

# VAT (Reduced Rate) (Energy-Saving Materials) Order 2019 – comments on draft legislation



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## Introduction

1. The British Property Federation (BPF) represents the real estate sector – an industry with a market value of £900bn which contributed more than £60bn to the economy in 2016. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers and developers of real estate as well as those who support them. Their investments help drive the UK's economic success; provide essential infrastructure and create great places where people can live, work and relax.
2. The sector is one of the most successful in the world at attracting domestic and overseas long-term investment capital into the renewal of the UK's towns and cities. Such large, long-term, patient investors are critical to the urban redevelopment and regeneration of our country, and crucial for creating and maintaining modern and productive work places.
3. We welcome the opportunity to respond on the draft legislation: VAT (Reduced Rate) (Energy-Saving Materials) Order 2019; and would note two practical points for consideration:

### *Apportionment*

4. It was originally understood that the current rules allowed for apportionment where the installation of ESM (Energy Saving Materials) was part of a broader project of alteration etc. It only became apparent in the light of case law that this wasn't the case, and HMRC amended guidance to that effect. The introduction of this draft legislation provides an opportunity for government to make specific provision for apportioning the overall supply of construction works that include some element of ESM.. Sch 7A Group 6 Note 1 would seem to provide a suitable model.

### *Definition: "in" residential accommodation*

5. The current legislation refers to the ESM being "in" residential accommodation. This definition makes little sense for certain ESM items, such as solar panels. HMRC have indicated that the meaning would include any ESM "serving" residential accommodation. This would be an opportunity to amend the legislation accordingly.
6. Finally, given we are now nearly four years on from the ECJ decision, it seems a little illogical to align our VAT rules with the EU at the very point we are due to leave. Instead, it could be an opportunity to reflect on our VAT policy more holistically and consider how we are encouraging the use of energy saving equipment and sustainable building practices more broadly.
7. Please get in touch if you would like to discuss our response in more detail.

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