

VAT: Changes to the reduced rate of VAT for Energy Saving Materials

Consultation document

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Details of consultation response author:

This document is submitted on behalf of a number of organisations in response to HMRC's [consultation](#) on changes to the reduced rate of VAT for energy saving materials, published on 9th December 2015. The collective respondents will be termed the 'VAT Coalition' in this document.

The organisations represented by this response include: the Association for the Conservation of Energy, The Association Of Residential Letting Agents , the Building Engineering Services Association, The Builders Merchants' Federation Ltd, the Chartered Institution of Building Services Engineers, the Glass and Glazing Federation (GGF), The Energy Saving Trust, the Mineral Wool Insulation Manufacturers Association (MIMA), the Renewable Energy Association, the Residential Landlords Association, Saint-Gobain UK The Sustainable Energy Association, the United Kingdom Green Building Council,

Background:

The VAT Coalition was first formed in the summer of 2012 in response to the Reasoned Opinion sent by the European Commission to the UK Government to the effect that its 5% reduced rate of VAT on energy saving materials went beyond the scope of the 2006 VAT Directive. Over subsequent years the group has:

- encouraged the UK Government to respond robustly to the Commission in defence of its reduced rate;
- provided the Government with a detailed report setting out the reasons we believed that the UK's reduced rate did in fact form part of a social policy;
- liaised closely with officials both before and after the CJEU judgment, setting out our view that the UK Government should use the vires in both Category 10 and Category 10(a) of the Directive to retain as much as possible of the reduced rate.

We welcome the opportunity to respond to this consultation.

Question 1: Does the legislation as drafted achieve the objectives as described in this document? If not, why not?

Answer:

The coalition welcomes the fact that the Government proposes to use Category 10(a) in addition to Category 10 to ensure that most of the technologies currently covered by the reduced rate will continue to benefit.

For more information, please contact:

Fraser Wallace, Sustainable Energy Association.

+44 (0)121 709 7740

fraser.wallace@sustainableenergyassociation.com

It is sensible that the Government has sought to use the potential of the legislation to support energy efficiency measures. These products can deliver social, economic and environmental objectives- good policy pursues these goals.

We think it is important that the objectives as described in the consultation document and the intent detailed in the accompanying policy paper as published on the 10th December ([link](#)) are considered together.

The objective of the consultation proposals is:

'To retain as much of the relief as possible whilst ensuring that UK law is fully compliant with EU law.'

In addressing these two objectives (that of compliance, and that of retention of the lower rate of VAT), the coalition considers that the proposals could go further with regard to maintaining reduced VAT rates across the range of technologies previously eligible for them. In particular, the coalition considers that the proposals are wrong to exclude solar panels from the relief in all circumstances.

There are reasonable and substantial grounds to consider solar PV in certain cases and solar thermal as *"renovation and repair of private dwellings"*, as required by Category 10(a) – for example where building-integrated solar PV is used as a roofing material, or where solar thermal is provided as part of a heating system. In particular, solar thermal systems contribute towards the primary enjoyment of a dwelling – that of a place providing shelter and warmth from the elements. Solar thermal provides potable hot water and where installed is an integral part of a heating system. Consequently, if primary space heating and hot water provision through heat pumps, biomass boilers and microCHP can be considered to be *"renovation and repair"*, there is no reason solar thermal should not. Solar thermal systems are as much part of a refurbished heating and domestic hot water system as these other heat sources, and so should be treated in the same way.

With regard to solar thermal, it is of note that the VAT consultation, section 2c states:

"we need to exclude certain items from the reduced rate in future on the basis that their installation cannot properly be said to 'renovate' a property (rather, they simply serve to generate electricity)." Solar thermal does not generate electricity and so it should retain reduced VAT status and not be grouped with non-building integrated solar panels.

The VAT coalition therefore believes that both building-integrated solar PV and solar thermal should attract the reduced rate irrespective of a social policy test, but subject to similar provisions in respect of whether the materials make up <50% of the cost.

Question 2: Do you have any other comments on the proposed implementation of these changes?

We believe that the following issues warrant further consideration:

1. The identification of 'qualifying persons.'

The consultation states that, in cases of Category 10 eligibility for a reduced VAT rate:

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‘However, if the supplier can demonstrate that its customer is a ‘qualifying person’, a relevant housing association or a building used solely for a relevant residential purpose the whole supply will be entitled to the reduced rate (including the materials element).’

It is important that the detailed rules for reduced rates deliver the intended outcome in respect of who benefits from the installation of energy efficiency and low carbon energy products. There are numerous instances where the primary recipient of the installation benefits may not be ‘the customer’. One key example would be a tenant in the Private Rented Sector who benefited from improvements to their home through the Minimum Energy Efficiency Standards (MEES). Any current or future tenant of the improved household would be the beneficiary, yet the landlord is the customer buying the energy efficiency products.

Equally, proactive landlords seeking to improve their properties could be discouraged from making energy efficiency improvements due to the application of a higher VAT rate.

As such, provision should be made within the legislation to ensure that reduced VAT rates can be applied when the end user is considered a ‘qualifying person’ as set out in Note 6 of Group 3 of Schedule 7A VATA.

In addition, there would be notable benefits from alignment of the list of ‘qualifying persons’ with other existing eligibility criteria. For example, the list could be matched with those used in Scottish government fuel poverty programmes (for example, Warmer Homes Scotland). This would add minimally to the number of categories under the ‘qualifying persons’ definition and avoid over-complicating the market for the supply chain and customers alike. However, it would also mean that the monies assigned to fuel poverty schemes by the Scottish Government would be better delivered.

2. Complexity and the supply chain.

Further thought needs to be given to how easily the social policy tests will be able to be applied in practice.

In practice it is likely to be lead generators, installers or the salespeople who stimulate interest in energy efficiency and renewable energy products who will be frequently faced with having to determine the applicable VAT rate under the social policy tests.

The industry at the moment may not be well enough organised to take on this additional role within a short timescale. We also have doubts about the likely willingness of householders to reveal the relevant information to tradespeople, as opposed to trusted health or social services professionals.

With regard to complexity of operation, these rules (in particular the 10 (a) regulations) mean there will likely be further administration costs associated with the scheme. HMRC should produce clear guidance in order to reduce difficulties associated with complex regulation.