



STATUTORY INSTRUMENTS

S.I. No. 385 of 2008



ELECTRICITY TAX REGULATIONS 2008

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WHEREAS Chapter 1 of Part 2 of the Finance Act 2008 (No. 3 of 2008) has not yet come into operation;

AND WHEREAS the Revenue Commissioners consider it expedient to make regulations relating to Chapter 1 of Part 2 of the Finance Act 2008 so as to enable provisions of that Chapter to have full force and effect immediately upon their coming into operation;

AND WHEREAS section 17(b) of the Interpretation Act 2005 (No. 23 of 2005) provides for such cases;

NOW, the Revenue Commissioners, in exercise of the powers conferred on them by section 66 of the Finance Act 2008, hereby make the following regulations:

Citation and commencement.

1. (1) These Regulations may be cited as the Electricity Tax Regulations 2008.
- (2) These Regulations shall come into operation on 1 October 2008.

Interpretation.

2. (1) In these Regulations—

“Act of 2008” means the Finance Act 2008 (No. 3 of 2008);

“proper officer”, in relation to any function referred to in these Regulations, means an officer assigned responsibility for that function in any particular case;

“records” means any books, accounts, documents or other recorded information, including information stored by electronic means or in other non-legible form; “tax” means electricity tax imposed by section 58 of the Act of 2008;

“taxable non-business supply” means any supply for non-business use, other than for household use.

(2) A word or expression used in these Regulations has the same meaning as it has in Chapter 1 of Part 2 of the Act of 2008.

Application for registration.

3. Every application for registration as a supplier, under section 62 of the Act of 2008, shall be in such form as the Commissioners may require, and shall

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contain the particulars specified in Schedule 1, and such other particulars as the Commissioners may from time to time require.

Accounting period.

4. The period from 1 October 2008 to 31 December 2008 is prescribed as an accounting period for the purposes of payment and returns of tax.

Determinations.

5. In accordance with subsection (2) of section 60 of the Act of 2008, a supply shall be deemed to be—

- (a) for household use (and so relieved from tax under section 63 of the Act of 2008) where it is supplied at a price specified by the supplier for such use,
- (b) a taxable non-business supply, where it is supplied to a consumer, identified (by name) by the Commissioners to the supplier for that purpose,
- (c) taxable at the business rate where it is not otherwise so deemed under paragraph (a) or (b).

Repayments.

6. Where a consumer shows to the satisfaction of the Commissioners that a quantity of electricity, supplied to such consumer in an accounting period, has been used for chemical reduction, or in an electrolytic or metallurgical process, the Commissioners shall, subject to a valid claim in accordance with section 64 of the Act of 2008, and in accordance with section 63 of that Act, repay to such consumer an amount equivalent to the tax paid by the supplier on such quantity.

Records to be kept.

7. (1) Every supplier shall keep, in such form as the Commissioners may require, all the accounts and other records specified in Schedule 2, and shall produce such accounts for examination when required to do so by a proper officer.

(2) Any consumer who has claimed a repayment of tax in accordance with Regulation 6, shall keep, in such form as the Commissioners may require, all accounts and other records relevant to the claim.

(3) In the case of any record required to be kept under these Regulations that is held in a non-legible form, such record shall be produced in a legible form, or reproduced in a permanent legible form, when so required by a proper officer.

Alterations to records.

8. (1) In respect of any record required to be kept under these Regulations, a person shall not—

- (a) obliterate any entry,

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- (b) make any entry that is untrue in any particular, or
- (c) alter or cancel any entry, except for the purpose of correcting an error.

(2) Any alteration or cancellation made under paragraph (1)(c) shall be made in a manner that does not render illegible, in whole or in part, the original entry.

Signing of applications and returns.

9. An application or return required of a supplier under these Regulations shall be signed—

- (a) in the case of an individual, by such individual or by a person authorised in writing to sign such application or return on behalf of such individual,
- (b) in the case of a body corporate, by a director, company secretary or any person authorised in writing by one of them under the company seal to sign such application or return on behalf of the body, and
- (c) in the case of an unincorporated body of persons, by one of the partners or any person authorised by one of them to sign such application or return on behalf of the body.

Preservation of records.

10. (1) Except where the Commissioners may otherwise allow or require, the records required under these Regulations shall—

- (a) be preserved for a period of not less than 6 years from the date of the last entry in such records, and
- (b) be kept at the registered place of business of the supplier, or such other place as the Commissioners may in any particular case allow.

(2) Except where otherwise required by the Commissioners, the records referred to in paragraph (1) may be kept by any electronic, photographic or other process that—

- (a) ensures the integrity of the record, and
- (b) allows the record to be readily displayed in a legible form, or reproduced in a permanent legible form.

SCHEDULE 1

Regulation 3

Particulars to be included in an application for registration

1. Name, address and VAT registration number of the applicant.

2. Where the applicant is a company established in the State pursuant to section 59(3) of the Finance Act 2008 for the purpose of assuming the functions and responsibilities of a non-State supplier, the name and address of that supplier.
3. An estimate of the tax liability in the first full calendar year.

SCHEDULE 2

Specified records

1. Invoices, credit notes, debit notes, receipts and other records of payment.
2. Records relating to all electricity supplied by a supplier.
3. Statements of account, profit and loss accounts, balance sheets, trading forecasts, trading and management accounts and reports relating to such accounts.
4. Records relating to payment of tax and any claim for relief from, or repayment of, tax.
5. Internal and external auditor's reports.

GIVEN under my hand,
26 September 2008

MICHAEL O GRADY.
Revenue Commissioner.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations implement certain provisions of Chapter 1 of Part 2 of the Finance Act 2008, which provides for an excise duty, called electricity tax, on electricity supplied in the State to consumers.

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