

Employer's entitlement to deductibility of VAT incurred in the setting up and management of a pension fund for his or her employees

This document should be read in conjunction with section 59 of the Value-Added Tax Consolidation Act 2010 (VATCA 2010)

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Introduction

This manual sets out the VAT deductibility rules in respect of costs relating to the management of an employee pension fund.

1 VAT deductibility

A taxable person (the employer) is entitled to deductibility in respect of costs incurred in the setting up, on-going management, administration, and management of the assets of a pension scheme where certain conditions are met.

2 Conditions to be met by the taxable person

To be entitled to deductibility a taxable person must meet all the following conditions:

- The costs of the input transaction must form part of the employer's general costs and must be, as such, components of the price of the taxable goods or services it supplies.
- The costs incurred must be invoiced to, and paid by, the employer and not passed on to the pension fund.
- The existence and extent of the right to deduction is determined in the light of the direct and immediate link with the employer's economic activity, and more precisely, its taxable activity.

2.1 Employer and Pension Trustees

There are regulatory regimes to which pension funds must adhere that may require the pension trustees to contract with the service provider directly or enter into a tripartite agreement. In such circumstances, although the employer directly pays the service provider the invoice may be made out in the name of the pension fund trustees.

In order to deal with such arrangements, Revenue accepts that the employer may deduct the VAT it incurs on costs in relation to the setting up and management of a pension scheme where all the following conditions are met:

- The costs of the input transaction form part of the employer's general costs and must be, as such, components of the price of the taxable goods or services it supplies.

- The employer is responsible for payment of the services that are supplied under the contract and pays the service provider directly. This arrangement should be demonstrated by way of a written agreement between the employer and the pension fund trustees.
- The employer does not, directly or indirectly, get reimbursed in respect of payment of the costs.
- The invoice includes the words “for the account of [name of the employer]”.
- The employer and pension fund trustees must ensure there are clear controls in place to verify that there is an entitlement to recover the input VAT in respect of the costs incurred and a disclaimer by the party not claiming the input credit.

3 Pension fund reimbursing costs incurred by the Employer

Where the employer receives taxable services and makes an onward supply of the services to the pension fund in exchange for consideration, the employer is required to charge VAT on the supplies. Where VAT is charged by the employer, it may be deductible by the trustees of the fund, to the extent that it is engaged in taxable activities.

Where the employer is reimbursed by the pension fund in respect of a taxable service received by the employer where the employer does not make an onward taxable supply, the costs incurred cannot be considered to be part of the employer's general overheads. As such, they cannot be considered components of the price of goods or services supplied by the employer. Accordingly, the employer would not be entitled to deductibility in such circumstances.

4 Employer reimbursing costs incurred by the pension fund

In circumstances where the trustees of a fund contract for and receive services and are subsequently reimbursed by the employer, the contribution made by the employer in these circumstances is outside the scope of VAT. Accordingly, the employer is not entitled to any deductibility in respect of the services received by the trustees. The trustees may have partial recovery in respect of the expenses incurred, to the extent that the fund is engaged in taxable activities.