

## **Consultation by the Department for Energy Security & Net Zero**

### **Improving the energy performance of privately rented homes: 2025 update**

#### **Response by the Chartered Institute of Taxation**

#### **1. Executive Summary**

- 1.1. The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 20,000 members, and extensive volunteer network, in providing our response.
- 1.2. We are responding briefly to the consultation to request that i) uncertainty is addressed in relation to the tax treatment of the type of work likely to be undertaken by landlords to raise Minimum Energy Efficiency Standards and ii) to note the impact of differing VAT liabilities on the proposed cost cap for the installation of energy saving materials. Although taxation is not the focus of this consultation we believe that it is important to consider tax as part of the review overall to ensure the government's proposals work as intended.

#### **2. About us**

- 2.1. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

- 2.3. The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.
- 2.4. Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

### **3. Introduction**

- 3.1. The government is consulting on improving the energy performance of privately rented homes by amending the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 to raise Minimum Energy Efficiency Standards (MEES). The government's preferred approach is to require landlords to prioritise meeting a standard set against the fabric performance metric, which is likely to require similar 'improvement' measures as meeting an EPC C on current EPCs such as loft and cavity wall insulation and double glazing. Once that standard is achieved, the landlord would need to invest to meet a secondary standard set against either a heating system metric (for example, a heat pump instead of fossil fuel heating system) or a smart readiness metric (such as solar panels, smart meters) depending potentially on the type of property /landlord choice.
- 3.2. Through this consultation, government is seeking views on the proposal that landlords should be required to invest up to a maximum of £15,000 (inclusive of VAT) per property on 'improvements' to meet the standard (the 'cost cap'), after which they could register a 10-year exemption to continue to let the property if it does not reach the standard.
- 3.3. Our stated objective for the tax systems include:
- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
  - Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
  - Greater certainty, so businesses and individuals can plan ahead with confidence.
  - A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
  - Responsive and competent tax administration, with a minimum of bureaucracy.
- 3.4. Government modelling, based on 2024 prices, indicates that on average properties will require between £6,100 and £6,800 worth of investment to meet the higher standard under the preferred metric approach. The government is proposing that the higher standard would apply to new tenancies from 2028 and that all tenancies would be required to be compliant by 2030, subject to penalties for non-compliance.
- 3.5. In terms of existing support for landlords via the tax system the consultation notes (at page 13) that there is a zero-rate of VAT until March 2027 on energy saving measures, such as insulation and low-carbon heating, intended to make it cheaper for people to invest in their properties and reduce their energy usage.
- 3.6. The consultation questions are largely outside our remit. However we are responding briefly to the consultation to request that i) uncertainty is addressed in relation to the tax treatment of work undertaken to reach the standards set and ii) to note the impact of differing VAT liabilities on the proposed cost cap for the installation of energy saving materials including where:

- the current temporary 0% VAT rate reverts to 5% in April 2027; and
- the fact that VAT single and multiple supply rules can result in these supplies being subject to the standard VAT rate (20%) when ancillary to other works of property refurbishment.

3.7. We believe that it is important to consider tax as part of the review overall to ensure the government's proposals work as intended.

#### **4. Tax treatment of work undertaken by landlords to meet the regulatory standards.**

4.1. As the Office of Tax Simplification (OTS) noted in its 'Property income review: simplifying income tax for residential landlords in 2022'<sup>1</sup>, a long-standing area of complexity for taxation of property is whether costs are allowable as a deduction from rental profits as repairs and replacements or represent capital expenditure as improvements and should be disallowed for income or corporation tax. Expenditure on improvements to a property are generally allowable costs in calculating the capital gain when the property is sold.

4.2. We agree with the OTS conclusion that the measures needed to upgrade rental properties will bring the complexity of the repairs and improvements boundary into sharper focus for many taxpayers and agents. Therefore it would be helpful if HMRC and the government could dedicate further guidance to this area (with examples) to provide certainty of their view of the tax treatment of energy efficiency measures.

4.3. HMRC currently accepts that where technology has advanced so that the modern day equivalent is the industry norm, a replacement that may at one time have been regarded as an improvement and therefore not deductible against rental profits is now accepted as being a repair (therefore deductible for income tax). A long standing relevant example in the Property Income Manual (PIM) is replacing single glazed windows with double glazed equivalent windows :

*'Similarly, alterations due to advancements in technology are generally treated as an allowable repair rather than an improvement, if the functionality and character of the asset is broadly the same. For example, when single glazing is replaced with double glazing.'*<sup>2</sup>

The Business Income Manual at BIM35455 also considers changes in technology and materials:

*'It is important to look at the position when the work is carried out. As technology and industry practice change over time, there will be changes in what amounts to simply repairing the asset. Something that was seen as an improvement ten years ago may now be the industry standard for that type of work, for example due to changes in building regulations.*

*If the material used is simply what would normally have been used for that type of job at the time the work was done then it would be likely that this would be seen as a repair. Applying the test set out by Dixon J in the case of Hallstrom's Pty Ltd v Federal Commissioner of Taxation (1946) 72CLR634, at page 648 (see BIM35045) from a practical and business point of view, using that part or that material is simply the way that a repair, to do the same job as before, is done today.'*

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<sup>1</sup> <https://www.gov.uk/government/publications/ots-review-of-residential-property-income>

<sup>2</sup> <https://www.gov.uk/hmrc-internal-manuals/property-income-manual/pim2030>

4.4. While the manual guidance is helpful it recognises that changes in technology and the way that work is carried out will often give the impression that the work may be an improvement (disallowable as capital expenditure) rather than simply a repair (allowable revenue expenditure). Examples of areas of uncertainty might include replacing a conventional boiler with a condensing boiler or with an air source or ground source heat pump, triple glazing replacing single glazing and upgrading insulation. If, as is understood to be the case, replacement of an old boiler with a new boiler to modern standards is a repair, to what extent does the old boiler have to have become unreliable to justify its replacement on a repair basis? We suggest HMRC's guidance on the tax treatment of repairs and improvements is expanded to include dedicated examples of the sort of measures envisaged by the government to remove these uncertainties.

4.5. The OTS report notes (at paragraph 5.24) :

*HMRC have extensive and detailed guidance on the issue of what is a repair in the Property Income Manual and the Business Income Manual. Respondents to the Call for Evidence (see Annex C) noted however that the existing guidance is hard for the unrepresented taxpayer to understand and navigate, and many responses to the OTS Survey noted that the rules for allowable and disallowable repair or improvement expenses are unclear.*

4.6. We suggest therefore that early consideration should be given to expanding HMRC's technical and non-technical guidance for landlords to reflect the type of work landlords are likely to be undertaking to bring their properties up to MEES .

4.7. In terms of the non-technical tax guidance on GOV.UK, more guidance in the [Work out your rental income when you let property](#) and possibly in wider government property guides such as [Renting out your property](#) would be helpful. These are more likely to be read by unrepresented landlords. Using alternative approaches to guidance such as flowcharts to follow through the tax treatment for the most common examples of the work likely to be undertaken would also assist awareness and understanding for unrepresented landlords.

4.8. The consultation notes that the government is keen to encourage landlords to act early and that support, including grants<sup>3</sup>, subject to eligibility rules, is currently available to landlords to improve their properties. We suggest consideration might need to be given to whether the tax treatment coheres with the government's wider policy in this area. As the OTS noted (at paragraph 5.31 of its report) some of the work undertaken to reach the required standards is likely to be capital in nature (such as installing insulation where none previously existed or work undertaken pre-letting by new landlords with no tenant in place to bring a property up to the required MEES standard) and therefore the costs will not be deductible from rental profits. The current approach can appear somewhat inconsistent, for example, where the initial fitting of insulation is treated as an improvement whereas replacement of a minimal level of insulation that is already in place is treated as a repair.

## 5. VAT

5.1. The installation of specified energy-saving materials ('ESMs') in residential accommodation and charitable buildings is currently zero rated for VAT, though that rating ends on 31 March 2027<sup>4</sup>. From 1 April 2027, it will

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<sup>3</sup> <https://www.gov.uk/get-help-energy-bills>

<sup>4</sup> VAT Public Notice 708/6 <https://www.gov.uk/guidance/vat-on-energy-saving-materials-and-heating-equipment-notice-7086>  
Technical/documents/subsfinal/PT/2025

revert to the reduced rate of VAT of 5%. It is not clear whether the proposed increased cost cap has factored in this change in VAT rate.

5.2. It can be common for landlords to undertake further works of refurbishment on their rental properties at the same time as the installation of energy saving materials, so that all works can be completed in a period of non-occupancy by a tenant. Undertaking multiple works at the same time can cause VAT liability issues due to the VAT single and multiple supply rules. Where eligible energy-saving materials are installed at the same time as other goods and services (for example, an extension to the property), the supply by the contractor may be either:

- a single supply subject to a single VAT rate (for example, if all of the energy saving materials are installed in an extension, the whole supply will be standard rated at 20%); or
- a multiple supply, where the individual supplies may be subject to different VAT rates (for example an extension built is standard rated at 20%, although energy saving materials fitted in another area of the property can be zero-rated/reduced rated at 5% in 2030).

5.3. The supply of renting out a domestic dwelling is exempt from VAT. Where a landlord makes VAT exempt supplies, they are not able to recover VAT charged to them on their costs. As the cost cap is a VAT inclusive amount, due to the variable positions on the VAT liability of the installation of energy saving materials as explained above, for some landlords the cost cap will be equivalent to 20/21<sup>st</sup> (95.2%) of the net price of improvements where the costs are all reduced-rated at 5% VAT, though for others, the spend on the works of energy efficiency improvements will be all standard rated at 20%, meaning that only 5/6ths (83.3%) of the cost cap will be spent on works. Some landlords will undertake less works than others to meet the cost cap due to the impact of non-recoverable VAT.

## **6. Acknowledgement of submission**

6.1. We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

16 April 2025