



BRIEFING PAPER

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VAT and churches

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Summary

Construction work to repair buildings – be they homes, commercial structures or historic buildings, including churches – is liable to VAT at the standard rate.

There has been a long-standing campaign to cut the rate of VAT on church repairs, although in the past governments have opposed this on the grounds that it would contravene EU VAT law – specifically, provisions for harmonising VAT rates across Member States. In 2000 the UK made representation that the law should be changed, and the European Commission considered the proposal as part of a general review of reduced VAT rates which was completed in July 2003. Prior to this, in December 2001 the Labour Government introduced the Listed Places of Worship Grant Scheme, to reduce the VAT cost on this type of work to 5 per cent.¹ In the event the European Commission did *not* recommend a lower VAT rate on church repairs,² and despite further lobbying, and some minor changes to the EU VAT rules, there is still no provision to allow a lower rate of VAT for church repairs. In the 2004 Budget the scope of the Listed Places of Worship Grant Scheme was extended allowing churches to reclaim the *full* VAT cost on repair work.³ In 2010, as part of the Spending Review, the Coalition Government amended the rules of the scheme – restoring its original scope to reduce costs, and, from 2011/12, fixing its total budget in cash-terms.⁴

In Budget 2012 the then Chancellor George Osborne announced proposals to address a number of “loopholes and anomalies” in VAT. These amendments to the scope of VAT included removing the zero rate that applied to approved alteration work carried out on listed buildings.⁵ To mitigate the impact of this on church repairs, the Budget report indicated that the Listed Places of Worship Grant Scheme would be extended in light of this proposal,⁶ and the Chancellor announced subsequently that this would consist of £30m extra in funding.⁷

Although the anticipated Exchequer impact of these changes was relatively small,⁸ they proved highly contentious – with a highly publicised campaign to reverse changes to harmonise the VAT treatment of different categories hot takeaway food (the so-called ‘pasty tax’), as well as calls to retain the zero rate for alteration work on listed church buildings. At this time HM Revenue & Customs launched a short consultation exercise, asking for views of stakeholders affected by the changes, to identify any unintended consequences or unidentified impacts.⁹ On 28 June 2012 the Government published its response. As part of this, HMRC confirmed that the zero rate on approved alteration work would be scrapped, although in its assessment, the £30m in extra funding would cover the additional costs this would mean for listed places of worship. In addition transitional arrangements for alteration work that had been in progress at the time of the 2012 Budget would be made more generous.¹⁰ Subsequently in the 2014 Autumn Statement

¹ The scheme was first announced in the 2001 Budget (*Budget 2001*, HC 279 March 2001 p118).

² COM(2003) 397 final, 23 July 2003

³ HC Deb 17 March 2004 c330

⁴ HC Deb 21 October 2010 cc59-70WS. Full details of the scheme are at: <http://www.lpwsscheme.org.uk/>.

⁵ HC Deb 21 March 2012 c801

⁶ *Budget 2012*, HC 1853 March 2012 para 2.179

⁷ HC Deb 17 May 2012 c731

⁸ The Budget report estimated that in total these changes would raise £270m by 2013/14 (*Budget 2012*, HC 1853 March 2012 p50; Table 2.1 – items 27 & 28)

⁹ HMRC, *VAT: Addressing borderline anomalies*, March 2012. The deadline for responses was 18 May.

¹⁰ HMRC, *VAT: Addressing borderline anomalies – summary of responses*, 28 June 2012 pp22-27

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the Government announced a new £15m fund to support the maintenance of church roofs in 2015.¹¹

In April 2016 the European Commission published its 'VAT Action Plan', including plans to modernise the EU legal framework for VAT rates.¹² The Commission published specific proposals to reform the EU rules on VAT rates in January 2018 – in effect, to reverse the current approach:

In addition to a standard VAT rate of minimum 15%, Member States would now be able to put in place:

1. two separate reduced rates of between 5% and the standard rate chosen by the Member State;
2. one exemption from VAT (or 'zero rate');
3. one reduced rate set at between 0% and the reduced rates.

The current, complex list of goods and services to which reduced rates can be applied would be abolished and replaced by a new list of products (such as weapons, alcoholic beverages, gambling and tobacco) to which the standard rate of 15% or above would always be applied. To safeguard public revenues, Member States will also have to ensure that the weighted average VAT rate is at least 12%. The new regime also means that all goods currently enjoying rates different from the standard rate can continue to do so.¹³

There is no firm timetable for these proposals to be agreed, and there is considerable uncertainty as to their relevance for the UK, given the outcome of the EU referendum and the Government's decision in March 2017 to trigger Article 50 – the two-year period for the UK to leave the EU.¹⁴ To date the Government have published no specific details as to the UK's post-Brexit relationship with the EU on VAT, beyond stating its ambition for an agreement on "common processes and procedures" to avoid the need for any new VAT-related border controls on goods moving between the UK and the EU.¹⁵ It has also confirmed that, under the draft Withdrawal Agreement concluded in November 2018, the UK would remain compliant with EU law, including VAT law, during the 'transition period' prior to the implementation of the new, yet to be negotiated, UK-EU partnership arrangements.¹⁶ In turn, this underpins the Government's current position regarding the rate of VAT on church repairs:

Asked by Graham P Jones : To ask the Chancellor of the Exchequer, whether he has plans to remove VAT from services and items included for the repair and maintenance of (a) churches and (b) other religious buildings.

Answered by: Mel Stride : Under the current EU rules, the government cannot remove VAT on the repair and maintenance of places of worship. The government recognises the importance of places of worship in our communities and provides funding to cover the cost of repairs and maintenance of listed places of worship through The Listed Places of Worship Grant Scheme, managed by the Department for Digital, Culture, Media, and Sport.¹⁷

¹¹ *Autumn Statement*, Cm8961, December 2014 para 2.252

¹² European Commission press notice, [VAT Action Plan: Commission presents measures to modernise VAT in the EU](#), 7 April 2016

¹³ European Commission press notice, [VAT: More flexibility on VAT rates, less red tape for small businesses, 18 January 2018](#). The draft proposal is [COM\(2018\) 20 final](#). Full details are on [the Commission's site](#).

¹⁴ For details see, *Brexit timeline: events leading to the UK's exit from the European Union*, [Commons Briefing paper CBP7960](#), 7 November 2018.

¹⁵ HM Government, [The future relationship between the UK and the EU](#), Cm 9593, July 2018 p18

¹⁶ Letter from the Financial Secretary to the European Scrutiny Committee, ["EU legislative proposals on VAT"](#), 5 December 2018; and, European Scrutiny Committee, [Forty-ninth report of 2017-19](#), HC 301 xlviii, 24 December 2018 (specifically, ["6: VAT: exemptions for small businesses"](#) pp48-56).

¹⁷ [PQ190861, 18 November 2018](#)

1. VAT on construction work

The construction of new buildings is charged a zero rate of VAT, provided the supply in question is for a social purpose. In effect, this means that only the construction of new houses, dwellings and buildings with a charitable purpose is zero-rated. Generally VAT is charged at the standard rate - currently 20% - on all repair, renovation and maintenance work whatever the status of the building concerned, although a reduced rate of 5% is charged on the conversion or renovation of some types of residential building. Approved alteration work of certain types of protected buildings has been zero-rated in the past, although this type of construction work has been standard-rated since October 2012.¹⁸

Schedule 8 to the *Value Added Tax Act (VATA) 1994* sets out those goods and services which are zero-rated; group 5 to this schedule covers new construction. Item 2 to group 5 specifies that the construction of “a building designed as a dwelling or a number of dwellings or intended for use solely for a relevant residential purpose or a relevant charitable purpose” may be zero-rated. Group 6 to schedule 8 makes provision for zero-rating certain types of construction work carried out on “protected buildings”: broadly speaking, dwellings or buildings with a charitable purpose that are either listed buildings or scheduled monuments. Following the changes announced in Budget 2012, this relief was withdrawn from 1 October 2012, though relief was retained on a transitional basis for work commenced before the Budget until 30 September 2015.¹⁹

Zero-rating only applied to work that was an ‘alteration’ of a protected building; any works of “repair or maintenance” were specifically excluded (under note 6 to group 6). In most cases this meant work for which listed building consent was needed, because the work would affect the building’s character as a building of special architectural or historic interest. HMRC’s guidance explains that under the old rules, “works of repair or maintenance are those tasks designed to minimise, for as long as possible, the need for, and future scale and cost of, further attention to the fabric of the building”:

Changes to the physical features of the building are not zero-rated alterations if, in the exercise of proper repair and maintenance of the building, they are either: trifling or insignificant, or dictated by the nature and use of modern building materials. Similarly, if the amount of work or cost is significant, that does not make the work a zero-rated alteration if the inherent character of the work is repair and maintenance.²⁰

Under the system of ‘ecclesiastical exemption’, many listed places of worship are not subject to listed building consent, although those

¹⁸ Detailed guidance on the current VAT treatment of construction work is given in, HM Revenue & Customs, [VAT Notice 708: Buildings and construction](#), July 2018, and in HMRC’s online [VAT Construction Manual](#).

¹⁹ Under s196 & schedule 26 of *Finance Act 2012*. The transitional arrangements which apply are discussed in more detail below.

²⁰ *VAT Notice 708*, July 2018 paras 9.4.1

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churches covered by this scheme operate their own controls that follow a Government Code of Practice.²¹

In 2001 the Government introduced some changes to the VAT treatment of construction work to encourage urban regeneration. First, a new reduced rate of 5% was introduced for conversion or renovation work on some types of residential building from 12 May 2001.²² Second, the coverage of the existing zero rate on the construction of new buildings was extended to the sale of a renovated house empty for 10 years or more from 1 August 2001.²³ Notably these changes fell short of a new single VAT rate on all new build, repair and renovation work. Some commentators have argued that equalising the VAT rate on these types of work could be an effective tool to encourage urban regeneration as it would remove an important disincentive for developers to refurbish empty properties.²⁴

²¹ *op.cit.*, para 9.5.4

²² The range of eligible conversions and renovations was extended from 1 June 2002.

²³ For details see sections 5-8 of *VAT Notice 708*.

²⁴ The issue is discussed further in, [VAT on construction, Commons Briefing paper CBP587](#), 3 July 2012.

2. The campaign to reduce the VAT rate on church repairs

The Church of England's General Synod have argued for many years that the rate of VAT on church repairs and maintenance should be cut.²⁵ In January 1998 it published a report by the Council for the Care of Churches on this issue; the Council argued that the VAT treatment of works to church buildings "needs reform for the following reasons":

- charging VAT on repairs fails to recognise the way in which Church and State work in partnership to manage these buildings;
- VAT on repair work encourages unnecessary alterations and discourages the good conservation and ecological practice of respecting existing fabric, rather than replacing it wholesale;
- the distinction between repairs and maintenance on the one hand, and alterations on the other, is artificial and complex to administer;
- since the largest portion of the grant aid available comes from public funds—from English Heritage or from the National Lottery distributors—it is wasteful that much of this money is recycled back to Government through VAT. It has been widely noted that the Government takes more from the VAT charged on restoration works than it contributes in grants through English Heritage;
- charging VAT is a disincentive to potential donors, since people are reluctant to give money which they know will end up being paid as tax.²⁶

The campaign was supported by the Church Commissioners and in the press.²⁷ In November 2000 the Churches Main Committee – a Judaeo-Christian ecumenical body – published a study it had commissioned that suggested that the total amount of VAT paid by all churches for repair and maintenance each year was £38 million (£29m in relation to building repair work, and £8.9m to routine maintenance).²⁸

Subsequently the work was cited in a written answer on the cost of cutting VAT on church repairs:

Mr. Cousins: To ask the Chancellor of the Exchequer if he will estimate (a) the loss of VAT revenue for the proposed reduced rate of VAT on the repair of listed buildings used for worship, (b) the loss of VAT revenue from the conversion of residential properties into a different number of dwellings and (c) loss of revenue arising from the reduced rate of VAT on alterations to protected buildings.

²⁵ "Carey asks for help on church VAT bills", *Times*, 11 February 1998

²⁶ Council for the Care of Churches, *An intolerable burden: the case for VAT reform*, January 1998

²⁷ Stuart Bell, Second Church Estates Commissioner, set out the Commissioners' position in answer to PQs (see, HC Deb 6 November 2000 c18; HC Deb 3 May 2000 c101W). At the time the *Times* newspaper supported the campaign: "Editorial: Treasure in heaven: the Church needs a tax break", 5 April 1999

²⁸ Churches Main Committee, *The impact of VAT on church properties*, November 2000.

Dawn Primarolo: A recent report by the Churches Main Committee suggests that the VAT paid by all churches, including listed churches, for repairs and maintenance is £38 million per year. According to the last English Church Census, there were 16,000 Church of England churches but separate figures were not collected for listed buildings.²⁹

For its part the Conservative Government consistently opposed the introduction of a lower rate of VAT on church repairs. When the issue was debated in the Lords in June 1995 Lord Mackay of Ardbrecknish, then Minister of State for Social Security, explained the reasons behind the Government's position on the issue.³⁰ First, it was the Government's intention that VAT be as broadly based as possible, in the interests of fairness, simplicity and legal certainty. Introducing one new reduced rate would simply encourage those lobbying for other reduced rates, eroding government revenues from VAT and the base of the tax itself. Indeed many other organisations had similar responsibilities to repair heritage property as the Church, and would want similar treatment if any new concession was made. Second, the right way to provide help for the upkeep of historic church buildings was not by making VAT more complex, but by encouraging the donation of funds by individuals (for which there existed tax reliefs), and by grant from bodies such as English Heritage.

²⁹ HC Deb 25 January 2001 cc706-7W

³⁰ HL Deb 21 June 1995 cc268-270

3. The implications of EU VAT law

A third objection to cutting the rate of VAT on church repairs is that would be contrary to European VAT law. Any question of VAT liability has a European dimension, as VAT law in this country, as in all other Member States, is based on European VAT law. As a consequence all Member States have limited discretion in amending their national VAT structure and rates.

In brief, under the current agreement on harmonising the rates of VAT, which was reached in October 1992, no Member State can introduce any *new* zero rates of VAT, though they may continue charging any lower rates, including zero rates, that were in place on 1 January 1991.³¹ In addition Member States have the discretion to charge a reduced rate of VAT - between 5% and 15% - on a specified list of goods and services. One of the items of this list is the "provision, construction, renovation and alteration of housing, as part of a social policy."³² As a consequence, Member States may charge a reduced rate of VAT on repair work for *social housing*, though not to historic buildings or churches.

The European Council has been required to regularly review the list of permitted reduced VAT rates, based on a report by the Commission. In November 1997 the Commission found that the current VAT structure posed no serious problems for the satisfactory operation of the Single Market, and there was no justification for introducing major modifications in these rules. In addition, the Commission argued that reduced VAT rates should be used only for particular social reasons.³³ In an explanatory memorandum, the then Financial Secretary, Dawn Primarolo, stated that, "in general, the UK believes that the widespread use of reduced VAT rates is likely to result in unnecessary complication of the tax, to the detriment of both business and the integrity of the tax itself. The UK does, however, accept that there are some circumstances where a reduced VAT rate may be a useful tool to address specific problems - the recent announcement on the VAT treatment on energy-saving materials is a case in point."³⁴

In October 1999 the European Council agreed to an amendment to these rules to give Member States the *option*, should they wish, to apply a reduced VAT rate to certain 'labour-intensive services', as a means to reduce unemployment; this list of services included the "renovation and repairing of private dwellings, excluding materials which form a

³¹ Directive 92/77/EEC of 19 October 1992. The directive came into effect on 1 January 1993. It is incorporated in the principal VAT directive: [Council Directive 2006/112/EEC](#). For further details see, [VAT : European law on VAT rates, Commons Briefing paper CBP2683](#), 20 May 2016.

³² Item 10 to Annex III of Council Directive 2006/112/EEC. Since 1 January 2000 Member States have had the option to charge a reduced VAT rate on repair and renovation of private dwellings. This is examined in more detail below.

³³ COM(97)559 Final 20 November 1997

³⁴ HM Customs & Excise explanatory memorandum, 17 December 1997. The Minister was referring to the 5% rate on energy-saving materials supplied under the Home Energy Efficiency Scheme, introduced in 1 July 1998.

significant part of the value of the supply.”³⁵ A number of countries took the opportunity to have a reduced VAT rate on this supply, though not the UK.³⁶ However, this provision would *not* have allowed for a reduced VAT rate on church repairs.³⁷

In June 2003 the Commission published a report on the effectiveness of the scheme for reduced rates on ‘labour-intensive’ services, concluding that “it was not possible to find solid evidence of such reductions ... boosting job creation.”³⁸ The next month the Commission published a general review of reduced rates, arguing the range of reduced rates should be harmonised, and that the automatic right of Member States to maintain their transitional derogations should be withdrawn, so as to improve the functioning of the internal market.³⁹ In a memorandum on these proposals the Commission set out its position on the treatment of housing and construction work:

What changes are proposed in the housing sector?

In order to rationalise this complex and chaotic situation and improve the functioning of the internal market, it is proposed to ... allow reduced rates to be applied to the following operations: the supply, construction, renovation, alteration, repair and maintenance of housing; the rental of housing where a Member State does not opt for exemption. These changes not only substantially rationalise the reduced rates on housing but are a significant extension of Member States' option to apply reduced rates in the housing sector.

Under various specific derogations, several Member States are currently exempt from the requirement to apply the reduced rate solely to housing under social policy and apply it to certain operations in the private housing sector as well. There is no definition of social housing at Community level and it has therefore been defined variously in the legislation of different Member States. At the present time, housing is subject to the reduced rate under various measures in ten Member States. The change will also incorporate two categories currently covered by the Directive authorising Member States to apply a reduced rate of VAT to certain labour-intensive services (renovation and repair of private dwellings, and window cleaning and cleaning in private households) ...

Why isn't the Commission proposing to allow a reduced rate for renovation work on historical monuments?

Currently there is only provision for a reduced rate in relation to housing: nevertheless, one Member State (UK) applies a zero rate to certain types of work on historical buildings. However, the standard rate is applicable in the other Member States. It would therefore be appropriate to put an end to this derogation and make the standard rate the norm. There is in fact no need for a reduced rate of VAT in this area: Member States have much more appropriate means at their disposal to finance work on historical

³⁵ under Directive 1999/85/EC. This is consolidated in Article III of Directive 2006/112/EEC: specifically item 10a to Annex III. The consolidated version of the Directive is [here](#).

³⁶ Belgium, France, Italy, Netherlands, and Portugal (HM Customs & Excise explanatory memorandum, 25 January 2000).

³⁷ HC Deb 7 February 2000 c75W

³⁸ COM (2003) 309 final, 2 June 2003 p25

³⁹ COM (2003) 397 final, 23 July 2003. See also, European Commission press notice IP/03/1024, 16 July 2003

buildings (direct subsidies or full cover for work carried out, grants to owners of listed buildings not used as housing, etc.).⁴⁰

From the UK's perspective the Commission's proposals were controversial as they did not allow for certain zero rates to be maintained, including the zero rate on children's clothing, something the Government regarded as unacceptable.⁴¹ Other Member States expressed strong reservations and a final agreement was not reached until February 2006: a minimalist package that allowed for existing reduced and zero rates to continue, and a technical change to allow an existing provision for a reduced rate on domestic supplies of fuel and power to cover supplies of district heating.⁴²

In July 2008 the Commission proposed some minor additions to the list of goods and services that could be charged a reduced rate. Notably the Commission suggested that States should be allowed to charge a reduced rate on the supply of all housing – not just housing linked with a social policy – and on the “renovation, repair, alteration, maintenance and cleaning of housing and of places of worship and of cultural heritage and historical monuments recognised by the Member State concerned.”⁴³ Reaching agreement proved difficult once more. In March 2009 European Finance Ministers finally agreed to make two small additions to this list (restaurant services and books on all physical means of support), and to put the scheme for ‘labour intensive services’ on a permanent footing. No change was made to the scope of these provisions as they apply to VAT and construction – such as extending their scope to include the repair of churches.⁴⁴

In December 2010 the Coalition Government stated that it saw “no realistic prospect” of an EU-wide agreement to allow for historic church repairs to be zero rated:

Henry Smith: To ask the Chancellor of the Exchequer if he will seek agreement from the Council of Ministers to zero-rate value added tax on repairs to historic church buildings.

Mr Gauke: EU legislation agreed by successive Governments does not provide any scope for the introduction of new zero rates or the extension of existing zero rates. There is therefore no realistic prospect of securing agreement to the introduction of a new zero rate for repairs to historic church buildings. However, the Department for Culture, Media and Sport operates a scheme which makes grants equivalent to the VAT incurred in making repairs to listed buildings primarily used for worship. The Listed Places of Worship Grant Scheme will continue until 2014-15 with a fixed annual budget of £12 million.⁴⁵

⁴⁰ European Commission memorandum MEMO/03/149, 16 July 2003

⁴¹ HM Customs & Excise, *Explanatory memorandum on COM(2003) 397 final*, 29 August 2003 paras 16-17

⁴² Directive 2006/18/EC of 14 February 2006

⁴³ COM(2008) 428 final & European Commission press notice IP/08/1109, 7 July 2008

⁴⁴ As noted in answer to a PQ at the time: HC Deb 19 March 2009 c1048. These changes took effect from 1 June 2009, under Directive 2009/47/EC.

⁴⁵ HC Deb 1 December 2010 c845W

4. Budget 2012 : VAT on alteration work to listed buildings

In his Budget speech on 21 March 2012 the then Chancellor George Osborne announced proposals to address a number of “loopholes and anomalies” in VAT:

We will also address some of the loopholes and anomalies in our VAT system. For example, at present soft drinks and sports drinks are charged VAT, but sports nutrition drinks are not. Hot takeaway food on the high streets has been charged VAT for more than 20 years, but some new hot takeaway products in supermarkets are not. Some companies are using the VAT rules that exempt the rental of land to avoid the tax that their competitors are paying. We are publishing our plans today to remove loopholes and anomalies, but we will keep the broad exemptions on food, children’s clothes, printed books and newspapers.⁴⁶

Taken together it was estimated these changes to VAT liability would raise £270m by 2013/14.⁴⁷

One change which the Chancellor did not mention in his speech was to remove the zero rate for approved alteration work to listed buildings. It was estimated that by itself this would raise £35m by 2012/13, rising to £85m in 2013/14; more details of the change and its impact, particularly on churches, were given in a Budget note:

The repair and maintenance of a protected building is standard-rated, but the approved alteration of a protected building is zero-rated. Some alterations restore or enhance the unique character of a building or prolong its active life, but most work covered by the relief is extension work which is unnecessary for heritage purposes. Alteration work on other types of building is standard-rated so owners of listed buildings receive a tax advantage over owners of other types of building ...

The measure will result in i) all building materials and construction services supplied in the course of an approved alteration to a protected becoming subject to VAT at the standard rate and ii) a narrowing of the circumstances in which the first sale or long lease by a developer of a substantially reconstructed protected building can be zero-rated, so that only buildings reconstructed from a shell continue to benefit from the zero rate ...

Removing the zero rate removes a perverse incentive to change listed buildings rather than repair them and ensures that all alteration works receive the same tax treatment. The change makes the VAT rules simpler for businesses to understand and for HM Revenue & Customs (HMRC) to administer and reduces the scope for error and non-compliance ...

There are an estimated 350,000 listed dwellings in the UK. It is estimated that around 10,000 individuals and households may be affected each year by the measure, with the additional costs from

⁴⁶ HC Deb 21 March 2012 c801

⁴⁷ *Budget 2012*, HC1853, March 2012 p50 (Table 2.1 – items 27 & 28)

the VAT change varying according to the extent of work undertaken ... There are an estimated 35,000 to 50,000 listed buildings owned by businesses or charities used for a residential or charitable purpose. It is estimated that around 1,000 businesses and charities may be affected each year ...

Listed places of worship will ... be affected by the change, although our evidence suggests that places of worship form only a small minority of the total number of listed properties in the UK. These will be predominantly used by Christian denominations. In order to mitigate the impacts on these groups the DCMS is expanding the existing Listed Places of Worship Grant Scheme which refunds the VAT on repairs and maintenance work, so that this includes approved alterations to listed buildings.⁴⁸

The Government also proposed that approved alterations which were under way would be entitled to transitional relief. Anti-avoidance legislation would be included in the *Finance Bill* to prevent developers obtaining zero-rating for work contracted on or after Budget day, but performed on or after 1 October 2012.⁴⁹ Details were given in a consultation document published alongside the Budget; in the case of this type of construction work, HMRC asked for views on both the impact of removing the zero-rate, and on its proposals for transitional relief.⁵⁰ The deadline for responses was 18 May 2012.⁵¹

The Government's proposals to address these 'loopholes and anomalies' proved very contentious.⁵² Focusing on the proposed withdrawal of the zero rate on alteration work, concerns about the potential impact on churches were raised by clergy, charities and by Members.⁵³ An 'e-petition' calling for VAT relief to be retained was signed by just over 28,000 people, and on 16 April David Anderson MP tabled an EDM supporting the petition which 38 Members signed.⁵⁴ The issue was raised during the second reading debate on the Finance Bill when the then Chief Secretary to the Treasury, Danny Alexander, said, "on churches ... we will increase the listed places of worship scheme by £5 million a year, precisely to enable churches that have alterations to benefit from the scheme and not to be adversely affected."⁵⁵ The Church Commissioners made a submission to the Treasury, raising concerns that this would be "an insecure and inadequate solution" and

⁴⁸ HMRC, [VAT: approved alterations to listed buildings](#), March 2012

⁴⁹ HC Deb 21 March 2012 c57WS. These provisions are now contained in s195 and Schedules 26-7 of the [Finance Act 2012](#).

⁵⁰ HMRC, [VAT: Addressing borderline anomalies](#), March 2012 pp 23-28

⁵¹ Initially this deadline was 4 May, but was extended to 18 May "in recognition of the wide interest in these proposals" (HC Deb 30 April 2012 c1212W). Treasury Minister David Gauke announced this change to the House on 18 April (HC Deb cc441-2).

⁵² For more details see, [VAT: Budget 2012 changes to loopholes and anomalies](#), Commons Briefing paper CBP6298, 3 September 2013

⁵³ "VAT bills will put cathedrals in jeopardy", *Sunday Times*, 15 April 2012; "Ditty by dean's wife joins chorus of disapproval", *Financial Times*, 17 April 2012.

⁵⁴ [E-Petition no.32229](#), May 2012 & [EDM 2954 of 2010-12](#), 16 April 2012. 32 Members signed a second EDM calling for this measure to be reversed ([EDM 2979 2010-12](#), 18 April 2012).

⁵⁵ HC Deb 16 April 2012 c30

that the potential VAT cost faced by the Church of England could be as much as £20m a year.⁵⁶

Speaking for the Government in a short Lords debate a few days later, Lord Sassoon indicated that additional funding could be provided if there was evidence that the financial impact was greater than £5m: “we accept, having seen the churches' numbers, that the VAT change will indeed be more than £5 million and that we need to commit more money, and discussions will continue next week to look at what the projected numbers and our commitment should be.”⁵⁷

Following the Queen’s Speech and the start of the new Session, the then Chancellor, George Osborne, announced that the Government would provide an extra £30m a year for the scheme – during a debate on the Address on 17 May 2012:

Tony Baldry: ... The Chancellor said that he hoped that the VAT on alterations to listed buildings would not have an impact on listed places of worship. The churches estimate that the tax will cost them £20 million a year. Would my right hon. Friend be kind enough to update the House on what he is proposing to do to assist listed places of worship?

Mr Osborne: First, I pay tribute to my hon. Friend for his work as Second Church Estates Commissioner. He has been in discussions with me and the Treasury about how to make sure that we live up to the commitment I gave in the Budget that Churches and other places of worship would not be impacted by the introduction of VAT on alterations to listed buildings. Of course, it is already charged on repairs to listed buildings. I have been in discussions with my hon. Friend and with the Bishop of London, whom the Churches asked to lead on that work, and I confirm that we have reached agreement.

The Government will provide £30 million of grant to the listed places of worship scheme. That will be 100% compensation, exactly as we promised in the Budget, for the additional cost borne by churches for alterations. It should also go a long way towards helping the situation on repairs and maintenance, where in recent years they have not been able to get 100% compensation. We think it will deliver 100% coverage for repairs and maintenance. I thank my hon. Friend and the churches for working with us on delivering what we promised in the Budget.⁵⁸

The Chancellor’s announcement was widely welcomed by campaigners.⁵⁹ Subsequently the Government announced certain other changes in its approach to applying VAT consistently to holiday caravans, and to hot takeaway food – the two other elements of this reform package that proved most contentious.⁶⁰

⁵⁶ The Second Church Estates Commissioner (Tony Baldry MP) mentioned this in the House of 26 April (HC Deb 1093), and the submission itself was deposited in the Commons Library ([DEP2012-0703, 26 April 2012](#)).

⁵⁷ HL Deb 24 April 2012 c1682. See also, HC Deb 26 April 2012 c1071W

⁵⁸ HC Deb 17 May 2012 c731

⁵⁹ “Chancellor puts £30m in the collection plate for VAT bills”, *Times*, 18 May 2012; [EDM 110 of 2012-13](#), 22 May 2012

⁶⁰ *Letter from the Exchequer Secretary to the Treasury, David Gauke MP to the Chairman of the Treasury Select Committee, Andrew Tyrie MP*, 28 May 2012

On 28 June 2012 Treasury Minister David Gauke announced the outcome of HMRC's consultation.⁶¹ Zero-rating on approved alterations had gathered more responses than any other of these measures: 818 out of a total of 1,493 – though a proportion of these were enquiries about the coverage of zero-rating:

A large number of the responses (135) were in fact enquiries, either about the VAT treatment of works under the current VAT rules, or about how specific projects would be affected by the changes. Most of these were from private individuals either altering or repairing domestic properties. In some cases the enquiries demonstrated a poor understanding of the current rules and suggested that some repair work is incorrectly being treated as zero-rated.⁶²

Many respondents commented on the proposals for a transitional period to allow zero-rating to extend until 20 March 2013 for certain types of project:

The draft legislation as proposed in the consultation document included transitional relief for i) works of approved alterations where a written contract was in place before Budget day and ii) the first grant of a substantially reconstructed protected building where three fifths of the reconstruction is an approved alteration and where, before Budget day, either 10% of the reconstruction had been completed or a written contract had been put in place. The proposed transitional period in all cases would last until 20 March 2013.

A large number of respondents commented on the transitional arrangements. Almost all of these argued that the transitional arrangements were insufficient to provide relief for all projects already underway at the time of the Budget announcement. Some responses indicated that certain projects had been temporarily halted and others may not be completed due to the unanticipated funding shortfall caused by the VAT increase. Many responses felt that the requirement to have a written contract for approved alterations work in place before Budget day was too restrictive as the construction work is the final phase in a project which can also include lengthy planning and in some cases fundraising phases, both of which involve the owner or developer incurring costs.⁶³

In turn, the Government proposed that these arrangements should be more generous, but did not change their position on removing this zero-rate:

Having specifically invited comments on the point, the Government will amend the transitional arrangements to make them more generous and provide relief to more projects already underway at Budget by specifying an earlier trigger point for projects to benefit from transitional relief and by extending the length of the transitional period. We have considered a number of options and concluded that in order to be fair, the trigger point should apply equally to all types of project.

⁶¹ [HC Deb 28 June 2012 c21WS](#)

⁶² HMRC, [VAT: Addressing borderline anomalies – summary of responses](#), 28 June 2012 para 2.6.2

⁶³ *op.cit.* para 2.6.8-9

Projects will therefore now also continue to benefit from zero-rating if listed building consent (or the equivalent approval for listed places of worship) had been applied for before 21 March 2012 (Budget day). This is in addition to the works which qualify because there was a written contract in place before Budget day or because it was a substantial reconstruction project meeting the 10% test. The Government will also extend the end of the transitional period to 30 September 2015, allowing qualifying projects to continue to benefit from zero-rating for 3½ years, or 4 summers. This should ensure that the majority of qualifying projects underway at Budget should qualify for transitional relief...

HMRC are of the view that there remains a strong case for removing a relief that is illogical and poorly targeted. The VAT system is not the most effective vehicle for achieving targeted policy objectives, such as bringing listed buildings back into use. Removing the zero rate for approved alterations work reflects the Government's view that support for the heritage, and public money for such objectives, is better channelled through expenditure rather than poorly targeted tax reliefs, especially when public finances are tight ... It is logical to extend [the Listed Places of Worship Grant scheme] to alterations, when the VAT treatment of alterations and repairs is put on the same footing, and the government has agreed to increase this fund by £30m a year. The Government is confident that this will cover the additional costs borne by listed places of worship following the VAT change.⁶⁴

Further details of the transitional arrangements were published the following month.⁶⁵

As noted, initially it had been estimated that scrapping the zero rate would raise £35m in 2012/13, rising to £85m in 2013/14. HMRC estimated that the new transitional arrangements would cost around £5m in each year.⁶⁶

To make these changes, the Government put down a new schedule to the *Finance Bill*, which was debated and approved at the Bill's report stage of 3 July. On this occasion Treasury Minister David Gauke argued that this change showed "that the Government are willing to listen to practical concerns and to amend the proposal accordingly, without undermining the rationale for the measures." Speaking for the Opposition Catherine McKinnell MP argued that there should not be any changes to "VAT exemptions until [the Government] have ... worked out exactly what the impact of any change would be on jobs, living standards and business," though the Government refused to undertake any further formal research on the issue.⁶⁷

In his speech Mr Gauke touched on the Government's decision to increase the funding for church repairs, through the Listed Places of Work Grant Scheme:

⁶⁴ *op.cit.* para 2.6.14-5, para 2.6.24

⁶⁵ HMRC, [VAT: approved alterations to listed buildings - VAT Information Sheet 10/12](#), August 2012. See also, HMRC VAT Construction Manual – from [para 08900](#) on.

⁶⁶ HMRC, [VAT Information Sheet 10/12](#), August 2012 *op.cit.* p55

⁶⁷ HC Deb 3 July 2012 c784, c785. The new schedule was approved by 311 votes to 230 (HC Deb c830).

For listed buildings, the borderline between alteration and repair or maintenance is a major source of confusion. The Budget announcement has no impact on the repair and maintenance of listed buildings, which have always been liable to VAT, so there will be no change to the VAT treatment of repairs to thatched roofs or steeples, contrary to what has been reported in the press. The Budget decision also reflects our view that grants can provide a more flexible mechanism than VAT for providing specific financial support for the heritage sector. We have increased the funding for the listed places of worship scheme and broadened its scope so that churches and other listed places of worship can claim grants to offset the impact of VAT on their alterations, repairs and maintenance.

The Budget proposal for alterations to listed buildings includes transitional arrangements, and, following the consultation, we have decided to make these more generous. As with the Budget proposal, the transitional arrangements will cover cases where written contracts had been entered into before Budget day 2012 or, in the case of the first grant of buildings that have been substantially reconstructed, where 10% of the work had been completed before Budget day.

We have now agreed that they should also apply where listed building consent had been applied for before the Budget, and the transitional arrangements will be extended so that, where a project qualifies, zero rating can apply until 30 September 2015. These extensions will mean that the zero rate will continue to apply for most alteration projects where work was close to starting at the time of the Budget announcement ⁶⁸

On this occasion Catherine McKinnell asked the Minister if the Government had “received any expressions of concern about churches, which often rely on fundraising to undertake works, having to raise additional money, which they will then have to reclaim from Her Majesty’s Revenue and Customs, or about the additional burden that this will place on what are already quite stretched resources?” In response Mr Gauke said:

I understand the point the hon. Lady raises ... She is suggesting that in order to fund a project, a church group would need to fund the cost, plus 20%. That is not how it should work, because the scheme will be sufficiently flexible to ensure that a church group will have the funding in time, so that it does not have to raise an additional 20% or so.

I have had considerable conversations with Church representatives on this issue, and I am not getting representations that they are concerned about that point. ⁶⁹

⁶⁸ HC Deb 3 July 2012 c779

⁶⁹ HC Deb 3 July 2012 c780

5. The Listed Places of Worship Grant Scheme

Initially the Labour Government opposed the introduction of a reduced VAT rate on church repairs, for reasons set out by the then Paymaster General, Dawn Primarolo, in an adjournment debate in November 1999:

It is important to set out how much relief, in total, goes to churches and charities. It would be wrong to pick on one area and make it sound as if the Government are not doing anything and have not done anything since the 1997 election because, in practice, churches are generally exempt from direct tax on all their income and gains and enjoy business rate relief, which also extends to religious bookshops run by a church or other religious charities ...

The Government want to create an environment in which charities can succeed, not by raising money for them, but by creating a framework in which they can concentrate on their core activities. The tax system already recognises the vital role that charities play. Charities receive over £2 billion of tax reliefs every year--a substantial amount of which goes to churches--including more than £1 billion of relief from direct tax and £200 million of relief from VAT ...

As I said to my hon. Friend [Stuart Bell MP, who secured the debate], the existing European tax law does not currently let church repairs qualify for a reduced or zero rate of VAT. He rightly referred to the £20 million in conservation grants being offered to listed churches by English Heritage and the heritage lottery fund joint church grants scheme. Since the launch of the scheme, assistance has been given to several churches. In addition, if a church is holding a one-off fund-raising event--for example, to repair the church steeple--the event will be covered by a tax exemption.

VAT covers everybody, including businesses, charities and churches. It is important that the tax works fairly for everyone and that we do not, with good intentions for some people, build into the system ways in which others have access to relief when they should not.⁷⁰

In his Pre-Budget Statement on 8 November 2000, the then Chancellor Gordon Brown announced a change in the Government's policy: "to assist the upgrading of listed buildings that are central to community life in all parts of the country, I can ... announce that we are today asking the European Commission to reduce VAT from 17½ per cent. to 5 per cent. for repairs to churches."⁷¹ As a first step the Government made representation to the Commission "to ask for consideration of early legislative proposals to add repairs, maintenance and improvements to listed places of worship to the list of permissible reduced rates."⁷² In February 2001 the Commission indicated that it would consider the proposal as part of its general review of reduced VAT rates in 2003.⁷³

⁷⁰ HC Deb 17 November 1999 c 115

⁷¹ HC Deb 8 November 2000 c 318; *Pre-Budget Report* Cm 4917 November 2000 p 134

⁷² HC Deb 16 November 2000 c 759W

⁷³ HC Deb 7 February 2001 c 622W

In his March 2001 Budget speech Mr Brown confirmed the Government would consult on the details of a grant scheme to compensate churches for the VAT cost of repairs:

In both urban and rural areas, our churches are essential features of our community life and are at the heart of our rich heritage as a nation. To help preserve that heritage and to cut the costs of saving and repairing our listed church buildings, we will introduce for repairs started after 1 April a new grant, which is the equivalent of a VAT reduction from 17½ per cent. to 5 per cent. - a reform long sought after by congregations across the country.⁷⁴

Arts Minister Baroness Blackstone launched the Scheme on 4 December 2001:

Baroness David asked Her Majesty's Government: When the new grant to assist repairs and maintenance to listed places of worship will be launched.

Baroness Blackstone: I have today launched this grant, entitled the Listed Places of Worship Grant Scheme. Documentation relating to the new scheme is now available and may be obtained through the scheme's telephone hotline (0845 601 5945; calls charged at local rate), website (www.lpwscheme.org.uk) or by writing to: Listed Places of Worship Grant Scheme, PO Box 609, Newport NP10 8QD. This new grant will provide much-needed public support for these historic buildings. The scheme underlines the value this Government place on our important historic environment.⁷⁵

No cap was set on the Scheme; all listed places of worship that meet the criteria would be entitled to receive a grant. Initial estimates were that the Scheme could be worth up to £30 million a year.⁷⁶ The original features of the Scheme were as follows:

- applies only to repairs and maintenance to listed buildings that are used principally as places of worship
- applies to listed places of worship throughout the UK
- applies to listed places of worship of all religions
- applies to places of worship owned by or vested in a number of specified organisations which look after redundant churches
- is non-discretionary
- covers work carried out on or after the 1st April, 2001
- only accepts applications made in arrears; and
- uses the difference between the VAT paid (normally 17.5%) and 5% to calculate the grant allowed.

The Church Commissioners welcomed the Scheme,⁷⁷ though continued to lobby at a European level for a suitable amendment be made to EU VAT law.⁷⁸

⁷⁴ HC Deb 7 March 2001 c300. see also, Dept for Culture, Media & Sport press notice 61\2001, 7 March 2001

⁷⁵ HL Deb 4 December 2001 c129WA

⁷⁶ DCMS press notice 313/01, 4 December 2001; HC Deb 4 December 2001 cc198-9W

⁷⁷ HC Deb 21 January 2002 cc612-4

⁷⁸ HC Deb 7 April 2003 c17

In the 2004 Budget the Labour Government announced that the Scheme would refund the *full* VAT cost on eligible repair work for the following two years:

The Government has been negotiating with its European partners on a review of the EU rules governing VAT reduced rates. It remains one of the Government's clear objectives to achieve a permanent reduced rate of VAT for repairs to listed places of worship, which would offer the permanence, simplicity and certainty that a grant scheme cannot. However, against a background of success, with around 4,500 listed places of worship having benefited from congregations spending over £140 million since 2001, the Government is keen to promote even greater take-up of the scheme to help tackle any backlog of repairs and promote the upkeep of Britain's historic places of worship. Therefore, for spending from 1 April 2004 until March 2006, unless a permanent VAT reduced rate is achieved earlier, grants will be paid to cover all the VAT on the repair and maintenance of listed places of worship.⁷⁹

Subsequently the Labour Government extended the lifetime of the scheme – first to the end of 2008, in the 2005 Budget, and then to the end of 2010/11 in the 2006 Budget.⁸⁰ At this time the scheme was widened slightly, to include expenditure that had previously been ineligible for relief: specifically, architect and surveyor fees, along with some church fixtures and fittings.⁸¹ Over this period the Labour Government said that it would continue to lobby for a change in the EU VAT rules, though it resisted calls to extend the grant scheme, either to non-listed places of worship, or to listed buildings other than churches.⁸² The purpose of the scheme was underlined in a written answer in October 2006:

Mr. Carmichael: To ask the Chancellor of the Exchequer (1) what discussions he has had with other EU countries about extending VAT relief to church buildings which are not listed; (2) what assessment he has made of the merits of extending VAT relief to church buildings which are not listed.

Dawn Primarolo: European agreements governing the application of VAT reliefs mean that while the UK can retain its existing VAT zero rates, such as those for approved works of alteration to certain listed buildings, we cannot extend them or introduce new ones. It is therefore not possible to zero-rate alteration or repair work carried out to unlisted church buildings. Furthermore, the same agreements do not allow for the application of reduced rates in this area.

The Government recognise that listed places of worship are not just an essential part of our religious life but an important part of the history and fabric of our country, and that the need to use specialist craftsmen and costly materials means their upkeep can be a heavy burden, particularly on small congregations.

⁷⁹ *Budget 2004*, HC 301 March 2004 para 5.76

⁸⁰ *Budget 2005*, HC 372, March 2005 para 5.89; *Budget 2006*, HC 968, March 2006 para 5.75

⁸¹ Dept for Culture, Media & Sport press notice 041/06, 28 March 2006

⁸² HC Deb 15 June 2005 c397W; HC Deb 4 April 2005 c1168W; HC Deb 23 June 2005 c1127W

That is why the Government have pressed the case at EU level for their repair and maintenance to be added to the supplies for which a reduced rate of VAT is available. However, while we recognise the importance of all places of worship within their communities, we also recognise that listed status means that the special architectural or historic interest in the church in question has been acknowledged and as such special tax treatment is justified on this basis.⁸³

Although there were changes in the EU rules regarding VAT rates over this period, no provision was made for any Member State to introduce a reduced rate of VAT on church repairs. In a written answer on the Listed Places of Worship Scheme, prior to the last amendment of the EU VAT rules in 2009, the Labour Government stated that it would keep the future life of the scheme under review, in the light of any changes to these rules.⁸⁴ In March 2010 it simply stated that the future of the scheme beyond March 2011 would be “considered in the spending review later this year.”⁸⁵ At this time Dai Havard put down an EDM, signed by 54 Members, calling for the Scheme to be extended.⁸⁶

In the days before the publication of the Coalition Government’s Spending Review on 20 October, the Department for Culture, Media & Sport (DCMS) announced that the original scope of the scheme would be restored from January 2011 to reduce costs, though the scheme’s future after March 2011 was still under review:

At the moment listed places of worship, of any faith or denomination, can claim a grant equal to the VAT paid on eligible works. However, following discussions with church bodies, it has been agreed to return the scheme to its original scope of eligibility which will exclude works on clocks, pews, bells, organs and professional services such as architects’ fees, for the rest of this financial year. The future of the scheme beyond this year is still under review, and will be resolved as part of the CSR process ... The changes will come into effect from 4 January and will apply until the current end date of the scheme, 31 March.⁸⁷

In the Spending Review DCMS announced that a fixed sum *had* been allocated to continue the scheme for a further four years, until 2014/15: “in line with previous announcements, from January 2011 we will be returning this scheme to its original scope of eligibility and these restrictions will also apply for the next spending review period.”⁸⁸ In the New Year the Department announced new arrangements for the Scheme for 2011/12 and beyond. The total budget for the Scheme would be fixed in cash-terms, and each quarter the sum of money available would be divided between eligible claims on a pro-rata basis.⁸⁹

⁸³ HC Deb 31 October 2006 c321W

⁸⁴ HC Deb 10 February 2009 c1851W

⁸⁵ HC Deb 30 March 2010 c1049W

⁸⁶ [EDM 1209 of 2009-10](#), 30 March 2010

⁸⁷ DCMS press notice 094/10, *Savings measures announced for Listed Places of Worship grant scheme*, 7 October 2010

⁸⁸ HC Deb 21 October 2010 cc59-70WS; see also, HC Deb 25 October 2010 c5. Data published alongside the statement indicated that the Scheme would be allotted £10.8 to £11.6m each year over the next four years: DCMS, *Spending Review Settlement Data : allocations by spend*, October 2010

⁸⁹ At the time details were published on the DCMS site, though Ministers do not appear to have issued a press notice or written statement.

The change was just mentioned briefly at Church Commissioners Questions in April 2012.⁹⁰

As noted, in July 2012 the Government announced it would increase the annual budget of the Scheme by £30m and amend its scope to fully compensate churches for the impact of removing VAT relief from alteration work. In September 2013 the Government announced some changes to its scope, to apply from 1 October 2013: works to pipe organs, turret clocks, bells and bell ropes would be eligible for claims under the scheme, as well as professional services directly related to eligible building work such as architect fees.⁹¹ Subsequently in the 2014 Autumn Statement the Government announced the introduction of a separate fund to support the maintenance of church roofs.⁹² This second scheme was not open-ended, and has since closed,⁹³ although the original Scheme continues to receive bids. At present the [Scheme's site confirms](#) annual funding of up to a maximum of £42m is guaranteed until March 2020.⁹⁴

⁹⁰ HC Deb 5 April 2011 c893. See also, HC Deb 20 January 2012 cc984-5W, HC Deb 14 June 2011 c673W; HC Deb 7 September 2011 c615W; HC Deb 30 January 2012 c378-9W. Details of the number of applications received and grants made up to 2011/12 were given in answer to a PQ: [HC Deb 25 June 2012 cc25-6W](#)

⁹¹ DCMS press notice, [Listed Places of Worship Grant Scheme extended](#), 20 September 2013

⁹² *Autumn Statement*, Cm8961, December 2014 para 2.252

⁹³ [PQ909029, 2 March 2017](#)

⁹⁴ See also, [HL Deb 14 May 2018 c412](#)

6. Recent developments

In April 2016 the Commission published its [‘VAT Action Plan’](#) setting out a series of measures to amend EU VAT rules – including two options to change the legal framework for VAT rates:

One option would be to maintain the minimum standard rate of 15% and to review regularly the list of goods and services which can benefit from reduced rates, based on Member States' input.

The second option would abolish the list of goods and services that can benefit from reduced rates. This would, however, require safeguards to prevent fraud, avoid unfair tax competition within the Single Market and it could also increase compliance costs for businesses. Under both options, the currently applicable zero and reduced rates would be maintained.⁹⁵

The Commission also proposed wider reforms to the way cross-border trade would be treated for VAT ...

The current VAT system needs to be modernised to keep pace with the challenges of today's global, digital and mobile economy. The current VAT system for cross-border trade which came into force in 1993 was intended to be a transitional system and leaves the door open to fraud. The Commission therefore intends to come forward in 2017 with a proposal to put in place **definitive rules for a single European VAT area**. Under the new rules, cross-border transactions would continue to be taxed at the rates of the Member State of destination ('destination principle') as today, but the way taxes are collected would be gradually changed towards a more fraud-proof system. At the same time, an EU-wide web portal would be implemented to ensure a simple VAT collection system for businesses and a more robust system for Member States to gather revenue.

... and anticipated that it would bring forward legislation on these two elements of the Action Plan in 2017.⁹⁶

The Commission published proposals regarding the definitive VAT system in October 2017⁹⁷ and for new rules regarding VAT rates in January 2018.⁹⁸ In the latter case it is envisaged that Member States would be free to apply reduced or even zero-rates of VAT to any good or service, except for those specifically listed:

How will Member States set their VAT rates in future, according to your proposal?

While a minimum standard VAT rate of at least 15% will continue to apply, the harmonised and less restrictive rules will enable all Member States to apply a range of rates to products:

1. two separate reduced rates of between 5% and the standard rate chosen by the Member State;
2. one exemption from VAT (or 'zero rate');

⁹⁵ European Commission press notice IP16-1022, [VAT Action Plan: Commission presents measures to modernise VAT in the EU](#), 7 April 2016

⁹⁶ European Commission press notice IP16-1022, 7 April 2016; see also [Action Plan on VAT: Questions and Answers \(MEMO16-1024\)](#), 7 April 2016.

⁹⁷ [European Commission press notice IP17-3443, 4 October 2017](#)

⁹⁸ [European Commission press notice IP18-185, 18 January 2018](#)

3. one reduced rate set at between 0% and the reduced rates.

At the same time, the Commission proposes to abolish the list of goods and services to which reduced rates can currently be applied. Instead, there is now a list of products to which reduced rates cannot be applied, ensuring that products such as alcohol, weapons, tobacco and gambling will always be taxed at the standard rate or above. That will give Member States more freedom in setting VAT rates, as per their request.

Safeguards will be introduced to avoid potential risks like revenue erosion, distortion of competition, unnecessary complexity and legal uncertainty. Member States will be required to ensure that reduced rates benefit the final consumer and, in order to protect revenues, that the average VAT rate applied to those transactions for which VAT cannot be deducted always exceeds 12%.⁹⁹

In February 2018 the Government published a memorandum on the draft text expressing support for this plan, adding that it had started a 'mapping exercise' to ensure that the UK's existing range of zero and reduced rates could be retained under the proposal:

Currently, Annex III of the VAT Directive provides an exhaustive list of goods and services eligible for reduced rates. This would be replaced with a new Annex IIIa which would provide a list of goods and services to which the standard rate of VAT must be applied. In contrast with the current rules, Member States would be permitted to apply reduced rates to all goods and services not included in the proposed Annex IIIa. The Commission's Explanatory Memorandum indicates that the new Annex IIIa list would include supplies of excisable goods, and supplies of services, which if subject to reduced or zero-rates could lead to distortions of competition ...

The Government has therefore begun a mapping exercise in order to identify how the categories included in the proposed Annex IIIa and the intended classification of products by activity codes, align with the UK's existing zero and reduced VAT rates. As a proposal intended to grant Member States greater flexibility in the setting of their domestic VAT rates, it is important that full consideration is given to aspects of the proposed changes which may result in the inadvertent loss of Member State autonomy in this respect. It is unlikely that Member States will be willing to agree to any changes that force them to remove or amend their existing reduced and zero rates.¹⁰⁰

The Government did not give any date for the proposal being agreed, although it observed that "previous discussions on VAT rates have shown that Member States hold a wide range of views and therefore, swift progress ... is unlikely."¹⁰¹

In April 2018 the European Scrutiny Committee published a report on the Commission's proposals to implement the VAT Action Plan, underlining the fact that it was very difficult to ascertain what impact, if any, the new rules on VAT rates might have in the context of Brexit:

⁹⁹ European Commission, [Q&As on the VAT package \(MEMO18-186\)](#), 18 January 2018

¹⁰⁰ HM Treasury, [Proposal for a Council Directive amending Directive 2006/112/EC as regards rates of VAT – explanatory memorandum](#), 8 February 2018 para 3, 23

¹⁰¹ *op.cit.* para 32

For the UK, the implications of the [draft rates directive] ... are inextricably linked to its post-Brexit relationship with the EU's common VAT area after Brexit. If the UK, as a 'third country' like Norway, is completely outside of that area when the 'definitive' VAT system takes effect, the Government would in any event have full flexibility to vary value added tax rates beyond the constraints imposed by EU law present or future.

We note in this respect that it is the European Commission's intention that the new VAT system—including the updated rules in rate-setting—will not take effect before 2022, well after the "two year period" of transition during which the UK would remain in the common VAT area after Brexit ...

We have repeatedly asked the Government to provide details of its proposals on the UK's post-Brexit relationship with the EU on Value Added Tax, in the context of:

1. either the trade barriers that arise as a result of leaving the common VAT area for UK businesses which import or export goods and services to or from the EU; or
2. minimising UK-EU trade friction by remaining in, or aligned with, the single EU VAT area, and the potential constraints continued alignment with the EU's VAT Directive could place on the UK's domestic tax sovereignty—including the ability to vary rates—after Brexit.

To date, we have not received a satisfactory response to these questions.

As recently as 19 February, the Financial Secretary told us that he could provide no details about the VAT implications of Brexit for UK businesses because the "arrangements in this regard" will "depend on the outcome of the negotiations", without specifying what the Government's objectives are other than a vague ambition to the most "free and frictionless trade as possible". However, he has not ruled out continued UK alignment with EU VAT law (which the European Parliament also supports).¹⁰²

In July 2018 the Government published its White Paper on leaving the EU, and on VAT, simply stated "to ensure that new declarations and border checks between the UK and the EU do not need to be introduced for VAT and Excise purposes, the UK proposes the application of common cross-border processes and procedures for VAT and Excise, as well as some administrative cooperation and information exchange to underpin risk-based enforcement."¹⁰³

On 14 November 2018 the UK concluded the draft Withdrawal Agreement with the EU; this provides for a transition period, also described as the 'implementation period', to bridge the period between the date of the UK's exit from the EU, set for 29 March 2019, and the entry into force of the new, yet to be negotiated, UK-EU partnership arrangements. The transition is to run until the end of December 2020, with the possibility of extension for up to two years. During this period the UK would continue to apply EU law, with a few exceptions, as if it were a Member State, though the UK will have no institutional

¹⁰² [Value Added Tax: EU proposals for reform and the implications of Brexit](#), HC 301 of 2017-19, 3 April 2018 paras 2.11, 2.14-5

¹⁰³ HM Government, [The future relationship between the UK and the EU](#), Cm 9593, July 2018 p18

representation and no role in decision-making.¹⁰⁴ Later the same month agreement was reached on the Political Declaration, which aims to set the scope and terms for the UK's future relationship with the EU. This is not a binding legal document and it is unlikely that it will bind the parties to anything beyond a commitment to negotiate for a future relationship in good faith.¹⁰⁵ The Declaration says nothing specific about VAT, though it includes a commitment to open and fair competition between the UK and the EU, that would include relevant tax matters; as the Government has underlined, this type of agreement would **not** "fetter sovereign discretion on tax, including in relation to setting direct or indirect tax rates."¹⁰⁶

In a letter to the European Scrutiny Committee on 5 December 2018 Treasury Minister Mel Stride confirmed "the Withdrawal Agreement sets out that during the Implementation Period, the UK will no longer be a Member State of the EU, but market access will continue on current terms. Accordingly, common rules will remain in place until the end of the Implementation Period, meaning businesses will be able to trade on the same terms for the duration of this period." The Minister went on to note that the Political Declaration "reiterates the competition between the UK and the EU must be open and fair, and that there should be provisions covering tax matters", though "the precise nature of these provisions will be a matter for future negotiation."¹⁰⁷

The prospect of Brexit has encouraged many stakeholders to make representation for new VAT reliefs on the UK's departure from the EU. However, any predictions as to the future range of VAT rates cannot be taken that seriously, given the fundamental uncertainties governing the UK's future relationship with the EU. Certainly the Government's current position regarding the rate of VAT on church repairs is that as the UK remains compliant with EU VAT law, no changes can be expected for now:

Asked by Graham P Jones : To ask the Chancellor of the Exchequer, whether he has plans to remove VAT from services and items included for the repair and maintenance of (a) churches and (b) other religious buildings.

Answered by: Mel Stride : Under the current EU rules, the government cannot remove VAT on the repair and maintenance of places of worship. The government recognises the importance of places of worship in our communities and provides funding to cover the cost of repairs and maintenance of listed places of worship through The Listed Places of Worship Grant Scheme, managed by the Department for Digital, Culture, Media, and Sport.¹⁰⁸

¹⁰⁴ For details see, [The UK's EU Withdrawal Agreement](#), Commons Briefing paper CBP8453, 7 December 2018.

¹⁰⁵ For details see, [The Political Declaration on the Framework for Future EU-UK Relations](#), Commons Briefing paper CBP8454, 30 November 2018.

¹⁰⁶ HMG, [Explainer for the Political Declaration setting out the framework for the future relationship between the UK and the EU](#), November 2018 para 85.

¹⁰⁷ Letter from Financial Secretary to EU Scrutiny Committee, ["EU legislative proposals on VAT"](#), 5 December 2018

¹⁰⁸ [PQ190861, 18 November 2018](#)

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