

VAT changes to zero-rating for relevant charitable and residential buildings

[Revenue & Customs Brief 26/10](#) and [VAT Information Sheet 13/10](#) draw attention to the end of the period of transitional relief for the changes in the rules for obtaining zero-rating for relevant residential and relevant charitable buildings. The Brief appears to amend the conditions for transitional relief originally announced in 2009, and all taxpayers which have sought to take advantage of the transitional relief must check that they satisfy the amended conditions and seek professional VAT advice if they are in any doubt.

The new information draws attention to the end of the period of transitional relief, but also includes amendments to the conditions for charities to make use of the concession before 1 July 2010.

Originally, HMRC announced that zero-rating certificates could be issued until 30 June 2010 in respect of:

- construction services, provided that there has been a 'meaningful start' to the construction of the building by that date; or
- the acquisition of a building, provided that a 'meaningful deposit' has been paid and/ or contracts have been exchanged by that date (but this does not include the grant of an option to purchase),

and the Schedule 10 'clawback' should not apply.

Revenue & Customs Brief 26/10 now provides that the charity must issue the necessary certificate before that 1 July 2010 (late certificates will not be permitted) and by 1 January 2011, either:

- the building must have been constructed to a point above foundation level; or
- the charity must be in occupation of the building if it is being acquired or leased.

Charities which fail to issue the certificate in time or do not meet these conditions will not be able to use ESC 3.29 to secure zero-rating for the building. However, charities, and those who use buildings solely for a relevant residential purpose, will still be able to acquire or construct new buildings zero-rated providing they are able to demonstrate that the buildings concerned are intended to be used 95% or more for a relevant residential or relevant charitable purpose.

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VAT Information Sheet 13/10 contains guidance on how to determine the extent of 'use' of a building, and contains some useful practical illustrations.

Comment

The changes in the conditions for issue of a zero-rating certificate, in particular the 'occupation by 1 January 2011' condition, may cause some uncertainty where taxpayers have been working on the basis that the payment of a 'meaningful deposit' would be sufficient to secure zero-rating where a certificate is issued by 30 June 2010. Although it is possible that this belated occupation condition may be satisfied in most cases, any taxpayer which considers that it may not satisfy that condition (and therefore that zero-rating may be jeopardised) should consult 4 Eyes Ltd as a matter of urgency.

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