VAT & Construction
Anamika Pandey, Solicitor – Corporate Tax

Introduction to VAT

• About this talk – why should surveyors worry about VAT?
• Given the subject, large numbers involved
• Vital to understand the main issues even if just that alarm bells ring!
• Which territories in UK tax regime not immediately obvious (Isle of Man?)
• Brexit?
Background

- Everything is at 20% unless law provides for it to be relieved in some way (0%, 5% or exempt)
- Same concept with land, property and construction
- Difference between exemption and zero-rating?
  - If you are a VAT registered business making supplies, should be able to recover - Registration and invoicing requirements
- Difference in the type of supplies you make
  - Build to sell – Zero-rated (can claim VAT back)
  - Renovate and sell – exempt (can't claim VAT back)

VAT Rates - Property

- Group 1 of Schedule 9 of VATA 1994 – land and property is VAT exempt
- This exemption is subject to exceptions.
- Exceptions to exemption
  - The first grant of a major interest in a qualifying building – i.e. a dwelling or building for use for a relevant residential or charitable purpose

ZERO RATED
**VAT Rates - Property**

- The first grant of a major interest in a qualifying building – i.e. a dwelling converted from a non-residential building (includes property not lived in for 10 years)
  
  ZERO RATED

- Sale of freehold interest in a new or uncompleted non-qualifying building or civil engineering work

- Supplies specifically excluded from exemption (hotel accommodation, parking facilities etc.)

  STANDARD RATED

---

**VAT Rates - Property**

- Any supply which would otherwise be exempt but in respect of which an option to tax has been exercised (you do not inherit OTT!) - STANDARD RATED

- Certain supplies which form part of the transfer of a business as a going concern - OUTSIDE THE SCOPE

- Anything else – VAT EXEMPT
Planning Points

• If a developer, watch out for exempt projects
  – Renovating a house to re-sell (wall to wall demolition?)
  – Renting residential property
  – Renting un-opted commercial property
• Watch out for change in intention (rent?)
• Possible repayment of VAT to HMRC on costs
• Establish VAT rate at the start of the project - SDLT
• If exemption applies or possible change in future intention, maximise reliefs available for construction services

Construction

• Construction services are never VAT exempt – Zero, lower rate or standard rate only!

• Applicable VAT rate depends upon
  – Work that is being done; and
  – The type of property
Construction – Zero Rated

• A qualifying building is constructed
• Services are made ‘in the course of the construction’ of that building
• Where necessary, a valid certificate is held
• Services are not specifically excluded from zero-rating

Construction – Zero Rated

• ‘Constructed’ meaning?
• Qualifying building
  – Dwelling (see definition – no certificate)
  – Relevant residential (certificate)
  – Relevant charitable inc. annexe (certificate)
• ‘in the course of construction’
  – Allows construction to take place
  – Produces work that allows the building to be used
  – When the works takes place…
Construction – Zero Rated

- ‘Services not specifically excluded from Zero Rating’ – grey area
  - Goods hired on own = 20% (scaffolders)
  - Architectural, surveying, consultancy and supervisory services are always standard rated (Planning?)

- Alterations for disabled use (certificate)
  - Ramps, widening doorways/passageways
  - Lifts
  - Bathrooms

Construction – Reduced Rate

- A change in the number of dwellings (floor by floor basis)
- Empty home condition (empty for 2 or more years prior to work started)
- Change in the use of property (e.g. multiple occupancy to relevant residential)
- Installation of certain energy saving materials
- What proof is required?
Construction – Building Materials

• VAT rate depends upon the type of services
• You can zero rate or reduced rate ‘building materials’ supplied with qualifying services
• What are building materials? (HMRC has a list!)

Construction – Planning

• Get the VAT rate correct
• Potentially not purchasing the building materials yourself
• Property ownership separate to the development (if VAT exempt then land ownership separate from development!)
• Note - VAT charged incorrectly is not input tax
• If in doubt – TAKE ADVICE!
Construction – Reverse Charge

- New anti-avoidance rules – effective 1 October 2019 – Missing Trader Fraud.
- Applies to businesses buying and selling construction services
- Does not apply to zero rated services – applicable only to reduced and standard rates
- Exempt services? – construction services never VAT exempt!

Construction – Reverse Charge

- Applies to standard and reduced rated construction services on B2B basis where the recipient makes onward supply up to the point where the customer receiving the supply is no longer a business that makes supplies of those services
- Also applies to building materials supplied with the construction services
Construction – Reverse Charge

• Reverse charge will not apply where:
  – Services are supplied to the end user
  – The recipient makes onward supplies of those 
    construction services to a connected 
    company
  – The supplier and recipient are landlord and 
    tenant or vice versa
  – The supplies are zero-rated

• Reverse charge will not count towards the 
  VAT registration threshold

Construction – Reverse Charge

• Affected businesses will need to consider 
  cash flow implications
• Contractors will have to disclose to their 
  sub-contractors if they are at the end of 
  supply chain so VAT can be charged
• If they don’t – end user will have to declare 
  reverse charge