**SUMMARY OF INCOME AND EXPENDITURE**

| | St John & St Elizabeth | King Edward VII | London Clinic | Nuffield Health |
|---|---|---|---|---|
| **Year ended** | **31 December 2011** | **31 March 2012** | **31 December 2011** | **31 December 2011** |
| | **£ 000** | **£ 000** | **£ 000** | **£ 000** |
| Taxable profits ignoring exemptions for charities | 2,961 | ( 2,912) | 23,763 | 11,000 |
| Non-taxable income (net of direct expenses) | 1,283 | 2,001 | 30 | - |
| Accounting adjustments not applicable for tax purposes | ( 875) | 209 | ( 7,346) | ( 7,300) |
| Net movement in funds | 3,369 | ( 702) | 16,447 | 3,700 |
| Corporation tax otherwise payable | 785 | - | 6,297 | 2,915 |
| Less actual corportion tax payable | - | - | - | ( 100) |
| **Notional tax saving of charitable status** | **785** | **-** | **6,297** | **2,815** |

| | St John & St Elizabeth | King Edward VII | London Clinic | Nuffield Health |
|---|---|---|---|---|
| **Year ended** | **31 December 2010** | **31 March 2011** | **31 December 2010** | **31 December 2010** |
| | **£ 000** | **£ 000** | **£ 000** | **£ 000** |
| Taxable profits ignoring exemptions for charities | 1,537 | ( 1,434) | 23,772 | 15,900 |
| Non-taxable income (net of direct expenses) | 1,099 | 2,184 | - | - |
| Accounting adjustments not applicable for tax purposes | ( 880) | 251 | ( 3,941) | ( 15,800) |
| Net movement in funds | 1,756 | 1,001 | 19,831 | 100 |
| Corporation tax otherwise payable | 430 | - | 6,656 | 4,452 |
| Less actual corportion tax payable | - | - | - | ( 400) |
| **Notional tax saving of charitable status** | **430** | **-** | **6,656** | **4,052** |

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## About the Authors

**Tony Austin** is a tax consultant, specialising in the charity sector. He has over 20 years of experience in advising charities on the special reliefs and exemptions available to them and how their income can be subject to tax. For the last 10 years, he has also been the author of the chapters on direct taxation in Tolleys Charities Manual. He also lectures on charity taxation for training organisations, including CASS Business School, where he is a visiting lecturer on their Masters course on charity finance.

Tony was formerly charity tax partner with accountancy firms BDO and Mazars. He is a fellow of the Institute of Chartered Accountants in England and Wales.

**Nicola Robert** is a specialist in finance, strategy and governance. She draws on 20 years of experience in both private and charity sectors. She has held senior management and trustee positions in several charities. Nicola currently works as an associate consultant for CASS CCE and for her own consultancy Robert+Skailes. Nicola's earlier career included 5 years as an auditor with Ernst & Young and 4 years as financial planning and finance systems manager for SWIFT.

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Sir John Cass's Foundation has supported education in London since the 18th century and takes its name from its founder, Sir John Cass, who established a school in Aldgate in 1710. Born in the City of London in 1661, Sir John served as an MP for the City and was knighted in 1713.