VAT: domestic reverse charge

Indirect Tax

07 January 2021

The VAT domestic reverse charge for the construction and building services is an anti-fraud measure that seeks to tackle the estimated annual revenue loss in the sector of £120 million due to missing trader VAT and construction industry scheme fraud. HMRC have recently published guidance and updated legislation.

Background

Originally due to be implemented from 1 October 2019, the launch date of the domestic reverse charge for the construction and building services has subsequently been deferred twice: the first time for a year so that the scheme could be more widely publicised; and the second time to 1 March 2021 due to the impact of the COVID-19 pandemic.

Updated legislation

The VAT (Section 55A) (Specified Services and Excepted Supplies) (Change of Commencement Day and Amendment) (Coronavirus) Order 2020 legislates for the second deferral of the date of commencement. It also sets out a new Article 8(1A), detailing the conditions when a supply of eligible construction or building services is not to be subject to the domestic reverse charge rules and hence VAT would apply at the applicable rate when supplied to an ‘end user’ or ‘intermediary supplier’, though only where this status has been notified to the supplier in writing.

When does the domestic reverse charge apply to my supply?

The conditions when the domestic reverse charge applies are as follows:

- Both the UK supplier and the UK customer are registered for UK VAT.
- Payment for the supply is reported within the Construction Industry Scheme (CIS).

- The supply is listed in the in-scope CIS services (see tinyurl.com/yymezxmb).
- The supply is subject to the standard or reduced rate of VAT.
- The supplier is not an employment business.
- The customer is not an ‘end user’ or an ‘intermediary supplier’ and has informed the supplier of this status in writing.

End users and intermediary suppliers

An ‘end user’ is a taxable person who is a recipient of domestic reverse charge services and uses those services for any purpose other than making onward supplies of domestic reverse charge services. An ‘intermediary supplier’ has a specific meaning when used in the domestic reverse charge rules; it is a person who is a recipient of domestic reverse charge services who:

- makes an onward supply of those services (or part) to another person without material alteration or further processing; and
- is connected to the end user by either the usual connected parties rules or by having an interest in the same land or property as the end user (for example, landlord and tenant).

Where the intermediary supplier meets the definition criteria, they are treated as if they are an end user, and therefore the domestic reverse charge does not apply provided they have notified the supplier in writing.

The written notification of the end user or intermediary supplier status can be in the following formats:

- in hard copy;
- electronically; and
- in the contract (it can be in the terms and conditions).

The written notification wording is not prescribed in legislation and HMRC provide example wording in their technical manual (see below). Note that if no written confirmation of the status is provided to the supplier, the normal domestic reverse charge rules apply to the supply.

HMRC Guidance

For more detailed guidance on the domestic reverse charge, HMRC have published their technical manual (see tinyurl.com/y22dxz7u), a landing page for suppliers of

domestic reverse charge services (see tinyurl.com/y5g74lob) and a landing page for purchasers of domestic reverse charge services (see tinyurl.com/yykcxngg).