

Property and Construction Update

November 2007

The new Construction Industry Scheme (CIS)

You will be aware of the automatic penalties of £100 for every 50 subcontractors that should be on a monthly return for late filing. It is worth noting a penalty will also be imposed for nil returns unless you have made contact with HMRC to agree a period of up to 6 months of “non-activity”.

At least once a year the Revenue will be checking that in the 12 months preceding the check subcontractors have made all their payments and sent in all the required returns on time. There is a very real possibility that where a subcontractor has failed to meet his obligations, both as a contractor and/or an employer, the gross payment status may be removed.

Comment

The automated systems will allow the Revenue to easily keep track of a sub-contractors compliance with the new scheme and a gross payment status will be reviewed on a rolling 12 month basis.

VAT update

HMRC have recently made two announcements regarding a change in policy and a restatement of their policy..

VAT treatment of serviced building plots

HMRC have for many years regarded the sale of land that includes civil engineering works such as mains drainage, sewerage, gas pipes etc as two supplies. The sale of the land being exempt and the civil engineering works taxable.

Recently a Tribunal decided that the supply of a services building plot is in fact a single supply exempt from VAT and HMRC announced a change in their policy with immediate effect.

They have also explained what in their view a contractor would have to do to be able to zero rate a supply of civil engineering works on a development that is to be used for a qualifying residential purpose.

Comment

Landowners need to understand the implications of this change as in certain circumstances this change in policy could result in a VAT cost.

For plots that are to be used for residential purposes it will be important to ensure that the contractor does not charge VAT on the civil engineering works.

Construction of flats and houses within the grounds of existing care homes or similar buildings

For zero rating to apply to both the construction and sale of a house or flat a number of conditions must be satisfied.

If the house or flat can only be used in conjunction with an existing building within the same grounds zero rating does not apply.

HMRC had been asked if such a building could qualify as a relevant residential building i.e. as a care home, in its own right to qualify for zero rating.

They have responded by saying that in their view it could not qualify either because the care is not be-

ing provided in an institution or if it is it is being provided as part of the existing home or institution.

Comment

Depending on the circumstances it may still be possible to obtain zero rating on such buildings but advice would need to be taken at an early stage preferably before any planning permission is applied for.

Lennartz

This is the name of an accounting arrangement that in certain circumstances charities and non profit making bodies can use to recover VAT in full at the outset and then repay VAT over a period of time, typically 20 years, to account for the non business use of the asset..

Legislation has been introduced to restrict this period to 10 years and to define what costs can be included in the scheme.

The EC are also proposing to amend VAT legislation to prevent full recovery at the outset and replace it with a system that allows any changes in use to be adjusted for over a period of time.

Comment

Where VAT cannot be avoided the use of this arrangement should still be considered as it can be very beneficial.

However many charities and non profit making bodies do not realise what reliefs from VAT they can obtain and in certain circumstances a change to the layout of the building can result in substantial VAT savings. Ideally these matters should be considered at the planning stage.

For further information on any of the above issues please speak to your usual contact or email:

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