

CIS & VAT

Thursday 18th July 2019
Bishop Grosseteste University, Lincoln



Agenda

The Construction Industry: Employment Tax Update

Alastair Kendrick, Employment Tax Specialist

VAT

Gerry Myton, Head of Indirect Tax, Streets Chartered Accountants



The Construction Industry

Employment Tax Update

Alastair Kendrick
Employment Tax Specialist



The Construction Industry

Areas to be covered

- the construction industry tax scheme and hot issues with HMRC
- off payroll working and the tax issues
- payment of expenses to workers
- when is a van not a van for BIK purposes
- Any questions



What is the CIS?

- Scheme introduced in 1972 which requires those engaging labour in the construction industry to operate
- Last significantly updated in 2008
- Failure to operate scheme correctly can prove costly



Who is impacted in the scheme?

Any contractor undertaking building operations in the UK ('main contractor')

- Any concern that is not a 'building contractor' but which spends over a three-year period in excess of £3m on construction costs ('deemed contractor')
- Any subcontractor undertaking construction work to a main or deemed contractor



What are the obligations on a main/deemed contractor?

- Before making any payment to a subcontractor undertaking construction work to obtain their Unique Tax Reference (UTR) and approach HMRC to ascertain how they are to be paid. This could be gross or under deduction of tax at either 20% or 30%
- To comply with the instructions of HMRC so that if tax is to be withheld then that is calculated by reference to the labour element of the invoice



What are the obligations on a main/deemed contractor? (cont.)

- The contractor must be satisfied that the split shown on the invoice between labour and materials appears reasonable and, if in doubt, seek advice from HMRC. **If there is no split on the invoice between labour and material, tax is to be withheld on the total value of the invoice**
- The contractor is required to complete a monthly return to HMRC showing who had been paid and the amounts paid in the month
- The tax withheld needs to be paid to HMRC monthly



What can create problems with HMRC?

- Making payments without operating the scheme
- Allowing an incorrect labour/material split
- Being timely on payment of the tax



What are the consequences of getting this wrong?

- Loss of gross status
- Liability to tax on the payments on which tax should be withheld
- Interest and penalties



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Off payroll working and the issues

- very hot topic at present
- getting the status wrong can leave the contractor with a significant tax and employment law risk
- the Taylor report and HMRC consultation on status
- when is someone a 'worker' for employment and NMW rights ?
- the use of personal service companies and changes proposed at April 2020
- the tax risks from using a 'Managed Service Company'
- engaging workers via an intermediary



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Payment of expenses to workers

- where is the worker based for travelling expense purposes
- Benchmark/ bespoke allowances
- tax rules for intermediary workers
- how to deal with in regard to self employed workers



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When is a van not a van for BIK purposes

- recent decision in the Coca Cola case relating to kombi vehicles
- understanding the criteria relating to double-cab vehicles



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Any Questions?



VAT

Gerry Myton

Head of Indirect Tax, Streets Chartered
Accountants



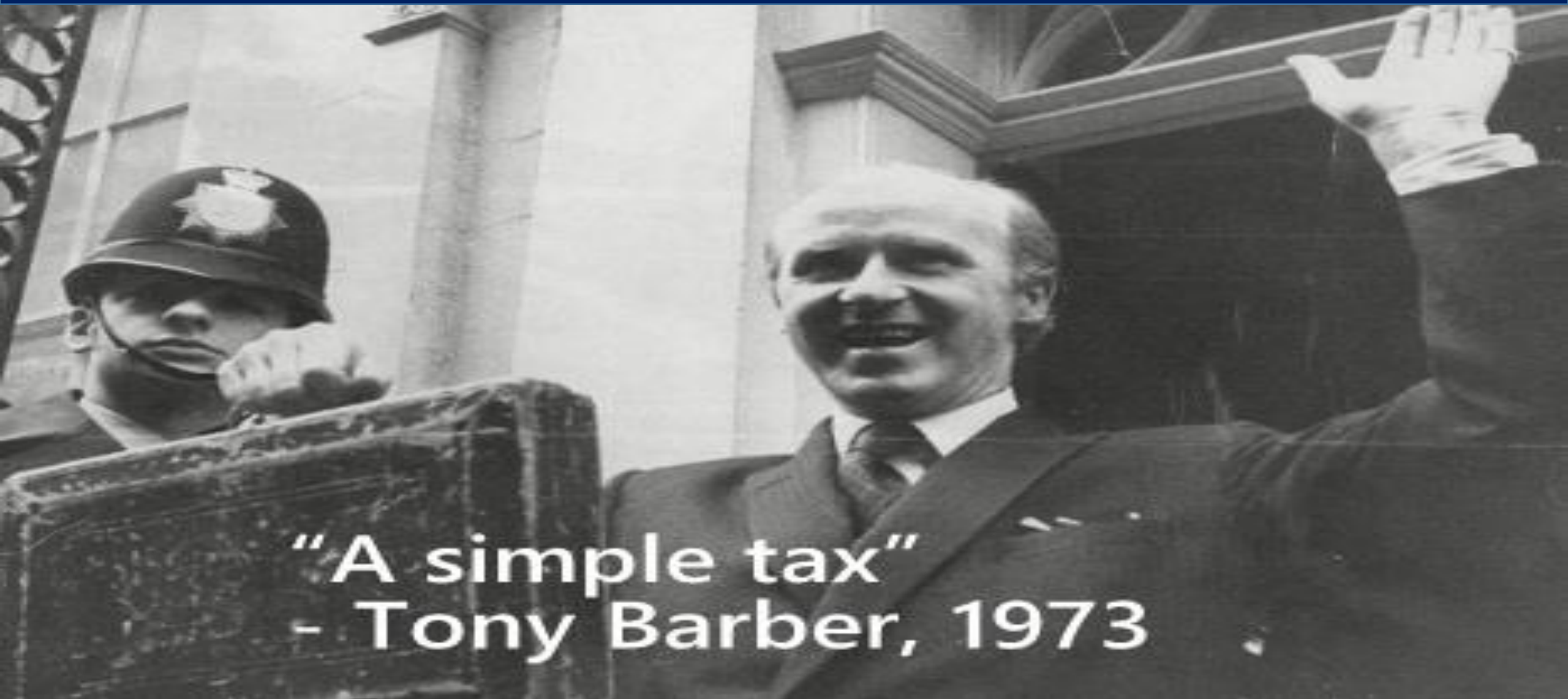
VAT

- Introduced 1 April 1973

10% >> 8% >> 10% >> 15% >> 17.5%
>> 15% >> 17.5% >> 20%

- Super rate of VAT in 1970s of 25% on luxury items
- Rates now on 0%, 5%, 20%





"A simple tax"
- Tony Barber, 1973



VAT

“Somewhere beyond the everyday world...lies the world of VAT, a kind of fiscal theme park in which factual and legal realities are suspended or inverted.”
- *Lord Justice Sedley*



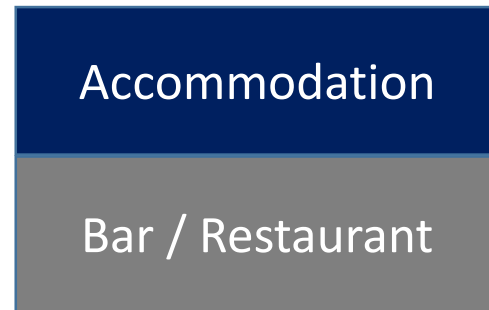
VAT

- “Property”
- “Exempt”
- “Zero”
- “Reduced”
- “Standard”
- “Disapplication of option to tax”
- “Anti-avoidance legislation”
- “Case law”

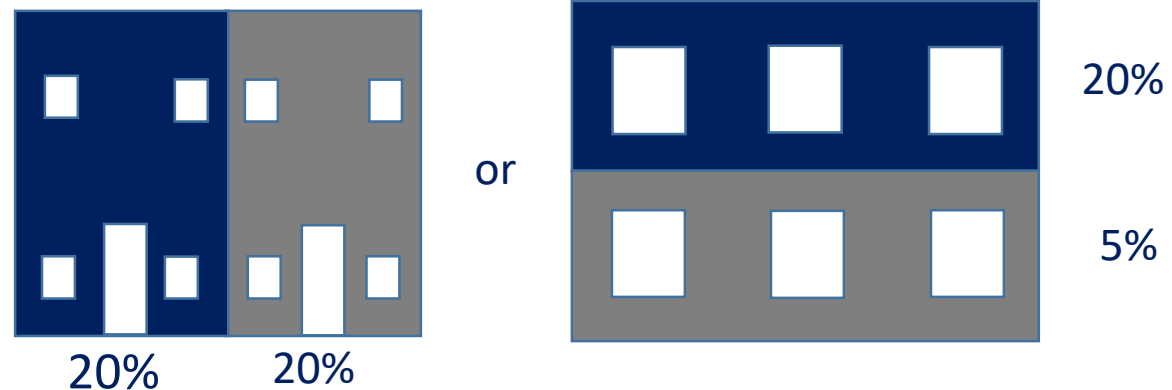


Pub Conversion (1)

- Pre conversion



- Post conversion

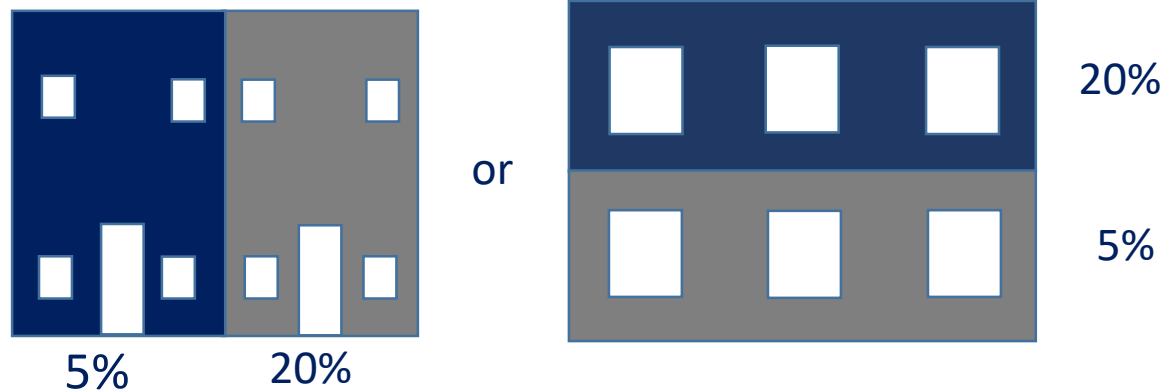


Pub Conversion (2)

- Pre conversion



- Post conversion



Pub Conversion (3)

- Issues
 - 1) Dwelling pre conversion?
 - 2) Uratemp Ventures v Collins
- Must know the history
- Last lived in

0-2 years 20% + EX

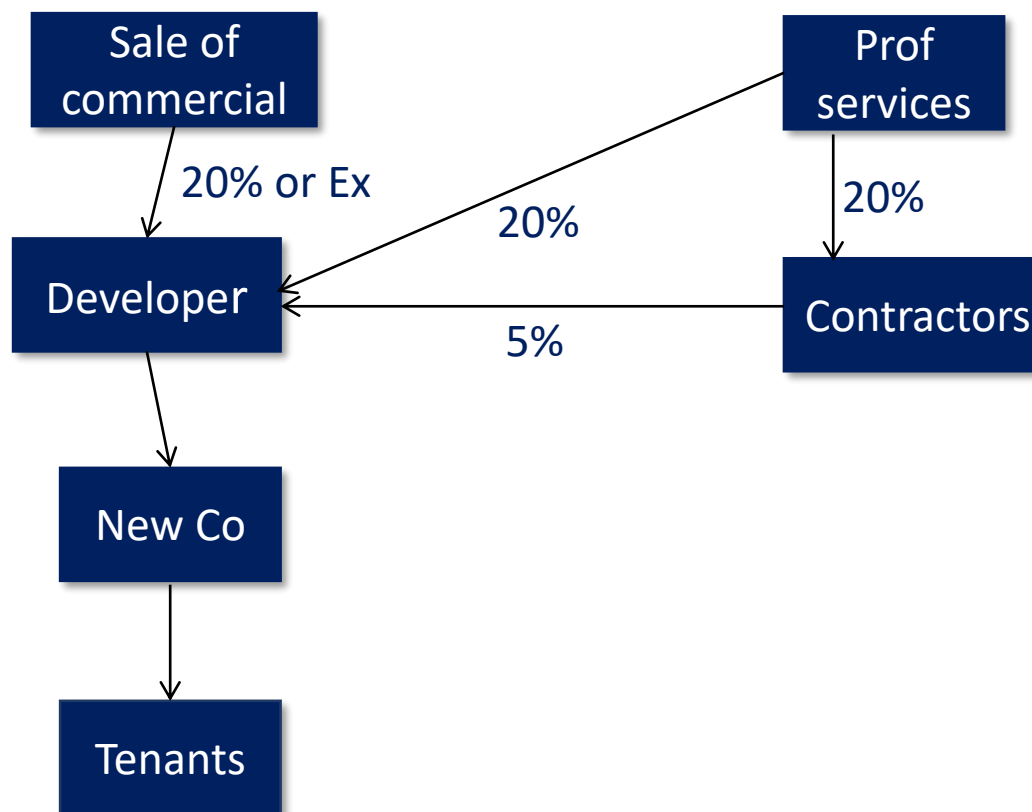
2-10 years 5% + EX

>10 years 5% + Z/R



Commercial to Residential

- 5% rate
- Recovery of VAT?



Examples (1)

R	
C	C
C	C
C	C

New R	
R	
R	R
R	R
C	C

C	→	R	5%
R	→	R	20%
New R			0%
C	→	C	20%



Examples (2)

- All flats meeting definition of dwelling
- Conversion of basement to 2 new flats / communal cinema and gym - £2.26m plus VAT
- Flats all let long lets and exempt
- Builder charged 20%
- **WRONG!**
- Sch 7A VAT Act 1994 – conversion of non-residential to residential 5% VAT only credit note of £210K

R	R
R	R
R	R
R	R
Basement	



VAT – Construction Industry Reverse Charge

- 1 October 2019
- Applies to construction services between VAT registered businesses (specified services) where payments fall into CIS
- Applies through the supply chain up to BUT not including the supply to the end user



VAT – Construction Industry Reverse Charge

- A VAT registered business that receives a supply of specified services will account for the VAT through its VAT return instead of paying VAT to its supplier



VAT – Construction Industry Reverse Charge

- Example – Commercial premise refurbishment subcontractor charging £20,000 to main contractor
- Main contractor will account for VAT as follows:

Box 1	+ £4,000 ($£20,000 \times 20\%$)
Box 2	nil
Box 3	+ £4,000
Box 4	- £4,000 (input tax recovery)



Specified services

The reverse charge applies only to supplies which are subject to VAT at the standard or reduced rate. The services to which the reverse charge are the same services as those to which the Income Tax Construction Industry Scheme (“CIS”) applies. They extend not only to construction but to alterations or repairs of buildings, some types of electrical and plumbing work, site clearance etc. Examples include:

- Construction, alteration, repair, extension, demolition or dismantling of buildings or structures (whether permanent or not), including offshore installations;
- Construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including walls, road-works, power-lines, electronic communications apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipe-lines, reservoirs, water-mains, wells, sewers, industrial plant and installations for purposes of land drainage, coast protection or defence;



Specified services (cont.)

Specified services (cont.)

- Installation in any building or structure of systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection;
- Internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, repair, extension or restoration;
- Painting or decorating the internal or external surfaces of any building or structure; and
- Services which form an integral part of, or are preparatory to, or are for rendering complete, the services described above including site clearance, earthmoving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works.

The reverse charge will include goods, where those goods are supplied with the specified services.



Excepted Supplies

The following are not included within the definition of construction services:

- Drilling for, or extraction of, oil or natural gas;
- Extraction (whether by underground or surface working) of minerals and tunnelling;
- Boring, or construction of underground works;
- Manufacture of building or engineering components or equipment, materials, plant;
- Machinery, or delivery to site;
- Manufacture of components for systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection, or delivery; to site;
- The professional work of architects or surveyors, or consultants;
- Engineering, interior or exterior decoration or in the laying-out of landscape;



Excepted Supplies (cont.)

- The making, installation and repair of artistic works, being sculptures, murals and other works which are wholly artistic in nature;
- Signwriting and erecting, installing and repairing signboards and advertisements;
- The installation of seating, blinds and shutters; and
- The installation of security systems, including burglar alarms, closed circuit television and public address systems.

The reverse charge will also exclude:

- Businesses that supply specified services to connected parties within a corporate group structure or with a common interest in land;
- Supplies between landlord and tenant or vice versa;
- Supplies that are zero-rated; and
- Supplies to end users.



What Should Business Be Doing

- Review their services and place in the supply chain to establish whether/to what extent they will fall into the reverse charge system
- Need to set up systems and procedures to pay the net amount to suppliers
- Need to set up systems and procedures to apply the reverse charge
- Suppliers still need to raise invoices showing VAT but stating that the recipient accounts for the VAT!
- Suppliers will need to ensure they do not account for the VAT when completing VAT Returns
- Impact

Suppliers – negative VAT cash flow!

Recipients – positive cash flow!



End Users – Who?

- CIS deemed contractors
- Property Investors/Investment Companies/Pension Funds
- Public Bodies /Housing Association
- “We are the end user of Section 55A VAT Act 1994 reverse charge for building and construction services. Please issue us with a normal VAT invoice with VAT. We will not account for the reverse charge.”



End Users – Issues

- Check Customer VAT Registered
- Verify CIS status (www.gov.uk/use-construction-industry-scheme-online)
- Charge of VAT treatment during a contract (golden brick)
- Tax points → single payment controls → tax point date of performance completion or earlier if invoice issued
 - ↓
 - Stage payments (authenticated receipts)

Accounting Entry	Payment Data	VAT treatment
Before 1 October 2019	On or before 31 December 2019	Normal VAT
Before 1 October 2019	On or after 1 January 2020	RC
On or after 1 October 2019	On or after 1 October 2019	RC



Other Issues

- RC cannot be used in conjunction with VAT cash accounting
- Nor in conjunction with any Flat Rate Scheme
- Invoicing – normal rules apply (Reg 14(1)) note invoice that RC applies:

“reverse charge, customer to pay the VAT to HMRC”

or

“reverse charge: S55A VATA 94 applies”



Summary

Ignore CIS and VAT at your peril!

- Both contain significant penalties if you get it wrong
- Significant opportunities to maximise development profit by “right advice at the right time”
- VAT is NOT a “simple tax”



Your Contact



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