

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

2019 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue & Customs 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% VAT for energy-saving materials to ensure that the UK legislation complies with 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.

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, 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 (“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) or to a 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 / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

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 GOV.UK on 9 December 2015 along with draft legislation. There was a further consultation on the revised draft legislation, which was published on 8 April 2019.

11. Guidance

- 11.1 The changes made by this instrument will be reflected in published guidance on energy-saving materials.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is expected to be negligible.
- 12.2 The impact on the public sector is expected to be negligible.
- 12.3 A Tax Information and Impact Note will be submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

13.1 The legislation applies to the activities that are undertaken by small businesses.

14. Monitoring & review

These changes will be kept under review through communication with affected taxpayer groups.

15. Contact

15.1 TBC

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