

VAT: Land and buildings - New Schedule 10 of the VAT Act 1994

HMRC Reference: VAT Info Sheet 03/08

VAT Information Sheet 03/08
April 2008

This Information Sheet should be read in conjunction with:

[24/08 Revenue & Customs Brief](#)

1 Introduction

1.1 What is this Information Sheet about?

It introduces changes to legislation governing the option to tax, Schedule 10 of the VAT Act 1994 and contains tertiary legislation that will have the force of law.

1.2 Why do we need to change Schedule 10 of the VAT Act 1994?

This is perhaps the most complex part of the VAT Act having had a succession of anti-avoidance measures added to it. The proposed legislation including the tertiary is intended to be simpler to follow and understand as it has been re-ordered and written in a more modern manner.

1.3 When do these changes come into effect?

The new Schedule 10 will become effective from 1 June 2008. The first revocation of an option to tax after 20 years will become possible from 1 August 2009 as the option to tax was introduced in August 1989.

1.4 What is tertiary legislation and where can I find it?

Tertiary legislation are elements of the guidance which have the force of law and appear in a Public Notice or Information Sheet. The tertiary legislation being introduced with the new Schedule 10 of the VAT Act 1994 can be found in [Annex 1](#) of this Information Sheet together with accompanying guidance. The tertiary legislation consists of Boxes A to K and the outlined forms, (which will be made available on our [website](#) from 1 June 2008).

1.5 How can I compare the old Schedule 10 to the new Schedule 10 of the VAT Act 1994?

Destination and Derivation tables are also included with this Information Sheet and will assist with navigation around the changes.

1.6 Will the public notices and HM Revenue & Customs (HMRC) books of guidance be amended?

The existing public notices and HMRC books of guidance will not be immediately updated. We plan to consult business this year about all our VAT property notices and guidance with a view to bringing out new versions in 2009. Because the content of large parts of the notices and guidance will remain unchanged, we have decided not to withdraw the notices before they are rewritten. Where we can, we intend to indicate within the notices where there are changes. It is important that business always relies on the Information Sheet if the information in the notice or guidance differs.

1.7 Are we changing the rules concerning the operation of Schedule 10 and the option to tax?

There are a few minor changes at the margins as well as the introduction of the conditions for revoking an option to tax and the introduction of a Real Estate Elections. The greater majority of the legislation remains unchanged. It has merely been reordered and written in a more consistent modern manner.

1.8 What are the changes?

The following areas have changed or are new:

- new rules for relevant associates
- introduction of certificates to disapply an option to tax for buildings to be converted into dwellings and land supplied to housing associations
- introduction of disapplication of the option to tax for intermediaries supplying buildings to be converted into dwellings etc
- revised definition of occupation including new exclusion for automatic teller machines
- introduction of a new way to opt to tax (a real estate election) which does not require individual notifications of each option
- extension and changes to the cooling off period
- automatic revocation of an option to tax after six years if no property interest has been held during that time
- introduction of rules governing the revocation of an option to tax after 20 years
- provision that in future, an option to tax applies to land and buildings on the same site – with a special transitional rule for existing options
- a new ability to exclude a new building and land within its curtilage from an option to tax
- new appeal rights
- repeal of legislation concerning Developer's Self Supply charge, Developmental Tenancies (Schedule 9(1)(b) of the VAT Act 1994 and Co-owners of land (section 51A of the VAT 1994)

2. Changes to legislation governing the option to tax, Schedule 10 to the VAT Act 1994

2.1 Please see [Annex 1](#) for the tertiary legislation, including an outline of the forms to be used as well as guidance.

2.2 Please see the Destination and Derivation Tables at pages 37 and 39 respectively.

3 Who can I contact for further information?

If you have a query for which you have been unable to find the answer within this VAT Information Sheet please contact our National Advice Service on 0845 010 9000 (+44 208 929 0152 for International Enquiries).

The National Advice Service is open from 8.00 am to 8.00 pm, Monday to Friday, and will be able to answer both general queries and deal with enquiries relating to the Special Scheme.

If you have hearing difficulties, please ring the Textphone service on Tel 0845 000 0200.

Alternatively, international enquirers may email [VAT on e-Services](#).