

JTC NEWSLINE

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Autumn Statement Special

There were, the Chancellor told us, 110 measures in the Autumn Statement, and all I can say to that is that it would be extremely helpful if he would number them next time to make it easier to check you haven't missed one!

Most of the headline changes – making the expensing of capital expenditure permanent, the reductions in National Insurance contributions – will have been covered in the newspapers.

Four changes that you might not have seen covered:

- **VAT:** expand scope for Energy-Saving Materials relief from February 2024 – see our guest columnist's briefing note attached at the end of this issue of newswire.
- **Construction Industry Scheme (CIS) Reform:** reforms to the Gross Payment Status test. This is the change that was consulted on earlier in the year, bringing VAT payments into the tests used to decide gross payment status. The text in the Statement is *"The government will introduce reforms in the Autumn Finance Bill 2023 to the Construction Industry Scheme, including adding VAT as part of the Gross Payment Status (GPS) compliance test, giving HMRC more power to remove GPS immediately in cases of fraud. Alongside this, the government is also announcing simplifications to other aspects of the scheme, which will be subject to technical consultation."* In other words, the "simplifications" to the scheme will be consulted on to see if the wording of the legislation works as intended, not to see whether they are a good idea per se. It will be worth keeping an eye on this one.

- **Off-Payroll Working (IR35):** calculation of PAYE liability in cases of non-compliance – again, this was consulted on earlier this year. The government will legislate in the Autumn Finance Bill 2023 to allow HMRC to reduce the PAYE liability of a deemed employer to account for taxes paid by a worker and their intermediary on payments received where an error has been made in applying the off-payroll working rules.
- **Permitted Development Right** to convert one house into two flats – there will be a consultation on a new Permitted Development Right for subdividing houses into two flats without changing the façade. This should be implemented in 2024 following consultation early in the New Year.

DIY housebuilders

From 5 December, DIY housebuilders will have longer to claim VAT refunds and can make them digitally: see [this announcement](#). ■

The check employment status for tax (CEST) tool

At the end of last month [HMRC announced](#) it would be updating the CEST tool that you can use to get an employment status ruling in many – but not all – cases. The first stage of CEST2 has been launched but so far the changes are mostly behind the scenes (HMRC moving the tool to a new platform) or relatively small (connecting to HMRC guidance). Anecdotally this may have slightly increased the failure rate, but is reportedly to get the tool ready for further improvements. ■

Scottish taxpayers

From 4 December users of the Scottish Electronic Tax System (SETS) will need to switch from communicating with Revenue Scotland via email to using text messages.

[Revenue Scotland says](#) SMS messages are more secure and efficient.

The date of the Scottish budget has also [been announced](#): it will be on 19 December. ■

Cumbernauld or Shipley?

There have apparently been a few taxpayers taken aback to find when they try to use the “pay by bank” option (that prepopulates the payment details when you log onto your HMRC online account) that it now takes them to the HMRC Shipley bank account when they have previously been used to paying HMRC Cumbernauld. HMRC are keen to reassure you this is not a scam but a link to a legitimate HMRC account. ■

Christmas PAYE

The usual reminder that, if you pay employees early because of Christmas closing, you should still use the normal (contractual) date on your PAYE submission so as not to affect employees’ entitlement to Universal Credit payments.

HMRC says “If you do pay early over the Christmas period, please report your normal or contractual payday as the payment date on your Full Payment Submission (FPS) and ensure that the FPS is submitted on or before this date.

For example, if you pay on Friday 15 December 2023 but the normal or contractual payment date is Friday 29 December 2023, you will need to report the payment date on the FPS as 29 December 2023 and ensure the submission is sent on or before 29 December 2023.” ■

**If you have any feedback or queries relating to any of the items in Newsline
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VAT treatment of the installation of zero-rated energy efficiency materials

Alice Defriend

From 1 April 2022 until 31 March 2027 a temporary zero-rate applies to the installation of some specific energy-saving materials in, or in the curtilage of, residential accommodation in England, Scotland and Wales and from 1 May 2023 to 31 March 2027 in Northern Ireland. On 1 April 2027, the VAT rate on these supplies will return to 5% (the reduced rate).

Conditions for the zero rate to apply

First, the trader must provide **installation services**. Supply services alone do not qualify for the zero rate. For example, if a customer purchases solar panels themselves and then has a trader install them, only the installation will be zero-rated. However, if the trader installing the panels also supplies them, both the supply and installation of the panels will be zero-rated.

Traders can still provide installation services even if they are not physically involved in all stages of the installation process. They must show that their services go beyond the normal supply and delivery of goods to a site. For example, a trader who commissions installation work may still be treated as providing installation services if they check and initiate the materials being installed, and/or carry out remedial work.

Second, the trader must show that one of this list of **materials** is being installed:

- (a) insulation for walls, floors, ceilings, roofs or lofts or for water tanks, pipes or other plumbing fittings;
- (b) draught stripping for windows and doors;
- (c) controls for central heating and hot water systems;
- (d) solar panels;
- (e) wind and water turbines;
- (f) ground and air source heat pumps;
- (g) micro combined heat and power units;
- (h) boilers designed to be fuelled solely by wood, straw or similar vegetal matter.

(See [HMRC's VAT Notice 708/6](#) paragraphs 2.13-2.22 which sets out in more detail what they consider falls into each category.)

In the Autumn Statement, the Government announced that they will be expanding the zero rate to include additional materials, such as water-source heat pumps, which they will implement in February 2024 (further details to be announced later).

Unless a trader can show that one of those materials has been installed, they will not qualify for the zero rate, even if an energy-saving effect has been achieved overall. For example, replacing a roof with an insulated roof will not qualify for zero rating, despite achieving an energy-saving effect, because what is being provided is not insulation for the roof; it is construction of the roof itself.

Continued overleaf

Third, the material must be installed in **residential accommodation** or its curtilage. Businesses and charities are currently ineligible. However, the Government announced in the Autumn Statement that charities will be included from February 2024.

If those steps are satisfied and those services are the only services being provided, then they are likely to be zero rated. However, as is often the case, such services may be provided alongside other non-qualifying goods and services. Whether the zero rate applies will depend on whether those services are to be treated as a **single supply**, or separate supplies.

HMRC may treat individual goods and services together as a single standard-rated supply, even if individually some components would qualify for the zero rate. One example of this is a house extension; while this might include installation of insulation material, HMRC consider the extension as a whole to be a single standard-rated supply.

One solution would be to provide the installation services under a separate contract from the other goods and services, such that they are a separate zero-rated supply. HMRC recognises this can be legitimate. However, this is not a perfect solution as HMRC may disregard the contract if they consider that in “reality” the services are being provided together. Therefore, if the qualifying material can be supplied and installed separately in time from the other works (i.e. while the other works are already in progress), this is to be preferred.

HMRC may treat installation services as part of a single standard-rated supply if they consider such services “ancillary” to the other goods and services. Services are “ancillary” where they are not an aim in themselves for the customer, but a means of better enjoying/enabling another service being supplied. To avoid this, traders need to show that the installation services have a purpose in their own right which is independent from any other goods and services being provided.

Equally, if the other goods and services can be considered as ancillary to the qualifying installation services then the trader can claim that they are all a single zero-rated supply.

Traders providing qualifying and non-qualifying services simultaneously should consult [HMRC’s VAT Notice 708/6](#) at paragraphs 2.9.2 to 2.9.4 for further guidance.

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What is curtilage?

Curtilage is defined as “A small court, yard, garth, or piece of ground attached to a dwelling-house, and forming one enclosure with it, or so regarded by the law”. In other words, if a house has a garage attached it’s within its curtilage. If the garage is at the other end of the garden but still inside the boundary of the property, it’s usually within its curtilage. If the garage is detached and in a yard over in the next street, even though it belongs to the property, it is unlikely to be within its curtilage because it isn’t within one enclosure. ■

View overleaf a flowchart relating to the VAT treatment of the installation of zero-rated energy efficiency materials

VAT treatment of the installation of zero-rated energy efficiency materials

