

VAT in **BLACK & WHITE**

PROPERTY VAT UPDATE: August 2009

Introduction

Berthold Bauer is the Construction VAT & Tax specialist, working with Architects, Quantity Surveyors and Contractors throughout the United Kingdom.

'VAT in **Black & White**' provides simple guidance on recent VAT and Tax news which affect the Construction industry.

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Changes to VAT Rate

HMRC have produced a thorough guide for the re-introduction of the standard rate of VAT to 17.5% from 1st January 2010. This can be accessed directly on the Customs website <http://www.hmrc.gov.uk/vat/forms-rates/rates/rate-changes.htm> or by contacting Berthold Bauer. The most important aspect is the anti-forestalling legislation to 'catch' artificial arrangements to reduce the VAT rate on goods or services to be provided after the rate reverts. With forward planning, the application of common sense and best practice we foresee no real issues.

Listed Buildings

The recent Lawlor Tribunal case has re-iterated the importance of Contractors applying the Zero Rate of VAT correctly. The key issue here was an often overlooked criteria; which is work on a Listed Building must have advance Listed Building Consent for VAT relief to apply – on all aspects of the works where relief is sought, not just a blanket consent.

New Build or not ?

The nil VAT band for newly constructed residential buildings is well known, however for a dwelling to be 'new build', it is imperative that all existing structures are demolished down to ground floor slab, prior to reconstruction beginning. Beware of the concession for façade (or corner façade) retention which must be a Statutory Condition of Planning Consent – not a client or Architect led choice to retain part of the structure

HM RC Control Visits

It is no secret that like all Government Departments, HMRC are short on resources and that Control Visits to Contractors are not undertaken as often as they should. Over recent months it is apparent that Output Tax levied at the Zero and Reduced Rates and the corresponding VAT Return seems to trigger a Control Visit. To that end the old practice of estimating VAT relief is no longer appropriate and Contractors

undertaking their own assessments of VAT relief should be expecting to justify their VAT charges.

As Contractor you are fully responsible (and liable) for any shortfall in VAT collected – along with the mandatory penalties and interest that HMRC will levy.

These Control Visits also appear to encompass general CIS compliance.....

Labour & Sub-Contractors

Legislation is to be introduced (following a Consultation period) to halt what Customs see as abuse of the self-employed status by many labourers and small contractors. Unless one or more of these three criteria is easily met; an individual will be seen as being employed for Tax & NI purposes.

1. The person uses their own plant & equipment
2. The person provides all materials required
3. The person provides – and pays – other workers required to finish the commissioned task.

As with CIS we expect the burden of proof to fall upon the Main Contractor, Agent or Intermediary.

Charity Construction

The 10% concession for Zero Rating buildings used solely for relevant charitable use has been withdrawn (subject to a transitional period ending 30 June 2010). The definition of 'solely' will be amended and the ineligible use limited to 5%; if measured in a fair and reasonable manner. Current or imminent schemes should plan for this change and calculate the relevant areas carefully.

Fees & NHS Trusts

The relief for NHS Trusts (and other Gov't Bodies) that permits VAT recovery on Professional Fees is muted as being withdrawn. The changes **do** have the force of law, but as they are yet to be published are not enforceable. The issue of fees is under discussion with the Treasury, but Design Professionals need to be aware of the impact this change will have on cost and affordability to their NHS schemes.

The above information is for guidance purposes only and should not be acted on without proper consideration of the particular circumstances or seeking Professional advice. Every effort has however been made to ensure statements are as accurate as possible

If you are affected by these changes or have any VAT enquiries, Berthold Bauer are happy to offer their **FREE** expert VAT advice

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