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Nick Chambers
HM Revenue & Customs

Via email only: nick.chambers@hmrc.gsi.gov.uk

Dear Nick

VAT reverse charge for building and construction services

The CIOT is writing to raise our strong concerns that construction businesses are not sufficiently aware, have not had adequate opportunity to prepare, and are not ready for the introduction of the new VAT reverse charge from 1 October 2019.

As an educational charity, our primary purpose is to promote education in taxation. One of the key aims of the CIOT is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

Our stated objectives for the tax system include greater simplicity and clarity, so people can understand how much tax they should be paying and why; greater certainty, so business and individuals can plan ahead with confidence; and a legislative process which translates policy intentions into statute accurately and effectively, without unintended consequences. We are concerned that implementation of this measure in October will result in confusion and hardship for many businesses arising from a lack of readiness, together with unintended consequences as the operation of the rules will be inconsistent.

150,000 businesses affected

As set out in the government's policy paper published on 7 November 2018, up to 150,000 businesses in the construction and building sector will be affected, many of which are small or micro businesses. The construction reverse charge is a relatively sophisticated new mechanism that involves familiarisation with the technical aspects of

the changes, cash flow consequences for the supplying business, and changes to the way that they charge and contract with customers. Businesses engaging suppliers of construction services also need to fully understand and apply the new rules as part of their payment procedures.

The impact assessment acknowledges that the impact on business administrative burdens is expected to be significant, both because of the numbers impacted and the nature of the businesses. A long lead-in time was therefore both required and intended to ensure that businesses were not just aware of, but also adequately prepared for, the changes.

Lack of awareness

A recent survey¹ by the Federation of Master Builders indicates that 69% of construction SMEs surveyed have not heard of the new reverse charge. CIOT members report a similar lack of awareness among SME construction businesses.

This is not surprising. Publicity and communications by HMRC about this significant change have been negligible. The technical guidance was first published on GOV.UK only on 7 June 2019², when it was intended to be published at least six months ahead of the change, and still remains a work in progress as there are areas where further clarity is required. Furthermore, there is no Revenue & Customs Brief, or Public Notice, or anything particularly user friendly for small businesses. Even the GOV.UK pages 'VAT for builders' only make passing reference to the changes (with a link), and only under the sub-heading 'Houses and flats', notwithstanding the fact that the reverse charge also applies to commercial buildings.

Lack of business preparedness

The same FMB survey results indicate that of those businesses who are aware of the measure, more than two-thirds (67%) have not prepared for the changes. Again, anecdotally our members point to the difficulties being experienced by clients, particularly small businesses, in preparing for the technical and consequential software changes in the short period between publication of the guidance in June and the October implementation date.

Confusion, hardship, and other unintended consequences

We are concerned that the combination of a substantial lack of awareness, and lack of preparedness even among those businesses who are aware of the measures, will have many detrimental consequences.

We believe there will be significant confusion amongst businesses in the early days of the change, undoubtedly leading to disputes between suppliers and customers as to whether or not VAT should be charged. Many businesses will ring HMRC's phone lines, which will need to be adequately resourced and trained to deal with these queries. At the same time, businesses and HMRC will be dealing with the implementation of Making Tax Digital, as well as the consequences of Brexit.

As noted in the policy paper, businesses may be unprepared for the cash flow implications of the reverse charge, potentially leading to financial difficulties and even insolvency in the worst cases, as well as significant levels of business disruption even among larger companies.

¹ <https://www.fmb.org.uk/about-the-fmb/newsroom/delay-disruptive-vat-changes-to-avoid-construction-chaos/>

² See <https://www.gov.uk/guidance/vat-domestic-reverse-charge-for-building-and-construction-services>

Action needed

While recognising the need to protect revenues, a clear theme from the policy paper was the importance of businesses being ready for the change. We are far away from this state of readiness and we urge the government to delay to the current implementation date in the light of this evidence. A start date of 1 April 2020 seems much more appropriate.

This should allow time for a dedicated information campaign to be operated by HMRC (with the assistance of industry and professional bodies). Such a campaign could include direct communications with businesses in the sector, particularly those registered for the Construction Industry Scheme, as well as improvements to the content and accessibility of guidance on GOV.UK.

We would welcome the opportunity to discuss these concerns with you if that would be of assistance.

Yours sincerely

John Barnett
Chair, Technical Committee

The Chartered Institute of Taxation

The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT's 18,700 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.