VAT Deductibility for the Funds Industry

This document should be read in conjunction with sections 59, 61 and Schedule 1 to the VAT Consolidation Act 2010 (VATCA 2010)

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Introduction

This guidance sets out the VAT deductibility rules for the regulated funds industry in Ireland where their activities relate to the execution of trades in financial securities. This guidance does not cover funds that invest in real estate or any other non-financial assets.

If a taxpayer has any doubt as to the right to deductibility with regard to his or her supplies, they should contact their local Revenue Branch.

1 Legislative basis

Article 135(1)(f) of Council Directive 2006/112/EC exempts transactions in shares, interests in companies or associations, debentures and other securities.

Article 169 of Council Directive 2006/112/EC provides that a taxable person can recover VAT in respect of transactions which are exempt under Article 135(1)(f) where the customer is established outside the Community.

Paragraph 6(1)(a) of Schedule 1 to the VATCA 2010 provides an exemption for transferring or otherwise dealing in stocks, shares, debentures and other securities.

Section 59(1)(d) of the VATCA 2010 provides that the services outlined in paragraph 6(1)(a) are qualifying activities where supplied outside of the EU. An accountable person may claim a deduction for VAT incurred in relation to goods and services used by him for the purposes of a qualifying activity.

Section 61 of the VATCA 2010 requires that, where input VAT is incurred that relates to both a qualifying activity and an exempt activity, an apportionment of input credit is required.

2 Practical application

When considering the entitlement to deduct VAT, it is the qualifying activities related to the share dealing activity that needs to be taken into account. The transferring of financial assets is considered to be a qualifying activity where supplied outside of the EU. In a practical sense, this would typically be the sale of non-EU shares, etc.

As the level of trading can be very substantial, rather than analysing every single transaction, Revenue are prepared to accept either of the following methods for calculating the proportion of non-EU activity.

The first method is based on the level of non-EU investments that are included in the fund’s Net Asset Value (NAV). In Revenue’s view, this is generally the most reliable method to correctly reflect the use that the costs incurred are put to.

The second method is based on the quantum of non-EU investors in the fund. This methodology may be used only where it can be demonstrated that it more accurately reflects the use to which the costs incurred are put to.

Whichever method is adopted it must be used consistently. Any proposal for a change in methodology should be submitted to your local Revenue Branch for approval.

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