

VAT Treatment of eGaming Services

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Introduction

This guidance sets out the VAT treatment of eGaming Services.

“Gaming” means playing a game (whether of skill or chance or partly of skill and partly of chance) for stakes hazarded by the players. This contrasts with bets on the outcome of sports events. eGaming does not include the acceptance of bets, which is VAT exempt as per paragraph 10, Schedule 1 of the VAT Consolidation Act 2010.

1. eGaming and Electronically Supplied Services

An electronically supplied service is one which is **“delivered over the Internet or an electronic network and the nature of which renders its supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology”** (as per Council Implementing Regulation 282/2011/EU).

The VAT Directive and Council Implementing Regulation 282/2011/EU provide that the supply of games including games of chance (“eGaming”), delivered over the internet or an electronic network are regarded as electronically supplied services or “eServices”.

The tax treatment of eGaming services to consumers is determined by the place where the consumer is established, has a permanent address or usually resides. eGaming services are exempt without deductibility in some Member States but are taxable in Ireland at the [standard rate](#).

2. Taxable Amount

The Court of Justice of the European Union offered guidance as to what constitutes the taxable amount in respect of gaming machines in Case C-38/93 (H.J. Glawe Spiel) and held that:

“the taxable amount does not include the statutorily prescribed proportion of the total stakes inserted which corresponds to the winnings paid out to the players”.

(a) Random Generator Games i.e. Roulette, Bingo, Blackjack etc.

Revenue understands that eGames are generally operated by Random Number Generator (RNG). The RNG operates by randomly selecting numbers based on a mathematical algorithm which leads to a winning or losing combination, the probability of which is disclosed. The certified RNGs operate the games and have a set probability of winning/losing combinations, which is effectively a predetermined pay-out.

Revenue considers that the taxable amount should be calculated by identifying two components. The first component is the value of the stakes entered by the players into the common pool from which winnings are paid out. The second component is the value of the stakes retained by the e-gaming operator.

When these games are played across tax jurisdictions the net revenue from Irish players' stakes must be identified by the operator and taxed at the standard rate in Ireland. The net revenue is the total value of Irish stakes less the percentage of those stakes which represent the Irish players' contribution to the common pool from which winnings are paid out.

The taxable amount is not linked to the winnings or losses of the players in Ireland, as, even if a player in Ireland wins the pot, the components remain the same.

Bonus plays, free plays and other forms of promotional discounts are excluded from any calculation of the consideration on which VAT is due.

Example

The total value of stakes entered by players in an online Random Generator Game is €2,000. Players in Ireland stake a total of €380 (i.e. 19% of the stakes). Players from other tax jurisdictions stake €1,620 (i.e. 81% of the stakes).

The predetermined pay-out for the game is set by the operator at 95%. This results in a pay-out of €1,900 to a player either inside or outside Ireland. The balance of 5% (€100) is the net revenue received by the operator. The operator must now identify the portion of this amount that players in Ireland have paid in.

As 19% of customers are Irish, 19% of the stake retained by the operator (i.e. €19) is the amount which forms the basis for calculation of VAT.

(b) Pooled Gaming

Revenue understands that pooled gaming consists of individuals competing against each other for a prize fund e.g. a poker tournament. Where an operator provides pooled games to customers, the operator earns a tournament participation fee (referred to as a "rake") from a customer.

The consideration for pooled games that is subject to Irish VAT is the rake that the eGaming operator receives which is attributable to Irish players minus the relevant portion for any top up which the operator has made to the jackpot.

3. One-Stop-Shop (OSS)

Subject to a €10,000 turnover threshold, eGaming businesses can avail of the special scheme known as the One Stop Shop (OSS) which allows suppliers of “Business to Consumer” (B2C) e-services to submit returns and pay the relevant VAT due to all Member States through the web portal of one Member State. OSS simplifies a supplier’s obligations by removing the requirement to register and submit returns in several Member States.

Further information on the OSS is available on the [Revenue website](#).