

# VAT in **BLACK & WHITE**

## PROPERTY VAT UPDATE: December 2010

### 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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### Increase in VAT Rate – Professional Fees

The rise in VAT to 20% on the January 4<sup>th</sup> is likely to be an additional cost burden for most clients; as professional fees are specifically blocked from VAT relief. The rate at which you charge VAT is dictated by the Tax Point (effectively the time your services were provided or by the issue of a VAT invoice within 14 days).

- Services you provide prior to January 4<sup>th</sup> can attract the 17.5% rate even if the invoice you issue is after the New Year
- Services performed after January 4<sup>th</sup> should always attract VAT at the new higher rate of 20%
- For services that span the rate change you may choose to apportion the VAT charge on your bills to reflect both the 17.5% and 20% rates provided it is on a fair and reasonable basis [see below for advance billing]

### Increase in VAT Rate – Construction Charges

The default position is that VAT is due at the Standard Rate unless proven otherwise [see opposite]. As with professional fees, the VAT rate is dictated by when the services were provided and interim valuations may be apportioned across the two rate rates as appropriate.

Specific anti-forestalling provisions are in force to prevent abusive practices in regards to advance billing. Effectively an advance payment is permitted if it is below £100k, the two parties are not connected and/or the payment does not become due for at least 6 months. More detailed guidance on the VAT rate change can be found on the HMRC website under the heading *VAT Rate Change*.

### New Builds – with or without VAT

To qualify as a residential new build – and therefore attract the Zero Rate of VAT – all existing structures must be demolished in their entirety *down to ground floor slab level* before construction commences. As a concession you are permitted to retain a façade – or corner façade – but only as

an explicit condition of planning. A design-led retention will not qualify and the works will attract VAT in full. It is therefore apparent that the key to successful VAT planning lies in ensuring the planning application, and subsequent approval, contains a stipulation for façade retention.

### Energy Saving Materials

The supply of certain energy saving materials is subject to the 5% VAT rate when 'fitted' or 'installed'. The type of material is restricted to insulation, ground/air source heat pumps, solar panels and wood-fuelled boilers. All other materials, even if their purpose is for energy retention, will attract VAT in full. It is important however that the energy materials are fitted as a separate supply, for example insulating a roof at the same time it is replaced would not qualify for the 5% rate; as the insulation would be seen as 'incidental' to the primary supply of roof renewal.

### VAT Relief on Construction

VAT relief is the sole responsibility and liability of the Contractor and their legal position is they must charge VAT in full unless they hold all necessary evidence and an 'apportionment' showing exactly what rate of VAT is applicable to each of the tender costs. Many property owners presume that just because a building is Listed – the VAT due is nil. This is **not** the case, and as with all types of VAT relief, it is imperative all of the HMRC criteria are met. Broadly speaking these are the schemes that attract VAT relief of one type or another

- **Alterations to Listed Buildings**; a key criteria being the extent of the Listed Building Consent
- **Conversion of uninhabited dwellings**; with proof being sought the building was empty for more than 2 years
- **Changing the number of dwellings**; although intended for the creation of additional dwellings, does permit relief where flats are being amalgamated.
- **Charitable new builds and annexes**; relief is often inadvertently sacrificed where peppercorn rental income is raised.
- **Commercial redevelopments**; including mitigation of VAT charged on purchase.

*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

Telephone: **0871 288 7266**

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*Whilst the initial advice we provide is free of charge, there is a nominal cost of 10p per minute for the actual call. Mobile operators may charge a higher sum.*