Changes ahead for installing energy-saving materials

Indirect Tax

01 August 2019

Following the recent consultation period (as reported in June's Technical Newsdesk), The Value Added Tax (Reduced Rate) (Energy-Saving Materials) Order 2019 was laid on 21 May and comes into effect on 1 October 2019.

The Order amends the scope of Group 2 (installation of energy saving materials), Schedule 7A to the VAT Act 1994.

The changes arise as a result of Court of Justice of the European Union (CJEU) case C-161 /14, which found that the UK had applied the reduced rate too widely and that the reduced rate should only apply:

- for customers meeting a social policy; or
- when energy-saving materials (ESMs) are installed in private dwellings, the cost of materials may not be a significant part of the value of the supply.

The UK's social policy for the purposes of the reduced rate for ESMs includes 'qualifying customers' who are:

- qualifying persons;
- a relevant housing association; or
- a relevant residential property.

The definition of qualifying person is at Note 6, Group 3 to Schedule 7A of VATA 1994. The social policy does not currently include environmental concessions.

What is changing?

1. ***Removal of wind and water turbines as ESMs***
   Both wind and water turbines will be removed from the list of products that

qualify as ESMs in Note 1 of Group 2 to Schedule 7A VATA 1994. For all customers, whether they meet the social policy or not, the VAT position on both goods and services will become standard rated from 1 October 2019.

2. ***The 60% goods rule***
   Where supplies of installed ESMs are to qualifying customers, the VAT position for supplies, other than wind and water turbines mentioned above, will be unchanged. For customers not meeting the social policy, the VAT liability will depend on whether the proportion of the cost of goods compared to the overall price exceeds 60%. Where the cost of goods is 60% or less, the VAT position is unchanged, i.e. the reduced rate applies to both the goods and the installation services.
   Where the cost of goods as a proportion of the overall price of installation exceeds 60%, the goods will be standard rated. However, note that for these supplies, the Order still allows an apportionment enabling the installation services to remain as reduced rated so two VAT rates will apply.
   There are several further matters to note:

   - Reduced rating can still apply where the supplier and customer have entered into a contract before 1 October 2019, or where the customer has paid in full, even where the installation takes place after this date.
   - Where an installation of ESMs are part of the construction services for a newly constructed residential dwelling, the rules for zero-rated construction services may be applicable*.
   - Where the installation is part of a larger contract of works, the apportionment on reduced rated installation services (and qualifying installed goods) may be superseded by the rules on composite supplies. Where the contract is for a standard rated refurbishment, the supply of installed ESMs may also form part of the standard rated composite supply*.

*Professional advice may be required.

Further guidance is available on GOV.UK. A table showing the various VAT rates before and after 1 October 2019 is on the CIOT website.