

FINANCE ACT 2021
VALUE-ADDED TAX
NOTES FOR GUIDANCE

50. 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.

51. Amendment of section 15 (VAT Groups) and section 115 (Penalties generally) of the Value-Added Tax Consolidation Act

Summary

This section amends sections 15 and 115 of the Value-Added Tax Consolidation Act 2010. It places a legislative requirement on VAT Groups to notify Revenue when a significant change in the financial, economic and organisational links between persons in a VAT group occurs and applies a fixed penalty where this requirement is not met.

Details

Subparagraph (a)(i) amends section 15(1) of the Value-Added Tax Consolidation Act 2010 by substituting the term “accountable person” (as defined in section 5) for “taxable person” wherever the latter term occurs.

Subparagraph (a)(ii) amends section 15(3) to provide that the date of cancellation of the group notification by Revenue applies from the date specified by them in the notice.

Subparagraph (a)(iii) amends section 15 by inserting two new subsections (4A) and (4B) to the Value-Added Tax Consolidation Act 2010.

Subsection (4A) provides for an obligation on the remitter who was notified in accordance with subsection (1)(a) (i) to inform Revenue in writing within 30 days of the end of the taxable period concerned of any significant change in the financial, economic and organisational links between persons in the group.

Subsection (4B) provides that where (a) a person in a group ceases to be established in the State or (b) no member of the group concerned is an accountable person, the remitter must inform Revenue in writing within 30 days of the end of the taxable period during which either change takes place.

Paragraph (b) amends section 115 by inserting two new subsections (1A) and (1B) to the Value-Added Tax Consolidation Act 2010.

Subsection (1A) provides for a penalty of €4,000 in respect of the taxable period during which a person fails to comply with section 15(4B) and a further penalty of €4,000 for each subsequent taxable period during which the person fails to comply with that provision.

Subsection (1B) provides for a separate penalty of €4,000 to apply to a secretary of a body of persons where a person referred to in subsection (1A) has failed to comply with section 15(4B), and a further penalty of €4,000 for each subsequent taxable period during which the person fails to comply with that provision.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2021).

52. Amendment of Section 56 of the Value-Added Tax Consolidation Act 2010 (Zero-rating scheme for qualifying businesses)

Summary

This section amends section 56 (1) of the Value-Added Tax Consolidation Act 2010 to correct the definition of a “qualifying person” for the purposes of the scheme.

Details

This amendment clarifies that a business can qualify for this relief when its turnover from zero-rated intra-Community supplies of goods, export of goods outside the EU or supplies of certain contract work amounts to 75% or more of its total annual turnover for the 12 months preceding the making of an application for authorisation under these provisions.

Previously the legislation stated that a qualifying person was one whose turnover of qualifying supplies amounted to 75% of the annual turnover. This was incorrect and the amendment was introduced to ensure that the legislation correctly reflects how the scheme is actually administered in line with published guidance.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2021).

53. Amendment of section 67 (Amendments to invoices) and section 74 (tax due on supplies) of the Value-Added Tax Consolidation Act (Cancellation Deposits)

Summary

This section deletes section 67(4), 67(6a) and 74(4) of the Value-Added Tax Consolidation Act 2010 to provide that cancellation deposits are taxable. This will ensure that Irish legislation correctly reflects recent judgments made by the CJEU.

Details

Paragraph (a) provides for the deletion of sections 67(4) and (6a) of the Value-Added Tax Consolidation Act 2010. These provisions are no longer necessary nor correct given that recent CJEU judgments have held that cancellation deposits are taxable. Special rules as regards the consideration stated on a VAT invoice and the issuing of credit notes are no longer required in relation to cancellation deposits.

Paragraph (b) provides for the deletion of section 74(4) to ensure that cancellation deposits are subject to VAT as they constitute a payment for either a service or a right to access a service.

Commencement

This section has effect from 1 January 2021.

54. Amendment of section 86 (special provision for flat-rate farmers) of the Value-Added Tax Consolidation Act

Summary

This section amends section 86 of the Value-Added Tax Consolidation Act 2010 to provide for a reduction in the farmers' flat-rate addition from 5.6 per cent to 5.5 per cent.

Details

The flat-rate scheme is a simplified and practical method of applying VAT to farming. It compensates unregistered farmers, on an overall basis, for the VAT charged to them on their purchases of goods and services. The flat-rate scheme sets out a percentage amount, known as the flat-rate addition, which unregistered farmers apply to their prices when selling to VAT-registered businesses (co-ops, meat factories, etc.) and is reviewed annually.

The new rate of 5.5% for 2022 will achieve full compensation under the scheme.

Commencement

This section has effect from 1 January 2022.

55. Amendment of section 103 (Ministerial refund orders) of the Value-Added Tax Consolidation Act

Summary

This amendment provides that where VAT has been incorrectly claimed and refunded under a refund order, the claimant will be required to repay all or part of that refund to the Revenue Commissioners.

Details

The insertion of a new subsection (2AA) provides that where a refund of tax under a Ministerial Order has been received by a person and it subsequently becomes clear to Revenue that details of the claim giving rise to the refund were incorrect, the conditions of the order shall be regarded as not having been fulfilled and the claimant shall be required to repay all or part of the refund, as appropriate, to Revenue.

Commencement

This section has effect from the date of passing of the Finance Act (21 December 2021).

56. Amendment of Schedules to the Value-Added Tax Consolidation Act

Summary

This section amends Schedules 1 and 2 of the Value-Added Tax Consolidation Act 2010 to provide for a VAT exemption on the importation of goods by, and the zero-rating of goods and services supplied to, the European Commission or to an agency or a body established under European Union law, that is responding to the Covid-19 pandemic. This amendment also provides for a temporary application of the zero rate of VAT to the supply of Covid-19 vaccines and in-vitro diagnostic medical devices and services closely linked to them.

Details

Paragraph 1 (a) amends paragraph 15 of Schedule 1 by inserting a new subparagraph (1A) and provides for a VAT exemption on the importation of goods by the European Commission or an agency or a body established under European Union law that is responding to the Covid-19 pandemic. The exemption does not apply where the goods imported are sold for consideration by these bodies.

Paragraph 1 (b)(i) amends paragraph 5 of Schedule 2 by inserting a new subparagraph (1E). A supply of goods or services to the European Commission or to an agency or a body established under European Union law, where the goods or services are purchased by them to respond to the Covid-19 pandemic, are liable to VAT at the zero rate, except where the goods or services are supplied by the said bodies for consideration.

Paragraph 1 (b)(ii) amends paragraph 11 of Schedule 2 by inserting a new subparagraph 5. The supply of Covid-19 vaccines and services closely linked to those vaccines where those vaccines have been authorised by the State or the European Commission are liable at the zero rate. Similarly, Covid-19 in vitro diagnostic medical devices and closely linked services are liable at the zero rate of VAT where those devices comply with EU legislation or the law of the Member State giving effect to such legislation. This amendment is being made to give effect to a decision of the European Commission and provides a legislative

basis for the application of the zero rate, which has applied on an administrative basis since 12 December 2020. This provision applies until 31 December 2022.

Paragraph 2 provides that subsection (1)(a) applies in respect of the importation of goods by European Commission or to an agency or body established under European Union law on or after 1 January 2021.

Paragraph 3 provides that subsection (1)(b)(i) applies in respect of the supply of goods or services on or after 1 January 2021 by the European Commission or an agency or body established under European Union law.

Commencement

Subsections (1)(a) and (1)(b)(i) have effect from 1 January 2021 while Subsection (1)(b)(ii) has effect from 12 December 2020.