

**EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (CONSTRUCTION OF BUILDINGS) ORDER**

2010 No. 486

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by command of Her Majesty.

2. Purpose of the instrument

This Treasury Order amends, with effect from *1 April 2010*, Note 21 of Group 5 of Schedule 8 to the Value Added Tax Act 1994 ("the Act"). The amendment relates to the definition of a "relevant housing association" in that note and is made in consequence of Part 2 of the Housing and Regeneration Act 2008 ("HGA") as amended by the Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (N.B. that order had not yet been made when this explanatory memorandum was prepared).

3. Matters of special interest to the Select Committee on Statutory Instruments

None.

4. Legislative Context

4.1 A supply which is not expressly exempt from VAT is "zero-rated" if the goods, services or the supply is of a description specified in Schedule 8 to the Act¹. Certain supplies to relevant housing associations are zero rated by virtue of falling within item 3 of Group 5 of Schedule 8 to the Act.

4.2 Note 21 of Group 5 defines relevant housing associations, for the purposes of item 3, by reference to the three pieces of legislation mentioned below, which establish different systems for social housing respectively in England and Wales, Scotland and Northern Ireland. The different types of relevant housing association are:-

- a registered social landlord within the meaning of Part 1 of the Housing Act 1996,
- a registered housing association within the meaning of the Housing Associations Act 1985 (Scottish registered housing associations), or
- a registered housing association within the meaning of Part II of the Housing (Northern Ireland) order 1992 (Northern Irish registered housing associations).

4.3 This Order makes three amendments to Note 21 of Group 5 of Schedule 8 to the Act. It inserts Note 21(z) so that the definition of relevant

¹ S.30(2) VATA 1994.

housing associations includes “private registered providers of social housing” under the new system for England. It also amends Note 21(a) to indicate that the system under Part 1 of the Housing Act 1996 continues in Wales. The third amendment updates the definition in relation to Scotland.

4.4 The expression “private registered provider of social housing” is to be defined for all enactments and instruments by virtue of provision made by the Housing and Regeneration Act 2008 as amended by the Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (see paragraph 5 of Schedule 1 and paragraph 1 of Schedule 2 to that Order, which has been laid in draft before Parliament). It is anticipated that the relevant amendments to the 2008 Act will have effect from 1 April 2010, at the same time as “private registered providers of social housing” are added to the class of relevant housing associations. As this Order will be made before 1 April 2010, article 2(2) provides a free standing definition of “private registered provider of social housing” until the general interpretation provision is in force.

5. Territorial Extent and Application

This instrument extends to the United Kingdom.

6. European Convention on Human Rights

Stephen Timms has made the following statement regarding Human Rights:

In my view the provisions of the Value Added Tax (Construction of Buildings) Order 2010 are compatible with the Convention rights.

7. Policy background

• *What is being done and why*

7.1 Like other taxpayers, housing associations can enjoy zero-rates applicable to the construction of new dwellings. However, housing associations also benefit from the zero rating of supplies to them of services of converting a non-residential building into a dwelling or dwellings, or converting it for use for a relevant residential purpose (N.B. not all such services are zero rated).

7.2 This zero-rate is necessary for housing associations who would otherwise incur irrecoverable VAT on the conversion costs of such property. .

7.3 Following the enactment of the Housing and Regeneration Act 2008, a change in the VAT legislation with effect from 1 April 2010 is necessary if this relief is to be preserved for English housing associations. This change will not affect housing associations in the rest of the UK.

7.4 Additionally, the definition is to be updated in relation to Scottish housing associations (it currently refers to legislation which has been superseded).

8. Consultation outcome

There has been no specific consultation on this change. The HGA was itself, subject to consultation and this change has arisen simply as a consequence of that Act.

9. Guidance

Given this is just a consequential change, no specific guidance is required. However a Revenue & Customs Brief will be issued announcing the change.

10. Impact

An Impact Assessment has not been prepared for this instrument as it has a negligible impact on business, charities, voluntary bodies and the public sector.

11. Regulating small business

The legislation applies to all relevant housing associations, including small businesses, and all such housing associations should continue to benefit from the VAT relief.

12. Monitoring & review

As the changes preserve an existing relief for English housing associations and update the definition in relation to Scotland, no formal monitoring is planned.

13. Contact

The following are available to answer queries regarding the instrument,

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