



**CONSTRUCTING
EXCELLENCE**
South West

VAT 'reverse charging' for the construction sector

Advice Note **2**



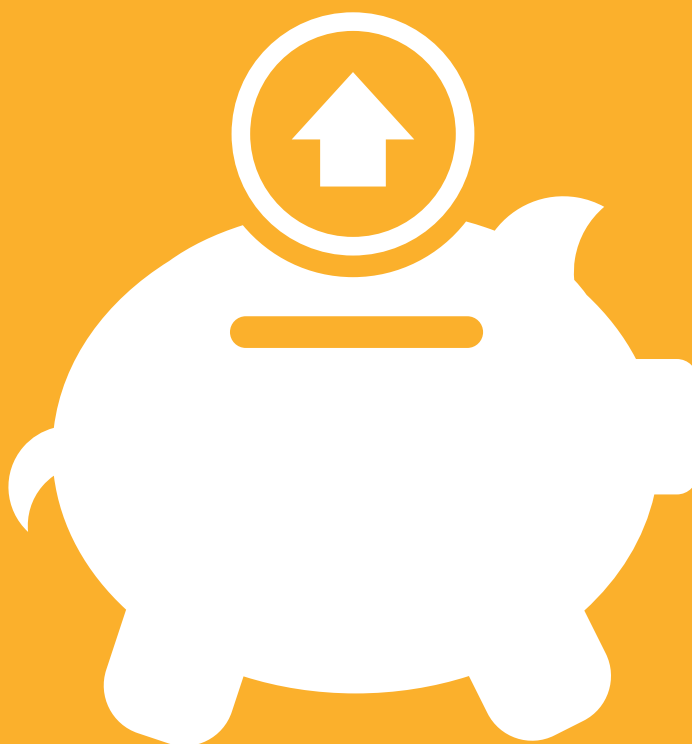


Procurement & Productivity Forum
CONSTRUCTING EXCELLENCE SW

Constructing Excellence South West (CESW) has identified a number of key areas of particular relevance for the construction sector and have set-up a number of forums to concentrate on those sectors. The Procurement & Productivity Forum is jointly chaired by Martyn Jones and Steve Clark. As will all forums, its purpose is to provide knowledge and best practice to CESW's members. As part of this, the Procurement & Productivity Forum has produced this bulletin on VAT reverse charging.

The Government has announced that from 1 October 2019 the construction sector will adopt the 'reverse charge' system for VAT in respect construction services. This will apply to services provided with a tax point on or after 1 October 2019. The Government acknowledges that this will be a significant change for the industry and so has indicated that it will be lenient during the first few months of its introduction.

The principal reason for this change is that some suppliers of services are charging and receiving payment for VAT but are not sending these monies on to HMRC. The 'reverse charge' system, put simply, is that instead of the VAT being to the supplier of the VATable services, it is paid directly to HMRC. This avoids the VAT payment having to go through the supplier of the services.



Whilst this is the general principle of reverse charging, the arrangement will not apply in every situation:



- Reverse charging will apply to business to businesses transactions in which 'construction services' are supplied. The definition of 'construction services' is the same as that used in the Construction Industry Scheme (CIS). Therefore, it will not be applied outside of a business context and/or where the services are not 'construction services'.
- Reverse charging will not apply to non-business customers and to those who are not VAT registered.
- Reverse charging will not apply to zero-rated supplies of goods and services – as such, it will not apply to the construction of dwellings to be used for residential purposes.

- Reverse charging will also not apply where, under the CIS scheme, the 'contractor' is not required to report payment to HMRC under one of the exceptions under the Income Tax (CIS) Regulations 2005.
- Interestingly, reverse charging will not apply to those contracts under which goods and services are supplied to a client who is classified as an 'end user'. An 'end user' is a taxable person who uses construction services for any purpose other than making further supplies of construction services. This means, for example, a retail business which engages a contractor to carry out construction works is not subject to the reverse charge. In this case, the end user is in the retail sector whereas the reverse charge system is aimed at businesses within the construction sector. There is currently a question over whether developers are 'end users', as they purchase construction services in order to sell the completed buildings. Guidance is being sought from the HMRC, to clarify that there is no onward supply of services and therefore, developers will be treated as end users.
- Reverse charges will not apply to 'intermediaries'. Intermediaries are generally those who (a) make onward supplies of construction services without making a material alteration to those services; and (b) are a parent or subsidiary of the 'end user'. This exception will also apply in a landlord and tenant situation where the landlord or tenant has commissioned construction services for the other.

As indicated above, as a general rule, if the CIS applies then the supplier of services will need to consider whether a reverse charge will apply. Under the CIS scheme it is relatively common for construction contracts to state whether the client/employer is 'a contractor' for the purposes of the CIS scheme. This then informs the 'sub-contractor' what it needs to do in order to receive the full payment without deduction.

Similarly, the provider of VATable services will need to establish whether the reverse charge will apply. With this in mind (and in a similar vein to that of the CIS), it is likely that a construction contract should include a provision which allows the receiver of the services to state in the contract whether:

- it is VAT-registered;
- it is an 'end user'; and/or
- whether there are any relevant factors which will exclude the reverse charge arrangement.

Alternatively, it may be that a clause should be added to the contract whereby the parties agree that the VAT reverse charge does and should apply. This will then assist both parties with their VAT returns.

So, it is very likely that construction contracts will need to be amended to reflect the addition of reverse charging within the construction sector. Of course, whether the reverse charge system will apply will need detailed consideration on a project-by-project basis. It is recommended that specialist tax advice is sought sooner rather than later so preparations can be made for new and on-going projects.

In the meantime, HMRC has issued a general guidance note entitled *VAT Reverse charge for building and construction service* which can be found at:

<https://www.gov.uk/government/publications/vat-reverse-charge-for-building-and-construction-services>

Further guidance will be issued in due course.





CONSTRUCTING EXCELLENCE South West

**For more information
contact us at:**

info@cesw.org.uk
www.cesw.org.uk

Acknowledgments

CESW would like to thank
the following authors for
this bulletin:



**CONSTRUCTING
EXCELLENCE
South West**



Michelmores

Martyn Jones

martyn.jones5@gmail.com

Alan Tate, Michelmores LLP

alan.tate@michelmores.com

Steve Clark

steve.clark@turntown.co.uk

Disclaimer

This guide is for information purposes only and does not constitute advice including legal advice. It is recommended that specific professional advice is sought through your professional advisor before acting on any of the information or opinion given. The views and opinions expressed in the articles in this guide are those of the relevant authors and do not necessarily reflect the views and opinions of Constructing Excellence South West Limited, nor the other authors.

Copyright

Copyright in all and every part of this publication rests with Constructing Excellence South West Limited, and Michelmores LLP, all rights are reserved. Save by prior consent of the authors, no part or parts of this publication may be reproduced in any form or by any means electronic or mechanical, including photocopying, recording or any information storage or retrieval system now known or to be devised.

Copyright © Constructing Excellence South West Limited and Michelmores LLP.

