

## VAT treatment of the hiring of means of transport

This document should be read in conjunction with sections 34, 34(k), 34(ka), 34(kb), 35(2), paragraph 4(2)(a) and (b) of Schedule 2 and paragraph 19 of Schedule 3 to the VAT Consolidation Act 2010 (VATCA 2010), and articles 10, 11, 12, 13, 38, 39 and 40 of Council Implementing Regulation of 15 March 2011 (282/2011/EU).

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## Introduction

This guidance sets out the VAT treatment of the hiring / leasing of means of transport. The use of the terms hiring and leasing is interchangeable throughout this document. The hiring of means of transport is a service and the VAT treatment depends on a number of factors. These include the duration of the hire period, the VAT status and location of the customer, and, in certain cases, the place where the means of transport will be used and enjoyed.

The place of supply and the rate of VAT applicable are determined by different provisions. The place of supply needs to be determined before looking at the applicable VAT rate. Full details of the place of supply rules for services are contained on Revenue's [website](#).

Practical examples covering the VAT treatment of long-term and short-term hiring of means of transport are included in [Appendix 1](#) and [Appendix 2](#).

### 1. Means of transport

For VAT purposes, a means of transport includes vehicles, whether motorised or not, and other equipment and devices designed to transport persons or objects from one place to another which can be pulled, drawn, or pushed by vehicles and which are normally designed to be used and actually capable of being used for transport.

Means of transport includes:

- land vehicles such as cars, motorcycles, bicycles, tricycles, and caravans
- trailers and semi-trailers
- railway wagons
- vessels
- aircraft
- vehicles specifically designed for transport of sick and injured persons
- agricultural tractors and other agricultural vehicles
- mechanically or electronically propelled invalid carriages.

Means of transport shall **not** include the following:

- vehicles which are permanently immobilised
- containers.

## 2. VAT treatment of transactions involving the hiring of means of transport

Generally, the place of supply for hiring or leasing a means of transport is determined by the period of hire and location of the vehicle. The VAT treatment is broken down into three general categories: long-term hire, short-term hire, and use and enjoyment.

### 3. Long-term hiring

Long-term hiring involves the continuous possession or use of the means of transport throughout a period of more than 30 days and in the case of vessels, more than 90 days. The VAT treatment applicable to long-term hiring of means of transport is covered by the general place of supply of services rules.

#### 3.1 Hiring to taxable persons (B2B rules)

In accordance with B2B rules, the place of supply of transactions involving the long-term hiring of means of transport to a taxable person is the place where that taxable person has established their business.

In the case of cross border transactions within the EU, the taxable person receiving the long-term hiring service must account for the VAT on the reverse charge basis. There are no VAT implications in cases where the business customer is based outside the EU.

#### 3.2 Hiring to non-taxable persons (B2C rules)

The place of supply of the long-term hiring of a means of transport (excluding a pleasure boat) to a non-taxable customer is where that customer is established, has their permanent address, or usually resides.

##### 3.2.1 Hire of Pleasure boats to non-taxable persons

The place of supply of the long-term hiring of a pleasure boat to a non-taxable person is where the pleasure boat is put at the disposal of the customer provided that the supplier's place of business or fixed establishment is in that place.

The term "**put at the disposal of the customer**" is the place where the customer or a third party acting on their behalf takes physical possession of the boat. This is taken as meaning more than simply collecting the vessel involved. For the term to apply, other factors should occur, such as, the production of identification, signing contracts, finalising any paperwork, handing over of keys, etc.

The **fixed establishment** must contain a permanent presence of human and technical resources necessary to supply a service, such as having an office where contracts are signed and facilities to store vessels.

If the conditions are not met, then the place of supply of the pleasure boat will be where the non-taxable customer is:

- established
- has their permanent address,
- or
- usually resides.

## 4. Short-term hiring

Short-term hiring involves the continuous possession or use of the means of transport throughout a period of not more than 30 days and in the case of vessels, not more than 90 days.

The place of supply of short-term hiring of means of transport is the place where the means of transport is put at the disposal of the customer. This applies whether the customer is a taxable person or a non-taxable person.

The term "**put at the disposal of the customer**" is the place where the customer, or a third party acting on their behalf, takes physical possession of the means of transport. This is taken as meaning more than simply collecting a vehicle or vessel. For the term to apply, other factors should occur, such as, the production of identification, signing contracts, finalising any paperwork, handing over of keys, etc.

The duration of the contract for the continuous possession of the means of transport will be determined by the contract between the parties involved. The fact that the period of the contract may be exceeded on the grounds of force majeure would have no bearing on the determination of the duration of the continuous possession and use of the means of transport.

### 4.1 Force majeure

Force majeure is a common clause in contracts that essentially frees both parties from liability when an extraordinary event or circumstance beyond the control of the parties, such as a war, strike, riot crime, etc., or an event described by the legal term Act of God (flood, hurricane, etc.), prevents one or both parties from fulfilling their obligations under the contract.

In a short-term contract, where the 30 or 90-day period is exceeded on the grounds of force majeure, it will not change the contract from a short-term contract to a long-term contract.

## 4.2 Consecutive contracts

Where the hiring of the same means of transport between the same parties is covered by consecutive contracts, that is, one 30-day or 90-day (vessels) contract is followed by another 30-day or 90-day (vessels) contract, the consecutive contract will be treated as a long-term contract. Unless there is evidence of abusive practice, the first contract will continue to be treated as short-term.

## 5. Use and enjoyment rule

Where a customer hires a means of transport within the State but uses and enjoys it outside the EU, the [use and enjoyment](#) rules apply.

The place of supply of the hiring of a means of transport by a lessor in the State, where the means of transport is to be effectively used and enjoyed outside the EU, is outside the EU and Irish VAT will not apply.

During the course of a leasing agreement the place of supply of a means of transport may change and the lessor is responsible for ensuring that the correct VAT treatment is applied to the leasing service for the full period of the lease.

## 6. Entitlement to deductibility

Hiring / leasing of a means of transport is a taxable activity and suppliers will qualify for [input credit](#), subject to the usual restrictions, on expenses incurred in connection with that activity.

Where the place of supply of the hiring is outside the State, it is treated as a [qualifying activity](#) which also gives rise to an entitlement to claim an input credit.

## 7. Rates of VAT

In general, the hiring of means of transport is subject to the [standard rate](#) of VAT where the place of supply of the hiring is the State.

However, in certain circumstances, the hiring of means of transport is subject to the [zero](#) or [reduced rate](#) of VAT.

### 7.1 Zero rate of VAT

Subject to conditions, the zero rate of VAT may apply to the hire of sea-going vessels and aircraft used, or to be used, by a transport provider who operates chiefly on international routes.

## 7.2 Reduced rate of VAT

The reduced rate of VAT applies to short-term hiring where the hire period does not exceed 5 weeks (i.e. 35 days) in a 12-month period to the same person.

The reduced rate applies to the short-term hire of the following:

- passenger vehicles
- small passenger vessels
- any kind of sports and pleasure boats
- caravans
- mobile homes
- tents
- trailer tents.

### 7.2.1 Passenger vehicles

Passenger vehicle means a vehicle designed and constructed, or adapted, for the conveyance of persons by road. It is important to note that vehicles designed and constructed, or adapted, for the carriage of goods by road, with or without passenger capacity, are not considered to be a passenger vehicle for the purposes of the application of the reduced rate of VAT to a short-term hire. The hire of a goods vehicle is subject to the standard rate of VAT.

### 7.2.2 Small passenger vessels

A small passenger vessel is a vessel not exceeding 15 tonnes gross.

## Appendix 1

### Long-term hiring examples

#### **Example 1**

A supplier established in the State hires a passenger or commercial vehicle to a customer for a 42-day period. For place of supply purposes, the hiring is long-term as it exceeds 30 days and the standard rate of VAT will apply as the period of hire exceeds 35 days.

#### **Example 2**

A supplier established in the State hires a passenger vehicle to a customer in the State for a period of 30 days and then renews the contract for a further 30 days.

For place of supply purposes, as the combined period exceeds 30 days, the second contract will be treated as a long-term contract. Provided there is no evidence of abuse, the first contract will continue to be treated as short-term.

For VAT rate purposes, the first contract hire period is the reduced rate. The second contract hire period will be subject to the standard rate of VAT. This is because the combined periods of hiring exceed five weeks, that is, 35 days.

#### **Example 3**

A supplier established in the State hires a commercial vehicle to a taxable person established in another EU Member State. No Irish VAT is charged, and the recipient is liable to account for VAT in the Member State of establishment on the reverse charge basis.

#### **Example 4**

A supplier established in the State hires a vessel (not a pleasure boat) to a non-taxable person established in Germany. The place of supply of the hiring service is Germany and the supplier is liable to account for VAT on the service there.

The German rate of VAT applies.

#### **Example 5**

A supplier established in the State hires a pleasure boat to a non-taxable person established in France. The pleasure boat is put at the disposal of the customer in Italy and the supplier has a place of business, or a fixed establishment, in that location.

The place of supply of the hiring service is Italy and the supplier is liable to account for VAT in Italy. The Italian rate of VAT applies.

**Example 6**

The circumstances are the same as example 5 above, except the supplier does not have a place of business or an establishment in Italy. Therefore, the place of supply is the Member State where the customer is established, which is France in this example. The supplier is liable to account for VAT in France.

The French rate of VAT applies.

**Example 7**

A supplier established in the State hires rolling stock to a taxable or non-taxable person established in the State and the rolling stock is to be used outside the EU.

Subject to the provision of objective evidence showing that the rolling stock is to be used outside the EU then the place of supply will be regarded as being outside the EU and Irish VAT will not apply.

The above treatment will also apply where the hiring is on a short-term basis.

## Appendix 2

### Short-term hiring examples

#### **Example 1**

A supplier established in the State hires a passenger vehicle to a customer for a 28-day period. The place of supply of the hiring service is the State and the supplier is liable to account for Irish VAT.

The rate of VAT applicable is the reduced rate.

#### **Example 2**

A supplier established in the State hires a passenger vehicle to a customer for a 35-day period. While, for place of supply purposes, the hiring is now considered long-term (it exceeds 30 days), the reduced rate of VAT will still apply as the period of hire does not exceed 35 days.

If the vehicle was a commercial vehicle the standard rate of VAT would apply to the hiring service.

#### **Example 3**

A supplier established in the State hires a passenger vehicle to a customer for a 29-day period, but due to unforeseen emergency circumstances, the customer extends the hire period to 37 days.

Where there is evidence to show that the contract was extended due to force majeure circumstances (see [paragraph 4.1](#) above), the contract will continue to be treated as a short-term contract. Although, due to the force majeure circumstances, the hire period exceeds five weeks, that is, 35 days, in a period of 12 months, the rate of VAT applicable will remain at the reduced rate.

#### **Example 4**

A supplier established in the State hires a passenger vehicle to a customer for a period of 30 days and then renews the contract for a further 30 days.

As the combined period exceeds 30 days, the second contract will be treated as a long-term contract. Provided there is no evidence of abuse, the first contract will continue to be treated as short-term. The first contract is subject to the reduced rate of VAT. The second contract is subject to the standard rate of VAT due to the total hiring period exceeding five weeks, that is, 35 days, in a period of 12 months.

**Example 5**

A supplier established in the State hires a passenger vehicle to a customer also established in the State, however, the car is put at the disposal of the customer in France.

The place of supply of the hiring service is in France and the supplier is liable to account for VAT on the hiring service there. The French rate of VAT applies.