

VAT Reverse supply for construction services

Following a consultation into possible options that could be used to tackle fraud in construction industry supply chains, the Government has announced that a domestic reverse charge will be introduced to prevent VAT losses continuing to occur.

The changes will come into effect from 1 October 2019. The long lead time is intended to provide adequate time for businesses to implement the changes.

The Government has published the draft legislation and related documentation which provide further details on the scope of the reverse charge and what supplies are not within the revised accounting treatment.

According to HMRC, the legislation will make supplies of standard or reduced-rated construction services ('specified supplies') between construction or building businesses liable to the domestic reverse charge, which means that the customer, rather than the supplier, will be required to account for any VAT due. The legislation will not apply to supplies made to the end consumer or to businesses that use specified supplies to make other supplies such as the sale of new houses.

The domestic reverse charge will only affect supplies that are liable to VAT at the standard or reduced rates where payments are required to be reported through the Construction Industry Scheme (CIS).

Therefore, supplies between sub-contractors and contractors, as defined by CIS, will be subject to the reverse charge unless they are supplied to a contractor who is an end user. An end user is usually the party who will use the building or construction services for personal use and will not sell the services as part of their own construction/building business.

The legislation also enables those who are connected to end users, including landlords or tenants to also be treated as an end user. As a result, intra-group and leasing recharges of building/construction services that are connected to the end user will not be subject to the reverse charge.

According to the proposed legislation, the reverse charge will cover the following services:

- construction, alteration, repair, extension, demolition or dismantling of buildings or structures (whether permanent or not), including offshore installations;
- construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including (in particular) walls, roadworks, power-lines, electronic communications apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipe-lines, reservoirs, water-mains, wells, sewers, industrial plant and installations for purposes of land drainage, coast protection or defence;
- installation in any building or structure of systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection;
- internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, repair, extension or restoration;
- painting or decorating the internal or external surfaces of any building or structure;
- services which form an integral part of, or are preparatory to, or are for rendering complete, the services described in the bullet points above including site clearance, earth-moving excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works.

The following are examples of the services that will be excluded from the reverse charge (this list is not exhaustive):

- drilling for, or extraction of, oil or natural gas;
- extraction (whether by underground or surface working) of minerals and tunnelling or boring, or construction of underground works, for this purpose;

- manufacture of building or engineering components or equipment, materials, plant or machinery, or delivery of any of these things to site;
- manufacture of components for systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection, or delivery of any of these things to site;
- the professional work of architects or surveyors, or of consultants in building, engineering, interior or exterior decoration or in the laying-out of landscape;
- the making, installation and repair of artistic works, being sculptures, murals and other works which are wholly artistic in nature;
- sign writing and erecting, installing and repairing signboards and advertisements;
- the installation of seating, blinds and shutters;
- the installation of security systems, including burglar alarms, closed-circuit television and public address systems.

If the supply contains a mix of reverse charge and normal VAT services, all the services will be liable to the reverse charge and they should not be apportioned or split.

Businesses issuing invoices for services liable to the reverse charge will need to ensure that the invoice contains all the invoicing requirements and a statement that the customer is required to account for VAT under the reverse charge. HMRC have given the following narratives that could be used:

- reverse charge: VAT Act 1994 Section 55A applies;
- reverse charge: S55A VATA 94 applies;
- reverse charge: Customer to pay the VAT to HMRC.

The invoice issued must also show the amount of VAT due on the services provided but this amount must not be included in the total VAT charged amount.

Construction and building services are usually considered to be continuous supplies of services from a VAT perspective and the tax point is the earlier of either the date the invoice is issued, or the customer pays (subject to the annual invoicing requirements). If an invoice is issued that covers supplies spanning 1 October 2019, the following VAT treatment applies:

- supplies with a tax point before 1 October 2019 – the supplier will charge VAT on the invoice in the normal way;
- supplies with a tax point on or after 1 October 2019 – the customer accounts for VAT using the reverse charge.

The powers will be made under *VATA 1994, s 55A*. The initial draft legislation and other documentation can be accessed via www.gov.uk/government/consultations/draft-legislation-vat-reverse-charge-for-construction-services.

HMRC have confirmed that for the first six months after the implementation date they will apply a 'light touch' in dealing with any errors that occur if it is satisfied that the business is trying to comply. However, if they consider that the businesses knowingly incorrectly claim end user status, it will be liable for the output VAT that should have been accounted for and it could be liable to penalties.

Other guidance published by HMRC on 7 November 2018 can be accessed via www.gov.uk/government/publications/vat-reverse-charge-for-building-and-construction-services-guidance-note/guidance-note#annexe1.