

LEGISLATION

DAY: VAT

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Introduction

Since 2010, it has become the norm for draft tax legislation to be published late in the calendar year for eventual inclusion in the following year's Finance Bill. This is published one week or two after the Chancellor's Autumn Statement, and the publication date has generally become known amongst tax practitioners as 'Legislation Day'. This year, Legislation Day was on 9 December.

We have divided our commentary on the draft legislation amongst seven subject areas: Income tax & NICs, Corporation tax, Inheritance tax, VAT, Stamp taxes, Pensions & Compliance, avoidance and evasion. Our commentary does not attempt to cover everything for which legislation was published. Instead, we have opted to cover about 25 significant topics on which there is now more detail available than on Autumn Statement day (25 November).

Draft legislation is always subject to amendment of course, both before and after it is introduced to the House of Commons.

See Simon's Taxes Binder 1 for information about recent New Developments which are to be incorporated into the commentary.

Power to make refunds to named bodies

Government departments are permitted to obtain refunds of VAT which they incur in relation to non-business activities. However, this does not extend to Non-Departmental Public Bodies and similar arms-length bodies.

With effect from Royal Assent to FA 2016, a new VATA 1994 s 33E will provide that the Treasury may, by order, name any such bodies as 'specified bodies', with the result that they will be able to recover the VAT which they incur goods or services which relate to non-business activities. The aim of the measure is to prevent VAT from being a disincentive to cost-sharing arrangements between such bodies. (Such arrangements currently give rise to irrecoverable VAT.)

Any hope of a windfall for a specified body will, however, be short-lived; since the body will be government-funded, the extent of its funding will be adjusted downwards to take account of the VAT which will be recoverable.

Changes to the reduced rate for energy-saving materials

Following the CJEU decision in *EC v UK* (Case C-161/14), FA 2016 will introduce legislation restricting the extent to which the reduced rate of VAT applies to the supply and installation of energy-saving materials.

With effect in relation to supplies made on or after 1 August 2016 (subject to transitional arrangements), VATA 1994 Sch 7A Group 2 will provide that reduced-rating applies to –

1. Services of installing energy-saving materials in residential accommodation where the materials are not supplied by the installer;
2. Services of installing energy saving materials, including the supply of the materials themselves, where:
 - a) the supply is made to a person over 60 years old or on certain benefits;
 - b) the supply is made to a relevant housing association; or
 - c) the building in question is used for a relevant residential purpose;
3. Services of installing energy-saving materials, including the supply of the materials themselves (other than services and materials falling within 2 above) in residential accommodation, provided the cost of the materials does not exceed the cost of the installation services. If the cost of the materials is greater, only the installation element will be subject to the reduced rate and the materials will be standard-rated.

The legislation also withdraws, from the same date, the application of the reduced rate to solar panels, wind turbines and water turbines.

Isle of Man charities

For a charity to qualify for the VAT reliefs set out in VATA 1994, it must meet the conditions set out in FA 2010 Sch 6, one of which is that the charity must fall under the jurisdiction of the High Court, the Court of Session, or the High Court of Northern Ireland.

With effect from Royal Assent, FA 2016 will amend FA 2010 Sch 6 to include a reference to the High Court of the Isle of Man to make it clear that charities subject to that court's jurisdiction will qualify for the UK VAT reliefs.