Life Sciences Insights 3

Key VAT, Trade and Environmental Tax Considerations for the Life Sciences Sector

Life sciences and pharmaceutical firms are navigating a perfect storm, with increasingly complex global supply chains met with a shifting regulatory and tax landscape. From patient access schemes and cross-border VAT recovery to emerging environmental taxes, the indirect tax burden is growing. What are some of the immediate, practical challenges businesses must address to mitigate risk and ensure seamless compliance?

Patient Access Schemes and Free-of-Charge Medicines

Patient access schemes and similar arrangements involving the provision of free-of-charge medicines are widely used to improve patient access to treatments. While the supply of free-of-charge medicines under such arrangements has been a feature of the sector for many years, it can still give rise to significant VAT uncertainty.

Key questions arise around whether these arrangements constitute taxable supplies, deemed supplies, or fall outside the scope of VAT altogether. The answer depends on the contractual framework, the presence or absence of consideration and how the arrangement is documented in practice.

There are increasing indications that HMRC is adopting a more assertive approach. Reports in early 2026, including those widely publicised in *The Times,* suggest that certain compassionate use arrangements are being challenged on the basis that they give rise to taxable deemed supplies[1]. This has raised concerns that pharmaceutical companies may be required to bear the associated VAT cost or pass it on to patients, potentially rendering such arrangements commercially unviable.

These developments provide a useful reminder that any arrangement involving the “free” provision of goods, whether as part of access schemes, clinical programmes or for commercial reasons such as business promotion, should be carefully reviewed. Businesses should assess whether their current treatment remains robust and whether there is any unintended VAT exposure arising from the way arrangements are structured or documented.

Drug Pricing and Rebates

Many patient access and wider pricing arrangements, including those formerly under the Pharmaceutical Price Regulation Scheme ("PPRS"), the Voluntary Scheme for Branded Medicines Pricing and Access ("VPAS") and the Voluntary Scheme for Branded Medicines Pricing, Access and Growth ("VPAG"), incorporate rebate mechanisms that are more complex than straightforward pricing adjustments. VPAG, which replaced VPAS from 2024, continues the model of industry-wide payments back to government based on branded medicines sales, with updated features intended to support access and growth.

The VAT treatment of such rebates has been considered in UK litigation involving Boehringer Ingelheim[2] which specifically concerns payments made under PPRS and VPAS. However, the case is widely seen as testing the broader principle of how rebate mechanisms in multi-party patient access and pricing schemes should be treated for VAT purposes, and is therefore relevant by analogy to similar arrangements, including those under VPAG.

The key question is whether rebate payments are directly and immediately linked to earlier supplies of medicines, such that they reduce the consideration for those supplies and require a corresponding adjustment to output VAT, or whether they are better characterised as standalone payments falling outside the scope of VAT.

The litigation remains ongoing, with the Upper Tribunal recently disagreeing with the First-tier Tribunal's conclusion that rebate payments under these schemes necessarily constitute reductions in consideration. This highlights both the continued uncertainty in this area and the fact that the analysis is highly fact-sensitive, particularly in the context of multi-party rebate arrangements.

Where a direct link to identifiable supplies exists, VAT adjustments may be required, creating compliance complexity and adjustments to the amount of VAT payable to the tax authority. Where that link is not present, rebates may fall outside the scope of VAT.

Businesses should carefully assess how rebates are calculated, triggered and documented as well as ensuring that their VAT treatment aligns with the underlying legal and commercial position.

Cell and Gene Therapies: VAT Complexity in a Novel Landscape

Cell and Gene Therapies ("CGT") present a number of unique challenges from a VAT perspective.

Businesses operating across the CGT value chain, including biopharmaceutical companies, contract development and manufacturing organisations ("CDMOs"), and specialist logistics providers, must determine whether their supplies are taxable or exempt, and whether associated input VAT is recoverable.

Existing VAT frameworks were not designed with CGT in mind. As a result, there is often ambiguity around whether supplies qualify as exempt medical care, standard-rated services, or supplies of pharmaceuticals. This extends to how to treat bundled offerings such as manufacturing, storage and distribution, and how to deal with cross-border movements of patient-specific materials.

In the absence of clear guidance, businesses should take a structured approach by mapping supply chains, identifying supply types and counterparties and ensuring contracts align with the intended VAT treatment. Clear documentation and early advice, including where appropriate seeking a ruling from HMRC, can help reduce the risk of challenge. Similar issues arise across multiple jurisdictions, so a coordinated approach is important.

Cross-Border Supply Chains and Import VAT Recovery

Global supply chains in the life sciences sector are inherently complex, often involving multiple stages of manufacturing, testing, and distribution across different jurisdictions. This creates significant VAT considerations.

A key area of focus is import VAT recovery. Recent UK case law, including *TSI Instruments Ltd v HMRC*[3] and *Piramal Healthcare UK Ltd v HMRC*[4], has reinforced the principle that import VAT recovery is generally only available in the UK where the importer of record is also the legal owner of the goods at the time of import, or shortly afterwards as a result of the import.

Across the EU, similar rules generally apply, although the level of application and the tax authority's approach can vary by country. In some jurisdictions, for instance, import VAT may be recoverable if it can be demonstrated that the owner of the goods ultimately bore the economic cost of the VAT within the supply chain. While this can be

beneficial, it often creates an additional administrative burden, as the claimant must provide sufficient evidence to support their entitlement. The key principle to keep in mind is therefore that import VAT recovery should not be assumed where a party other than the owner is responsible for declaring the goods at import.

This is particularly relevant where goods move through third-party manufacturers, laboratories, and logistics providers, and where ownership and import responsibilities are not aligned. If not managed correctly, this can result in irrecoverable VAT costs, increased working capital requirements and heightened audit risk.

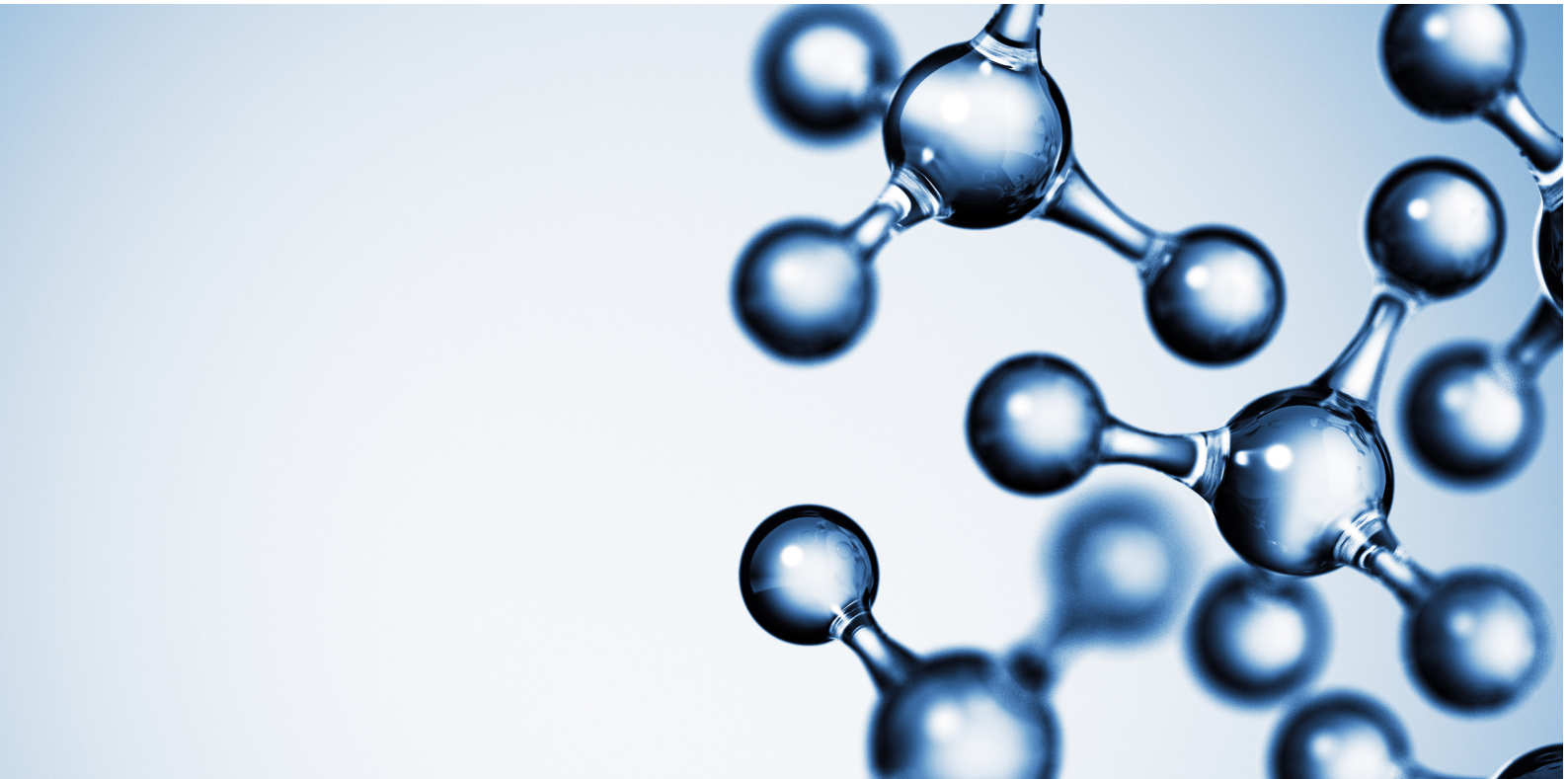
To mitigate these risks, businesses should ensure alignment between contractual ownership and customs declarations, clearly identify the importer of record, and maintain consistent supporting documentation. Supply chain design should be considered with VAT recovery in mind from the outset.

From a trade perspective, the global tariff environment for pharmaceuticals remains relatively stable. However, businesses operating in and out of the US should remain vigilant to ongoing volatility and potential rule changes that may impact supply chain structuring and cost.

Conclusion

Please note that the above is not an exhaustive overview of all relevant topics. There are additional matters we have not addressed, including environmental tax considerations, which we would be pleased to discuss further.

If you would like to explore any of the issues outlined above, or require advice on other VAT, trade or environmental tax matters affecting your business, please do not hesitate to contact FTI Consulting. Key contacts are provided below.



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For more information about our services, see European Tax Advisory

Endnotes

1 Alex Ralph, "Cancer patients caught in VAT row over free post-trial drugs," The Times (March, 2026) https://www.thetimes.com/business/economics/article/cancerpatients-vat-pharma-drugs-zs9kz38wk

2 HMRC v Boehringer Ingelheim Limited [2026] UKUT 00135 (TCC)

3 TSI Instruments Ltd v HMRC [2025] UKFTT 1278 (TC)

4 Piramal Healthcare UK Ltd v HMRC [2023] UKFTT 891 (TC)

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