



## VAT | converting residential property: the VAT rules

### team



**Graham Elliott**  
*VAT Partner*  
020 7969 5610  
gelliott@haysmacintyre.com



**Phil Salmon**  
*Director of VAT Services*  
020 7969 5611  
psalmon@haysmacintyre.com



**David Riley**  
*Partner*  
020 7969 5506  
driley@haysmacintyre.com

### who needs to know?

This paper deals with the 5% VAT rate for certain types of conversion in relation to residential properties. This is a very substantial area of legislation, and this paper will focus only on the relief which applies to the increase or reduction in the number of "single household dwellings" that such work might create. It is principally of interest to property investment companies dealing with residential portfolios, property agents and surveyors acting on behalf of such companies, and potentially for private home owners who are looking to reconfigure homes they already own, or to convert their non-residential property into residential units. It is also of concern to building contractors, as it is they who choose the rate of VAT.

### background information

With effect from 11th May 2001, it has been possible for building contractors to charge certain services at the 5% rate of VAT rather than 17.5%. This relates to the following work of transforming a property:

- Splitting a house into several self-contained flats
- Changing the number of self-contained flats in a building which already contains flats
- Converting a commercial building so that it contains one or more self-contained flats, or becomes a single house
- Converting a block of flats back into a single house

The above descriptions are highly generalised, and in fact there is a good deal of detail in the legislation, comprising several traps for the unwary some of which will be discussed below.

---

## problems in practice

There are several potential traps, comprising Customs giving defective rulings, areas where there could be dispute with Customs over what the legislation actually means, faulty legislative drafting. The following are just a selection of the issues that could arise.

1. If a commercial building already contains an existing single household dwelling (for example, a flat used by a caretaker), and the whole building is then converted into a single house, the 5% rate does not apply, because there was a single household dwelling before, and one single household dwelling remains afterwards, even though it is of a completely different size. There has therefore been no change in the number of single household dwellings.
2. Where pub conversions are concerned (a common feature in today's property landscape) the above rule applies to the landlord's flat within the pub but only as long as it was a self-contained single household dwelling. If the landlord shared the facilities open to the pub, such as kitchen or toilets/bathrooms, it is not deemed to be a single household dwelling, so such a pub conversion would attract the 5% rate.
3. In the case of a pub, if there is a single household dwelling (for example, the landlord's flat), and the works carried out involving increasing the number of single household dwellings, only the extra flats are able to enjoy the 5% VAT rate, unless the original flat is split up between the newly created ones.
4. The only works that carry the 5% rate are those which directly relate to the change in the number of dwellings. Thus, even if one changes the number of dwellings in a certain part of the building, but the remainder of the building involves mere refurbishment without an actual change in the number of dwellings, the latter work is subject to VAT at the standard rate. This is extremely difficult to interpret, and in general you will need to seek professional advice in situations where refurbishment does not change the overall footprint of the flat in question.
5. There is a question of interaction between the 5% rate and the ability to reclaim VAT either as a speculative or DIY house builder on the conversion of a commercial building into a residential building. These rules can work in tandem involving the claimant making claims on VAT charged at the 5% rate.
6. It can be seen from the above that there is scope for using VAT planning techniques to minimise the VAT liabilities, even at the potential expense of carrying out extra works or stages of works in order to create a desired VAT outcome.

---

## what to do next

Any of the above-mentioned organisations or persons becoming involved in a development which appears to create changes to the number of single household dwellings ought to take professional advice. In particular, owners of the properties ought not necessarily to accept the view adopted by the construction company, which may be overly cautious. The amounts of VAT that can be saved if the 5% rate is correctly applied in such cases would usually justify the cost of professional advice. The VAT arrears and liabilities that could arise if the 5% rate is wrongly applied could also be considerable in contrast to fees for professional advice.

## about haysmacintyre

haysmacintyre, Chartered Accountants and tax advisers, comprises 22 partners and 160 staff based in Holborn, London. It provides high quality external and internal auditing and assurance, business and personal taxation, corporate finance, financial planning and other business support services.

Around 40% of the firm's business is within the corporate sector – small and medium sized enterprises, many of which are in the property, media and entertainment, technology, sports and business services sectors. The firm acts for a number of listed companies and assists new companies raise initial funds on the capital markets and through private equity. 30% of the firm's business is for charitable and not for profit organisations and the remainder is for professional practices and private individuals – whether senior executives, entrepreneurs or those with significant land or wealth at home or overseas.

## about the VAT team

The firm has a partner, a director and a manager dedicated to advising on all aspects of VAT. They have specialist knowledge of the real estate sector and also the not for profit sector but advise organisations in all sectors. The team provides a range of review, advisory, transactional support and appeal services. Being at the cutting edge of developments, our experts contribute to a number of media and are regular speakers at internal and external events. Yet they also speak in plain language and provide responsive and pragmatic advice in a commercial context.

haysmacintyre is a founding member of MSI Global Alliance (MSI), an international alliance of independent legal and accounting firms, with 250 members in 100 countries. Further information is available at [www.haysmacintyre.com](http://www.haysmacintyre.com)

# haysmacintyre

haysmacintyre  
Fairfax House  
15 Fulwood Place  
London  
WC1V 6AY

t 020 7969 5500  
f 020 7969 5600

e [marketing@haysmacintyre.com](mailto:marketing@haysmacintyre.com)  
w [www.haysmacintyre.com](http://www.haysmacintyre.com)

---



**Disclaimer:** This datasheet has been produced by the partners of haysmacintyre and is for private circulation only. Whilst every care has been taken in preparation of this document, it may contain errors for which we cannot be held responsible. In the case of a specific problem, it is recommended that professional advice be sought. The material contained in this datasheet may not be reproduced in whole or in part by any means, without prior permission from haysmacintyre.

