

2019 No.

VALUE ADDED TAX

The Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019

Made - - - - - ***
Laid before the House of Commons ***
Coming into force - - - *1st October 2019*

The Treasury make this Order in exercise of the powers conferred by section 55A(9), [(9A)], (10), (11) and (14) of the Value Added Tax Act 1994(a).

Citation and commencement

1.—(1) This Order may be cited as the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019.

(2) This Order comes into force on 1st October 2019 and has effect in relation to supplies made on or after that date.

Interpretation

2.—(1) In this Order—

“the Act” means the Value Added Tax Act 1994;

“end user” means a taxable person who is a recipient of specified services and uses those services for any purpose other than making further supplies of specified services;

“intermediary supplier” is a person who is a recipient of specified services and makes an onward supply of those services or part of them to another person without material alteration or further processing;

“specified services” means the services specified in article 4.

(2) For the purposes of this Order—

(a) a person is connected with another where one of them is an undertaking in relation to which the other is a group undertaking and “undertaking” and “group undertaking” have the meaning given in section 1161 of the Companies Act 2006(b);

(b) a person has a relevant interest in land, buildings or civil engineering works—

(i) where that person is, or is connected with, a landlord, lessor, licensor, tenant, lessee or licensee in relation to such land, buildings or civil engineering works; but

(a) 1994 c. 23; section 55A was inserted by section 19(1) of the Finance Act 2006 (c. 25) and was amended by section 50(1) of the Finance Act 2010 (c. 13) and section 203 of, and paragraphs 2 and 6 of Schedule 28 to, the Finance Act 2012 (c. 14). Section 55A(9A) [to be inserted by provision included in Finance Bill 2018].
(b) 2006 c. 46.

- (ii) “relevant interest” does not include any temporary entitlement to occupy land, buildings or civil engineering works for the purpose of making supplies of specified services.

Application of section 55A of the Act

3.—(1) Section 55A of the Act (customers to account for tax on supplies) applies to services of a description specified in article 4.

(2) The supplies specified in article 8 are excepted supplies for the purposes of section 55A of the Act.

Specified services

4. The services referred to in article 3(1) are construction services as defined in articles 5 to 7 together with any goods supplied with those services which fall to be treated as part of a single supply of services.

5. “Construction services” comprise—

- (a) construction, alteration, repair, extension, demolition or dismantling of buildings or structures (whether permanent or not), including offshore installations;
- (b) construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including (in particular) walls, roadworks, power-lines, electronic communications apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipe-lines, reservoirs, water-mains, wells, sewers, industrial plant and installations for purposes of land drainage, coast protection or defence;
- (c) installation in any building or structure of systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection;
- (d) internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, repair, extension or restoration;
- (e) painting or decorating the internal or external surfaces of any building or structure;
- (f) services which form an integral part of, or are preparatory to, or are for rendering complete, the services described in paragraphs (a) to (e), including site clearance, earth-moving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works.

6. “Construction services” do not include—

- (a) drilling for, or extraction of, oil or natural gas;
- (b) extraction (whether by underground or surface working) of minerals and tunnelling or boring, or construction of underground works, for this purpose;
- (c) manufacture of building or engineering components or equipment, materials, plant or machinery, or delivery of any of these things to site;
- (d) manufacture of components for systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection, or delivery of any of these things to site;
- (e) the professional work of architects or surveyors, or of consultants in building, engineering, interior or exterior decoration or in the laying-out of landscape;
- (f) the making, installation and repair of artistic works, being sculptures, murals and other works which are wholly artistic in nature;
- (g) signwriting and erecting, installing and repairing signboards and advertisements;
- (h) the installation of seating, blinds and shutters;
- (i) the installation of security systems, including burglar alarms, closed circuit television and public address systems.

7. But the services described in article 6 shall be treated as construction services to the extent that they form part of a single supply that includes services described in article 5.

Excepted supplies

8.—(1) The supplies referred to in article 3(2) are—

- (a) supplies of specified services in respect of which a payment is not required to be included in a return made under regulation 4 of the Income Tax (Construction Industry Scheme) Regulations 2005(a);
- (b) supplies of specified services, not excepted under paragraph (a), which are made—
 - (i) to an end user; or
 - (ii) to an intermediary supplier provided that—
 - (aa) the intermediary supplier is connected with the expected end user of those services; or
 - (bb) the supplies are made in relation to land, buildings or civil engineering works in which both the intermediary supplier and the expected end user of those services have a relevant interest.

(2) But a supply that is described in paragraph (1) shall not be treated as an excepted supply if—

- (a) at the same time as the making of the supply or at any time before it is made (but not before the commencement of this Order), the supplier makes or has made any other supply of specified services to the same recipient in relation to the same construction site;
- (b) that other supply is not or was not excepted under paragraph (1); and
- (c) the supplier and the recipient agree that the supply shall not be treated as an excepted supply.

9.—(1) This article applies where there is a supply of specified services comprising more than one identifiable element.

(2) Where this article applies, the supply is not an excepted supply unless all of those elements, if supplied separately, would be excepted under article 8.

Application of section 55A(3) of the Value Added Tax Act 1994

10. Section 55A(3) of the Act, in so far as it relates to supplies received by a person being treated as supplies made by that person, does not apply in relation to the specified services described in this Order.

	<i>Name</i>
	<i>Name</i>
*** 2019	Two of the Lords Commissioners for Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which has effect in relation to supplies made on or after 1st October 2019, applies a VAT reverse charge to construction services.

As a general rule, it is the supplier of goods or services who is required to account for VAT on those supplies. However, section 55A of the Value Added Tax Act 1994 (c. 23) requires the recipient, not the supplier, to account for and pay tax on the supply of any goods and services which are of a description specified in an order made by the Treasury for that purpose. This accounting requirement is commonly referred to as the “reverse charge”.

(a) S.I. 2005/2045.

Article 2 defines certain terms that appear in this Order.

Article 3 provides that the reverse charge will apply to services of a description specified in article 4 and that the supplies specified in article 8 are excepted from the reverse charge.

Article 4 specifies construction services as being services to which the reverse charge applies.

Articles 5 to 7 define construction services, specifying what services are and are not included within the term.

Article 8(1) provides for exceptions so that the reverse charge will only apply where construction services are supplied to other construction businesses. Article 8(2) provides that certain exceptions may not apply where other construction services are being supplied by the same supplier to the same recipient in relation to the same construction site and those other services do not qualify as excepted supplies.

Article 9 makes provision for supplies of construction services comprising a number of elements to be excepted from the reverse charge only when all of those elements would be excepted if separately supplied.

Article 10 provides that section 55A(3) of the Value Added Tax Act 1994 (which makes provision for reverse charge supplies to be treated as supplies made by the recipient for the purposes of VAT registration limits) shall not apply in relation to construction services as defined in this Order.

A Tax Information and Impact Note covering this instrument has been published and is available on the government website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.