

EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (REDUCED RATE) (ENERGY-SAVING MATERIALS)
ORDER 2019

2019 No. 958

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue & Customs on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the scope of the reduced rate of 5% Value Added Tax (VAT) for energy-saving materials to ensure that the United Kingdom (UK) legislation complies with European Union (EU) law.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.
- 3.3 The powers under which the instrument is made cover the entire United Kingdom (see section 1(1) of the Value Added Tax Act 1994) and the territorial application of this instrument is not limited by the Act or by the instrument.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

- 5.1 The Financial Secretary to the Treasury, Rt Hon Mel Stride MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Value Added Tax (Reduced Rate) (Energy-Saving Materials) Order 2019 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 These changes have been made following a decision of the Court of Justice of the European Union (CJEU) as a result of an infraction by the European Commission which held that the scope of the current relief was too wide. The Order amends group 2 of Schedule 7A to the Value Added Tax Act 1994 (‘Group 2’) which makes provision in relation to the reduced rate that applies to the installation of energy-saving materials in residential accommodation. Items 1 and 2 of Group 2 specify the

supplies that are included within the reduced rate and the Notes contain a number of definitions.

7. Policy background

What is being done and why?

- 7.1 The European Commission infringed the UK on its application of the reduced rate of VAT on energy-saving materials. The CJEU subsequently ruled that the UK had implemented the relief too widely. These changes amend the scope of the reduced rate to ensure consistency with EU law while retaining as much of the relief as possible.
- 7.2 The reduced rate of 5% will no longer apply to the installation of wind and water turbines.
- 7.3 The reduced rate will remain fully available (except on wind and water turbines) for supplies of services of installing energy-saving materials in residential accommodation where the supply is made to a qualifying person (a person who is aged 60 or over or is in receipt of certain benefits), a relevant housing association or where the residential accommodation is a building or part of a building used solely for a relevant residential purpose.
- 7.4 Otherwise, the reduced rate will be available (except on wind and water turbines) provided that the value of the energy-saving materials does not exceed 60% of the total value of the supply of installing the energy-saving materials. If the value of the energy-saving materials exceeds 60%, then only the labour cost element will qualify for the reduced rate (with the supply of the materials being standard rated).

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 This instrument amends Group 2 and therefore the changes made will be consolidated within the existing primary legislation in relation to the charge at the reduced rate.

10. Consultation outcome

- 10.1 A [consultation document](#) was published on 9 December 2015 along with draft legislation. There was a further [consultation](#) on revised draft legislation, which was published on 8 April 2019. Fourteen responses were received from businesses, industry and tax representative bodies.
- 10.2 The main concern was that the changes would affect combined solar panel and battery installations. In these cases, the value of the energy-saving materials will exceed the 60% threshold meaning that only the labour cost element will qualify for the reduced rate.
- 10.3 However, there was recognition that the UK had to comply with EU law. The 2015-16 consultation had originally proposed the full removal of the VAT relief for solar panels. Since then, the government has engaged in further discussions with the EU Commission with the aim of minimising the impact on businesses and consumers from the changes.

- 10.4 Under this instrument, the combined installation of solar panels with battery storage in residential accommodation will continue to benefit from the relief in the circumstances set out in 7.3 and 7.4 above. More generally, the 60% threshold also represents a substantial increase from the 50% originally consulted on in 2015-16.
- 10.5 There was general agreement that the legislation itself met the objective of complying with EU law. Respondents also made suggestions about how guidance could be improved.

11. Guidance

- 11.1 Guidance on these changes will be incorporated into [Energy-saving materials and heating equipment \(VAT Notice 708/6\)](#) and [VAT Energy-saving materials and grant-funded heating supplies](#) by 30 August 2019.

12. Impact

- 12.1 There is no, or no significant, impact on businesses, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note (TIIN) covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.
- 12.4 The main reason that there are no significant impacts is because the changes affect a relatively small number of transactions. Further information can be found in the TIIN.

13. Regulating small business

- 13.1 The legislation applies to the activities that are undertaken by small businesses.
- 13.2 No particular steps have been taken to minimise the impact of the requirements on small businesses (employing up to 50 people).
- 13.3 The basis for the final decision on what action to take to assist small businesses is that the changes must apply to all businesses to comply with EU law. It has not been possible to take any particular steps to minimise the impact on small businesses as the changes must apply to all businesses to comply with EU law.

14. Monitoring & review

- 14.1 These changes will be kept under review through communication with affected taxpayer groups.
- 14.2 The instrument does not include a statutory review clause. None is required under section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015 because the power by which this instrument is made is being exercised so as to make or amend provisions imposing, abolishing, or varying any tax, duty, levy, or other charge or provisions in connection with such provisions.

15. Contact

- 15.1 Patrick Wilson at HM Revenue and Customs Telephone: 03000 585 571 or email: patrick.wilson@hmrc.gov.uk can be contacted with any queries regarding the instrument.

- 15.2 David Fairbrother, Deputy Director for VAT Reliefs and Financial Services, at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Mel Stride MP, Financial Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.