



## ERG Brief: VAT on Energy Saving Materials

- It has been reported that the current European Council will agree to allow “increased flexibility for member states with respect to reduced rates of VAT”.<sup>1</sup>
- The Finance Bill 2016 will implement an ECJ Court ruling to increase the rate of VAT on the installation of energy saving materials to the standard rate of 20% from the current reduced rate of 5% brought in in 1998.
- There is an amendment to the Finance Bill backed by the Labour front bench and Conservative MPs to except “value added tax on insulation, solarpanels and any other category of energy-saving material or their installation.”

### Background on VAT:

- VAT is an EU tax governed by the VAT Directive 2006, which prescribes a minimum rate of 15%.<sup>2</sup>
- Tax under EU law is governed by unanimity.<sup>3</sup>
- The UK on accession to the E.E.C in 1973 introduced VAT for the first time, replacing its forerunner ‘purchase tax’.
- The sixth VAT directive (77/388/EEC), adopted on 17 May 1977 allowed Member States to maintain “reduced rates and exemptions... which are in force on 31 December 1975. Energy Saving Materials was not included at that time.”<sup>4</sup>
- If an exemption is removed it cannot be reintroduced except with unanimous approval.

There are two issues relating to VAT on Energy Saving Materials (ESM):

- On the **materials themselves**, currently 20%, Gordon Brown tried for 13 years to reduce this rate.
- **On the installation**, currently 5% but may have to increase on 1 August following a provision in the Finance Bill to respect an ECJ judgement of 4 June 2016 that VAT on the installation of these materials should be standard rated.

I thought it would be interesting to track the history of the UK’s influence over VAT on these products. As you can see despite continuous political pressure for 13 years and the support of the

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<sup>1</sup> Sam Coates, The Times Twitter 17 March 2016;  
<https://twitter.com/SamCoatesTimes/status/710578441826000896>

<sup>2</sup> EU VAT directive 2006: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0112&from=EN>

<sup>3</sup> Article 223 TFEU : “All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council” [http://europa.eu/pol/pdf/consolidated-treaties\\_en.pdf](http://europa.eu/pol/pdf/consolidated-treaties_en.pdf)

<sup>4</sup> House of Commons Research note November 2015:  
<http://researchbriefings.files.parliament.uk/documents/SN02683/SN02683.pdf>

entire Labour leadership (and Lib Dems), the former Labour Government failed to change the EU law on VAT.

## History of VAT on Energy Saving Materials 1995 – to present:

VAT was charged on Energy Saving Materials at the Standard Rate (now 20%) from the beginning.

**1995:** When Norman Lamont first proposed charging the standard rate of VAT on fuel, he commented:

*"for the first time the rate of VAT on domestic fuel and power will be the same as that charged on goods like loft insulation material, which improve energy efficiency. This will bring to an end the current anomaly, which makes nonsense of any attempt to use the tax system to improve the environment".*<sup>5</sup> The increase was planned to be in two stages.

**1995:** Labour MP Alan Simpson introduced a Private Members Bill to charge the reduced rate on energy saving materials. The then Paymaster General, David Heathcoat-Amory MP, set out the Government's opposition to the Bill on the basis that it was contrary to EU law.

The Bill was supported by Labour MPs such as Michael Gapes, and opposed by Conservative MPs including Bernard Jenkin MP on the basis that it was opportunistic adding:

*"The Bill might have some validity if it contained the words, "This Bill shall come into force notwithstanding the European Communities Act 1971.""*<sup>6</sup>

**March 1996:** Dawn Primarolo MP backs an amendment to reduce VAT on ESM from the standard rate to the reduced rate saying: *"I ask all hon. Members in the name of justice, jobs, democracy and energy efficiency to vote with us."* It was backed by the Labour shadow Cabinet.<sup>7</sup>

**March 1997:** A successful amendment to the Finance Act by Alan Simpson MP, that became section 111 of the Finance Act 1997, required HMT to prepare a report *"on the consequences to the Exchequer of reducing VAT on energy saving materials."*<sup>8</sup>

**2 July 1997:** The new Chancellor, Gordon Brown in his first Budget widens the scope of the report. He reduces VAT on domestic fuel to the reduced rate (he could because the raise to the standard rate had not yet come in) but leaves ESM's at the standard rate.

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<sup>5</sup> Hansard 16 March 1993, House of Commons Research note July 1997;

<http://researchbriefings.files.parliament.uk/documents/RP97-87/RP97-87.pdf>

<sup>6</sup> Hansard 20 January 1995; <http://hansard.millbanksystems.com/commons/1995/jan/20/energy-saving-materials-rate-of-value>

<sup>7</sup> Hansard 27 March 1996:

[http://www.publications.parliament.uk/pa/cm199596/cmhansrd/vo960327/debtext/60327-47.htm#60327-47\\_spnew0](http://www.publications.parliament.uk/pa/cm199596/cmhansrd/vo960327/debtext/60327-47.htm#60327-47_spnew0)

The Labour Shadow Cabinet voted for it: John Prescott; Gordon Brown; Robin Cook; Jack Straw; David Blunkett; Margaret Beckett; George Robertson; Frank Dobson; Ann Taylor; Chris Smith; Marjorie Mowlam; Ron Davies; Clare Short; David Clark; Gavin Strang; Alistair Darling. Plus Dawn Primarolo and Michael Meacher.

<sup>8</sup> Hansard, 11 March 1997

**6 October 1997:** Independent reports that “Move to cut VAT on ‘green products’ blocked” as HMRC’s report recommends against a cut.<sup>9</sup>

**Budget 1998:** Gordon Brown: “I can confirm today that VAT on **the installation of** energy saving materials funded under certain Government grant schemes will be cut from 17 per cent to 5 per cent, helping to insulate 40,000 more homes a year. We are pursuing with our European partners a wider relief.”<sup>10</sup>

**Budget 2003:** “The Government has introduced reduced rates of VAT on the installation of a range of energy-saving materials in the home, including insulation, hot water and central heating system controls and solar panels. The European Commission is expected to publish proposals for a review of the provisions in European law governing the use of reduced rates of VAT during 2003. The Government will continue to press for a reduced rate for DIY energy-saving materials.”<sup>11</sup>

**13 November 2003: John Healey:** “My hon. Friend is a passionate and long-standing advocate of energy efficiency measures, and he will be aware that we are arguing with the Commission and our partners in the European Union for greater freedom to allow a reduced rate of VAT on energy-saving materials that people use on a DIY basis. We are still constrained by European rules that prevent some of the measures that my hon. Friend would like”.<sup>12</sup>

**Budget 2004:** “The Government will continue to negotiate with its European partners to extend the categories of permitted reduced VAT rates to include the purchase of energy-saving materials for DIY installation and energy-efficient products.”<sup>13</sup>

**Budget 2005:** “the Government will continue to negotiate with European partners to extend the categories of permitted reduced VAT rates to include energy-saving materials for DIY installations and energy-efficient product”<sup>14</sup>

**2007 Budget speech:** “I am placing in the library of the House of Commons the representations the Foreign Secretary and Minister for Europe and I are making to European Ministers for a European-wide decision that would reduce the rate of VAT from 17.5 per cent to 5 per cent on energy saving and environmentally friendly products in the home.”<sup>15</sup>

**20 July 2007: Brown to lobby EU on greener VAT.** Gordon Brown and French President Sarkozy agree to lobby for lower VAT on energy efficient products. Gordon Brown states that “

*“It is now time that we give new incentives to people who are wanting to buy environmentally friendly products,” Mr Brown said.*

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<sup>9</sup> Independent, 6 October 1997; <http://www.independent.co.uk/news/climate-move-to-cut-vat-on-green-products-blocked-1234458.html>

<sup>10</sup> Budget speech 17 March 1998; [http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/bud\\_budget98\\_speech.htm](http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/bud_budget98_speech.htm)

<sup>11</sup> HMT, [http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/Budget\\_2003.pdf](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/Budget_2003.pdf)

<sup>12</sup> Hansard, 13 November 2003;

<http://www.publications.parliament.uk/pa/cm200203/cmhansrd/vo031113/debtext/31113-03.htm>

<sup>13</sup> HMT, Budget 2004: [http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/d/Budget\\_2004.pdf](http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/d/Budget_2004.pdf)

<sup>14</sup> HMT, Budget 2004: [http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/d/bud05\\_completereport\\_147.pdf](http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/d/bud05_completereport_147.pdf)

<sup>15</sup> HMT, Gordon Brown Budget Speech, 21 March 2007;

[http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/bud\\_budget07\\_speech.htm](http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/bud_budget07_speech.htm)

*"The plans would involve reducing rates of VAT on energy-efficient products and energy-saving materials as an incentive for consumers to make more sustainable decisions."*<sup>16</sup>

**May 2008:** UK submission to an EU enquiry on VAT:

*"Reduced VAT rates can also address externalities. The consumption of goods with environmental benefits, such as energy-saving materials and the most energy-efficient electrical appliances, has a positive externality."*<sup>17</sup>

### **Gordon Brown left office without having being able to reduced VAT on Energy Saving Materials**

**21 June 2012:** The European Commission issues a press release stating: "Commission requests UK to amend its rules on reduced rates"<sup>18</sup>

**21 February 2013:** EC takes UK to the ECJ<sup>19</sup>

**10 September 2012:** The BBC reports that "UK to fight energy product ruling" and "The Climate Change Minister Greg Barker has started a Twitter campaign on the issue."<sup>20</sup>

**4 June 2015:** Following an action by the European Commission the ECJ rules that:

*"the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under Article 98 of Directive 2006/112, as amended by Directive 2009/47, read together with Annex III to that directive; Orders the United Kingdom of Great Britain and Northern Ireland to pay the costs."*<sup>21</sup>

**1 August 2016:** Expected implementation date of the new 20% rate on the installation of energy saving Materials<sup>22</sup>

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<sup>16</sup> BBC, 20 July 2007; <http://news.bbc.co.uk/1/hi/business/6909557.stm>

<sup>17</sup> European Scrutiny Committee, Twenty third report, 23 May 2008 HC 16-xxiii 2007-08 pp87-8

<http://researchbriefings.files.parliament.uk/documents/SN02683/SN02683.pdf>

<sup>18</sup> European Commission Press Release; [http://europa.eu/rapid/press-release\\_IP-12-676\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-12-676_en.htm?locale=en)

<sup>19</sup> European Commission Press Release; [http://europa.eu/rapid/press-release\\_IP-13-139\\_en.htm](http://europa.eu/rapid/press-release_IP-13-139_en.htm)

<sup>20</sup> BBC, 10 September 2012: <http://www.bbc.co.uk/news/science-environment-19545185>

<sup>21</sup> CJEU, C-161/14 - Commission v United Kingdom;

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30d5f7f404afb5a84b9a8256a3fa59b6097e.e34KaxiLc3qMb40Rch0SaxuSbxj0?text=&docid=164731&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=1013628>

<sup>22</sup> HMRC, Consultation as to when to introduce the increased 20% rate;

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/483363/VAT-Changes\\_to\\_the\\_reduced\\_rate\\_of\\_VAT\\_for\\_Energy\\_Saving\\_Materials\\_-\\_consultation\\_M7000\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/483363/VAT-Changes_to_the_reduced_rate_of_VAT_for_Energy_Saving_Materials_-_consultation_M7000_.pdf)