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## VAT: CHANGE OF STANDARD RATE: ANTI-FORESTALLING LEGISLATION

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### Who is likely to be affected?

1. Organisations unable to fully recover the VAT they incur that enter into schemes or arrangements to avoid the effect of the standard rate of VAT reverting to 17.5 per cent.

### General description of the measure

2. Targeted legislation will be introduced in Finance Bill 2009 to counter schemes that purport to apply the 15 per cent VAT rate to goods or services to be supplied on or after the date that the rate returns to 17.5 per cent.
3. The measure provides that in certain circumstances a supplementary charge to VAT of 2.5 per cent will be due on supplies of goods or services on which VAT of 15 per cent has been declared.
4. The supplementary charge will have to be accounted for on the date that the VAT rate reverts to 17.5 per cent.

### Operative date

5. The scope of the legislation was announced by the Financial Secretary to the Treasury in two Written Ministerial Statements of 25 November 2008 and 31 March 2009. The legislation will have effect from the dates detailed below.

### Current law and proposed revisions

6. Forestalling works by the supplier issuing an invoice or receiving payment before the rate rises. This fixes the VAT due at 15 per cent even though the goods are not due to be delivered or services to be performed until on or after the date that the rate reverts to 17.5 per cent.
7. The legislation prevents forestalling by introducing a supplementary charge to VAT on the supply of goods or services (or the grant of the right to receive goods or services) where the customer cannot recover all the

VAT on the supply and one of the following conditions is met:

- the supplier and customer are connected parties; or
- the supplier funds the purchase of the goods or services (or grant of right); or
- a VAT invoice is issued by the supplier where payment is not due for at least six months.

8. These provisions have effect on and after 25 November 2008.

9. A supplementary charge will also apply where a pre-payment of in excess of £100,000 is made before the rate rise in respect of goods or services (or in relation to the grant of the right to receive goods or services) to be provided on or after the date of the rate rise. However, it will not apply if the prepayment is in accordance with normal commercial practice in relation to such supplies when no VAT rate increase is expected.

10. This provision has effect on and after 31 March 2009.

### **Further advice**

11. If you have any questions about this change, please contact the National Advice Service on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk)