Domestic reverse charge for construction services: anti-fraud measure for VAT

Indirect Tax

01 September 2019

The Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019 becomes effective from 1 October 2019 and introduces the domestic reverse charge, via VATA 1994 s 55A, to relevant supplies of construction services. This is an anti-fraud measure to combat tax evasion by organised criminal gangs in the subcontractor supply chain for construction services.

The domestic reverse charge (DRC) applies in business to business transactions where the customer is registered for UK VAT and required to report through the Construction Industry Scheme (CIS). An article in the June edition of *Tax Adviser* sets out the details of the measure in more detail.

HMRC guidance

HMRC released its original guidance note in November 2018 with a high level outline of how the anti-fraud measure works. They subsequently published more detailed guidance in June 2019. However, due to the complexity of VAT and construction services, there are still scenarios not covered in guidance and we have experienced our members raising questions on areas of difficulty; such as understanding when a taxpayer is an end user or an intermediary user in more complex supply chains. We would like to see further examples added to the existing guidance.

HMRC's guidance sets out that they will apply a light touch on penalties when dealing with errors made in the first six months of the new legislation coming into effect where taxpayers have acted in good faith.

Concern about lack of awareness of the scheme

There have been several reports in the press highlighting the lack of awareness of the scheme, with one trade body, the Federation of Master Builders, stating that 65% of its members had not heard of the new reverse charge; and for those members that had heard about it, 67% were not ready.

In the first week of August, HMRC publicised its new webinars for taxpayers that talk through the changes for the sector. However, at the time of writing, the existing guidance for buildings and construction (VAT notice 708) and domestic reverse charge (VAT notice 735) are still silent on the domestic reverse charge for construction, which we have highlighted to HMRC.

The CIOT also wrote to HMRC asking them to consider whether the launch date should be deferred to 1 April 2020 to allow sufficient time to publicise the new rules particularly to smaller businesses, and update all relevant guidance.

The launch date of 1 October 2019 was originally planned as it was six months after the launch of making tax digital (MTD) for VAT and Brexit, to give taxpayers time to adjust to these two major events and also to allow time to plan for cashflow. With October being the focus for deferred Brexit day and the deferred launch date for certain taxpayers for MTD, we are concerned about the impact to taxpayers affected by all three changes for VAT accounting.

Please contact technical@ciot.org.uk if you have any feedback.