

FINANCE ACT 2015

VALUE-ADDED TAX

NOTES FOR GUIDANCE

Issued by VAT Policy and Legislation Branch, 22 December 2015

51. Interpretation (Part 3)

This section defines the Principal Act as the Value-Added Tax Consolidation Act 2010 for the purposes of Part 3 of the Act. This is a conventional provision in Finance Acts. It allows abbreviated terms to be used for references to previous legislation and thus facilitates drafting and subsequent reading of the legislation. For example, the term “Principal Act” used in Part 3 of this Act refers to the Value-Added Tax Consolidation Act 2010.

52. Supplies of gas, electricity, gas certificates and electricity certificates – reverse charge

Summary

This section amends sections 16, 59 and 66 of the VAT Consolidation Act.

The amendments apply the VAT reverse charge mechanism to the supply of gas or electricity by a taxable person in the State to a taxable dealer in the State and to the supply of a gas or an electricity certificate by a taxable person in the State to another taxable person in the State.

Details

The amendments provide for the application of a reverse charge in the case of a taxable person carrying on business in the State, who supplies:

- gas or electricity to a taxable dealer (as defined in section 31(1)(a)) carrying on a business in the State
- a gas or an electricity certificate to another taxable person carrying on a business in the State.

Section 16

Subsection 1(a) amends section 16 by inserting new subsections (6) and (7). Section 16(6) defines gas and provides for the introduction of a reverse charge mechanism, making the recipient, being a taxable dealer (within the meaning of section 31(1)(a)), the accountable person for VAT due in relation to the supply of gas and electricity. Section 16(7) defines a gas or an electricity certificate and provides for the introduction of a reverse charge mechanism, making the recipient the accountable person for VAT due in relation to the supply of such services.

Section 59

Subsection 1(b) amends section 59(2) by inserting new paragraphs (ic) and (id), which provide that tax incurred by the recipient of the gas or electricity or the gas or electricity certificate may be deducted by that person, subject to the usual deductibility rules.

Section 66

Subsection 1(c) amends section 66 by inserting new subsections (4C) and (4D) which provide that the supplier, who is subject to the new reverse charge rule, must provide a document to the recipient indicating that the recipient is liable to account for the VAT unless the recipient and the supplier agree that the document can be drawn up by the recipient. This document must contain the details required on an invoice, other than the amount of tax payable and the rate of tax chargeable.

Subsection (2) provides for the effective implementation date.

Commencement

This section has effect from 1 January 2016.

53. Adjustments to returns

Summary

This section inserts a new section 77A into the VAT Consolidation Act, which deals with adjustments to VAT returns.

This section clarifies that, following the furnishing of a VAT return, enactments relating to VAT apply to any subsequent adjustment to that return.

Details

Paragraph (a) amends section 76 to provide that an adjustment to a return may be made by a person acting under the authority of an accountable person and that adjustment is deemed to have been made by that accountable person.

Paragraph (b) inserts a new section 77A which provides that following the furnishing of a VAT return, enactments relating to VAT apply to any subsequent adjustment to that return. It also provides that an adjustment is, where applicable, deemed to be a claim for a refund of tax and is subject to the general provisions on refunds of tax as set out in section 99.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2015).

54. Exempted education activities

Summary

This section amends Schedule 1 to the VAT Consolidation Act in relation to the VAT exemption for educational activities.

The amendment updates the wording used in the Act relating to the exemption for the provision of children's or young people's education, school or university education and vocational training or retraining. It provides for the continued exemption of such education, vocational training or retraining where it is provided by a recognised body. Provision is also made for the continued exemption of tuition given privately by teachers covering school or university education, including vocational training or retraining.

Details

Paragraph (a) amends section 18 to provide that the Revenue Commissioners may make a determination that an educational activity provided by a recognised body is subject to VAT where its exemption creates a distortion of competition.

Paragraph (b) amends paragraph 4(3) of Schedule 1 and inserts a new subparagraph (4).

Paragraph 4(3)(a) provides for the continued VAT exemption for the provision of children's or young people's education, school or university education or vocational training or retraining where such education, vocational training or retraining is provided by a recognised body. The supply of goods and services (excluding research services) incidental to education or vocational training or retraining is also exempt. VAT exemption also continues for instruction in the driving of certain heavy goods vehicles and passenger transport vehicles.

Paragraph 4(3)(b) sets out what constitutes a recognised body. A recognised body includes:

- a public body being a Department of State, a local authority or a body established by enactment;
- a school recognised by the Minister for Education and Skills;
- an education or training provider to which an Education and Training Board has outsourced the provision of education, vocational training or retraining;
- an education or training provider to which Solas has outsourced the provision of education, vocational training or retraining;
- a provider of training for initial or continuing access to a regulated profession in the State which is recognised as such by Directive 2005/36/EC;
- a provider of a course leading to an award recognised on the National Framework of Qualifications;
- a provider of a course which is currently included on a list, known as the Interim List of Eligible Providers, published by the Minister for Justice and Equality and attendance at which is deemed by that Minister to be an acceptable basis for the granting of a visa;
- a provider of a course leading to an award by a university, college or institute of higher education which is an approved college for the purposes of claiming tax relief for tuition fees;
- a provider of a course which is validated by Quality and Qualifications Ireland;
- a provider of education to children of school going age, the quality, nature and content of which is equivalent to that provided by recognised schools providing a curriculum prescribed by the Minister for Education and Skills being the curriculum for early childhood education, primary or post-primary schools.

Paragraph 4(4) provides for VAT exemption for tuition given privately by teachers in subjects covering school or university education, including vocational training or retraining.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2015).

55. Amendment of section 64 of the VAT Consolidation Act (capital goods scheme)

Summary

This section amends section 64 of the VAT Consolidation Act which deals with the capital goods scheme.

This is an anti-avoidance measure which provides that where VAT on the supply or transfer of an incomplete property to a connected person is less than the VAT that was deducted on the acquisition or development of that property, there is a clawback of the difference from the person making the supply or transfer.

Details

A new subsection (8A) is inserted in section 64 which provides for a clawback where the VAT on the sale of an incomplete property to a connected party is less than the VAT deducted by the seller in respect of the development or acquisition of that property.

Paragraph (a) outlines the circumstances in which the clawback arises. The clawback arises where:

- (i) either tax is chargeable on the supply of an incomplete property or would have been chargeable on the supply but for the application of transfer of business relief or the zero-rating scheme for qualifying businesses,
- (ii) at the time of the supply the seller and the buyer are connected, and
- (iii) the VAT chargeable on the supply, or that would have been chargeable but for the application of transfer of business relief or the zero-rating scheme for qualifying business is less than the VAT incurred by the seller in relation to the acquisition or development of the property.

Paragraph (b) sets out the formula for calculating the amount of the clawback and provides that that amount is payable as if it were tax due for the period in which the supply was made.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2015).

56. Amendment of section 65 of the VAT Consolidation Act (registration)

Summary

This section amends section 65 of the VAT Consolidation Act which deals with registration.

Details

A new subsection (2A) is inserted into section 65. The Revenue Commissioners maintain a register of persons who are or who may become accountable persons. Subsection (2A) clarifies that the Revenue Commissioners may cancel a registration number which has been assigned where the person does not become or ceases to be an accountable person. This is a freedom from doubt provision to explicitly provide for the cancellation of a VAT number.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2015).

57. Amendment of section 87 of the VAT Consolidation Act (margin scheme – taxable dealers)

Summary

This section amends section 87 of the VAT Consolidation Act which deals with the margin scheme for taxable dealers.

This is an avoidance of doubt provision which explicitly excludes new means of transport from the margin scheme for taxable dealers. It does not change the current application of VAT legislation in relation to new means of transport. The rules relating to intra-Community acquisitions and supplies have always applied to new means of transport (i.e. zero-rated in the Member State of supply and taxable in the Member State of destination). The exclusion of new means of transport from the margin scheme for taxable dealers derived from a number of provisions in domestic legislation, including references to the VAT Directive. For clarity and simplification, this amendment explicitly provides that the special scheme for dealers in second-hand goods, which allows a dealer to pay VAT on the profit margin, does not apply to new means of transport which are acquired from, or supplied to, a person in another Member State.

'New means of transport' is defined in section 2 of the VAT Consolidation Act and is a technical term which may be used to describe a motor vehicle that has travelled less than 6,000km or was supplied less than 6 months since it first entered into service. It also applies to certain vessels and aircraft.

Details

Paragraph (a) amends subsection (1) by excluding new means of transport from the definition of 'means of transport'. Consequently, cross-border sales and acquisitions of new means of transport are excluded from the definition 'margin scheme goods' in subsection (1).

Paragraph (b) inserts a new subsection (2A) which provides that the margin scheme cannot be applied to the intra-Community supply of a new means of transport.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2015).

58. Cancellation of a registration number – special provisions for notification and publication

Summary

This section inserts a new section 108D into the VAT Consolidation Act. Section 108D provides that where a VAT registration number is cancelled and the Revenue Commissioners are concerned about the possible fraudulent use of that number to receive VAT free supplies, they may publish details of the cancelled registration number and notify the person's suppliers of the cancellation of the number.

Details

Section 108D provides that where a VAT registration number is cancelled and the Revenue Commissioners consider it essential for the protection of the revenue, they may publish details of the cancelled registration number and notify the person's suppliers of the cancellation of the number.

The conditions for using the power are set out in paragraphs (a) and (b). Section 108D may be used where a VAT registration number is cancelled (paragraph (a)) and the Revenue Commissioners are concerned about protection of the revenue (paragraph (b)).

Paragraph (i) provides that the Revenue Commissioners may notify the suppliers to the person whose registration number has been cancelled about that cancellation. They may provide the suppliers with the cancelled registration number, the date from which it has been cancelled and the name and address of the person to whom those details relate.

Paragraph (ii) provides that the Revenue Commissioners may publish the following details in *Iris Oifigiúil*:

- the cancelled registration number,
- the date from which it has been cancelled, and
- the name and address of the person to whom those details relate.

Paragraph (iii) provides that where the Revenue Commissioners have published the information in *Iris Oifigiúil*, they may also publish the same information in other media.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2015).

59. Amendment of section 110 of the VAT Consolidation Act (estimation of tax due)

Summary

This section amends section 110 of the VAT Consolidation Act which deals with estimation of tax due.

Details

Subsection (2)(c) is amended and provides that where a person, after the service of a notice, furnishes a return in respect of the period specified in the notice and pays tax, interest and costs which have been incurred in connection with the default, the notice is discharged and the person may claim a refund of any excess tax which may have been paid on foot of the notice, subject to the 4-year time limit.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2015).

60. Amendment of Schedule 1 to the VAT Consolidation Act (exempt activities)

Summary

This section amends Schedule 1 to the VAT Consolidation Act which deals with exempt activities.

The amendments provide that betting and betting exchange services provided to customers located outside the State qualify for VAT exemption, thereby ensuring equal treatment with similar services provided to customers located in the State.

Details

Two new subparagraphs (1B) and (1C) are inserted into paragraph 10 of Schedule 1. These subparagraphs apply exemption to:-

- bets accepted by remote bookmakers from customers outside the State, and
- commissions earned by remote betting intermediaries from customers outside the State

to ensure equal treatment with bets accepted and commissions earned from customers in the State.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2015).