ELYSIAN ASSOCIATES
VAT & TAX CONSULTANTS

The Wheelwrights
Lower Green
Higham
Suffolk
IP28 6NL
Tel:01284 811188
Fax:01284 810511
www.elysianassociates.co.uk

What does the CRC Energy Efficiency Scheme mean for your business?

Background

The Carbon Reduction Commitment Energy Efficiency Scheme ("CRC") is a new UK mandatory emissions trading scheme, which started in April 2010 and applies to businesses and public sector organisations. CRC applies to businesses and organisations which procure electricity directly from an energy provider. Similar schemes are being implemented all across Europe.

If a business or organisation used in excess of 6,000 MWh of electricity during 2008 (an annual electricity bill of approximately £500,000 or over) then it is required to register for CRC and purchase allowances based on how much electricity it thinks that it will use during each year. At the end of the year participants will need to surrender enough allowances to the Administrator to cover the amount of CO2 emitted during the year.

In addition, if a business or organisation has at least one half hourly meter ("HHM") it is required to provide the Administrator with information about itself and its energy use, an Information Disclosure, but does not yet have to participate in CRC.

Any business or organisation required to register as a participant of CRC, or required to make an information disclosure, should have done so by **30 September 2010**. Failure to register or to disclose the required information by this deadline, may result in significant penalties.

VAT Implications

The ability to trade freely in emissions allowances is an important feature of the EU Emissions Trading Scheme. However, the existence of a strong secondary cross-border market in emissions allowances generates very high volume, value and speed of trade. This, combined with the fact that allowances are only surrendered once a year provides fraudsters with multiple opportunities to steal VAT following cross-border acquisitions.

The opportunity for Missing Trader Intra-Community (MTIC) VAT fraud arises where standard-rated goods or services can effectively be traded VAT free between EU Member States. Up to July 2009, most emissions allowances were standard-rated in UK to UK transactions and VAT free when purchased from outside the UK by a UK based company. This VAT free source provided the opportunity to perpetrate MTIC VAT fraud. In July 2009, an interim measure was introduced by HM Revenue & Customs (‘HMRC’) in the UK, zero rating supplies of the allowances, pending an EU wide solution.

A Directive providing an option for all Member States to introduce a reverse charge was adopted in March 2010. Under the reverse charge accounting mechanism, it is the responsibility of the customer, rather than the supplier, to account to HMRC for VAT on supplies of the specified emission allowances. The reverse charge it will only apply to business to business transactions in the UK. The requirement takes effect from 1 November 2010.

If you would like to discuss this or any other VAT matter, please do not hesitate to contact us.

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