

Written Ministerial Statement

Value Added Tax

The Financial Secretary to the Treasury (Mr Stephen Timms): The Chancellor of the Exchequer yesterday announced as part of the Pre-Budget Report a temporary reduction in the standard rate of VAT to 15 per cent from 1 December 2008 to 1 January 2010 when the rate will return to 17½ per cent.

This Government has taken these steps to provide further support for growth and incomes during the economic downturn. The Government's discretionary fiscal action will deliver support of around 1 per cent of GDP to the economy in total in 2009-10.

However, it is also important that the Government protects the public finances from artificial avoidance seeking to exploit the change in VAT rates where there is no current economic activity. Therefore, Finance Bill 2009 will contain anti-forestalling legislation to ensure that the VAT rate changes announced are fully effective. The Government will expose the draft legislation for comment as soon as possible.

Anti-forestalling legislation will apply from today to ensure that, in the circumstances set out below, supplies with a basic time of supply after a VAT rate increase takes effect will be subject to the rate of VAT in force at that time. The provisions are designed to prevent artificial forestalling whilst being straightforward for business to understand and operate and not affecting genuine commercial transactions. This legislation is not intended to catch the normal commercial activity of providing goods and services.

The anti-forestalling legislation will apply in the circumstances set out below where the supplier receives a prepayment for the goods or services or issues a VAT invoice in advance of the rate increase. It will also apply where, in advance of the rate increase, the supplier grants the customer an option or a right to obtain goods or services at a discount or free of charge after the rate increase takes effect.

The circumstances are that the customer cannot recover VAT in full on the supply and that:

- the supplier and customer are connected parties; or
- the supplier receives a prepayment, or grants the customer an option or a right, and the prepayment, or the acquisition of the option or right, is wholly or partly funded (directly or indirectly) by the supplier; or
- a VAT invoice is issued by the supplier showing an amount any part of which is due more than 6 months after the date of the invoice.

The basic time of supply is normally when goods are delivered or made available, or when services are performed. For continuous supplies of goods or services, with consideration payable periodically or from time to time, the

basic time of supply will be the end of the period to which a payment or invoice relates (e.g. a billing period).

Although the anti-forestalling legislation will apply from today, any extra VAT arising from its operation will not become due until after Royal Assent of Finance Bill 2009. Until then, suppliers should continue to account for VAT as normal, applying the VAT rate at the time of the prepayment, VAT invoice issue or grant of the right or option.

The operation of the legislation will be kept under review to ensure that the provisions work as intended. Any additional or alternative anti-forestalling provisions included in Finance Bill 2009 will only take effect at the earliest from the date that they are announced.

HM Treasury
25 November 2008