

VAT Agenda

VAT and construction contracts

HMRC have released some revised guidance in draft, giving advance warning of some policy changes. In particular, these affect 'design and build' contracts and authenticated receipts.

Design and build

HMRC have historically accepted that professional services supplied by a building contractor along with building work followed the same VAT liability as the work itself. This allowed a VAT saving on, for example, surveyors' and architects' services in connection with the construction of housing. Many organisations have established a 'design and build' subsidiary in order to take advantage of this.

HMRC have concluded that this arrangement is ineffective, and that the professional services remain standard-rated in these cases. Where relevant, this might be expected to increase construction costs by something like 2%.

This is unlikely to be a major concern for residential developers who will be selling the completed units, or granting long leases. It will be an issue for those granting short leases, notably RSLs. It is also a concern for student accommodation, nursing homes etc, and for some charities, although in these cases it may be possible to deal with the matter by restructuring transactions.

This change will not be formally announced for some months, and HMRC tell me that it will only apply from a forward date. In the meantime, several bodies are co-operating on lobbying over the change, and I am assisting on this, working for the universities. We are due to see both Counsel and HMRC Policy next week. It may well be that the most we can achieve will be some easing of transitional arrangements.

You may wish to let relevant clients know about this, particularly any which may have established 'design and build' subsidiaries. When acting for contractors, you may also wish to ensure that there is provision for the addition of VAT.

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July 2011
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