



Reverse VAT charge explained



background

Domestic reverse charge is a major change to the way VAT will be collected in the construction industry and came into effect on 1st March 2021, having previously been delayed from October 2019.

A reverse charge is a concept which means the responsibility for collecting VAT passes to the recipient of the service (the customer) rather than leaving the collection of the VAT to the supplier. This has previously been used within the mobile phone and computer sectors and is now to be extended to the construction sector.

why is this happening?

This is to combat “missing trader fraud” and non-payment of tax and does this by placing the responsibility on the customer to pay the VAT.

how does this to work?

Under the new rules a supplier of certain construction services will need to raise a VAT invoice to the customer stating that the invoice is subject

to the “Reverse Charge” the customer will only pay the net value to the supplier and must pay the VAT element direct to HMRC.

who is going to be affected?

It affects VAT registered suppliers of construction services who supply or receive services that are reported under the CIS scheme.

does it affect the supply of workers?

There has been some concern that this may extend into the supply of workers leading to an unwanted element of complexity for employment businesses in accounting for VAT, a cashflow squeeze and complications in collecting payments from invoices due.

The good news for our clients is that employment businesses supplying staff are treated differently for the purpose of the reverse charge. Supplies by employment businesses for staff are not subject to the reverse charge, even if those supplies are within the scope of CIS.

is there anything for those supplying workers to be aware of?

Even though the supply of staff is not included “labour only construction services” are included and will need to operate under the Reverse VAT scheme. Labour only construction services are where the business supplying the labour will be responsible for overseeing the completion of the work carried out by the workers.

It is important for employment businesses to understand the contractual terms agreed with their customers and be clear these are for the supply of staff and not for “labour only construction services”.

The HMRC guidance provides a simple way to identify the difference between labour only construction services (in scope) and the supply of staff (exempt):

- labour only construction services – the business supplying the labour will be responsible for overseeing the completion of the work carried out by the workers
- supply of staff by employment business – the customer that receives the workers will be responsible for overseeing the completion of the work carried out

employment business key features:

- the customer contacts the employment business and asks for X workers for Y days
- the workers are employed by or engaged by the employment business
- the employment business provides an hourly or daily rate for the workers
- a timesheet is used to record the hours and days worked
- the customer sends the signed timesheet agreeing the hours and days worked to the employment business
- the customer pays the employment business
- the customer's site foreman or managers direct and control the works carried out by the workers
- the customer is responsible for the works carried out

labour only sub-contractor, and therefore falls within Reverse VAT scheme, has the following features:

- customer contacts a business and asks for a skilled labourer (for example, a bricklayer, electrician, or plumber) to carry out specified services
- labourers are employed by or engaged by the business
- business provides a price for the works or agrees a measured rate per square metre
- supplying business is responsible for the labourer's works
- supplying business is responsible for correcting any defects following completion of the works
- customer, or its representatives, agrees that the work has been carried out or certifies payment for the value of works carried out to date

how to prepare

Even for employment businesses who are exempt, we are expecting the introduction of this scheme will cause confusion to some as to whether to pay invoices net or gross (with the VAT). The employment business should be ready to clarify this and share the link to the government guidance should there be any concern raised.

we recommend you:

- review your terms to ensure supply of workers only
- make sure you, or any collection agent or invoice financier you use, is well versed in the employment exception allowed by HMRC to avoid unnecessary delays in payment.



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