

VAT 2017

VALUE ADDED TAX

Charge to tax

Value added tax (VAT) is payable by a **taxable person** who engages in:

- (a) the **supply of goods**, or
- (b) the **supply of services**,

within the Republic of Ireland (ROI) for consideration in the course or furtherance of **business**.

VAT also applies to:

- (a) the importation of goods from outside the EU.
- (b) the Intra-Community Acquisition (ICA) of:
 - (i) movable goods (other than new cars, boats, or planes) acquired from a person who is registered, or ought to be registered, for VAT in another EU State, and
 - (ii) new cars, boats and planes (**new means of transport**) acquired from a person in another EU State.

Supply of goods

MEANING OF SUPPLY OF GOODS

A supply of goods means:

- (a) The transfer ownership of goods by agreement.
- (b) The handing over goods under a hire purchase type agreement.
- (c) The handing over land or buildings developed on behalf of another person.
- (d) The compulsory acquisition of goods by or on behalf of the State.
- (e) The application (self-supply) of goods from a taxable to an exempted activity.
- (f) The appropriation (self-supply) of goods to non-business use.
- (g) The transfer of goods from an ROI business to its branch in another EU State.

A supply of goods does not include:

- (a) A transfer ownership of goods to a lender as security for a loan.
- (b) A transfer ownership of goods back to the borrower on redemption of the loan.
- (c) A transfer in connection with the transfer of a business or part of a business to another taxable person.

PLACE OF SUPPLY OF GOODS

The **general rule** is that a supply of goods takes place where the goods are located at the time of the supply (s 29(1)(c)).

The **exceptions** to the general rule are:

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(a) An Intra-Community Supply (other than a means of transport) - the place of supply is where the goods' journey ends. But if the customer is VAT-registered the supply is deemed to take place in the EU State that issued the customer's VAT number.

An Intra-Community Supply of a means of transport takes place where the goods' journey ends (s 24(1)).

(b) The place of supply of goods that are assembled or installed is where the goods are assembled or installed (s 29(1)(b)).

(c) For goods supplied on board a boat, plane or train travelling between EU States, the place of supply is the EU State of departure (s 29(1)(d)).

(d) For distance sellers without an EU establishment, selling into an EU State, the place of supply is where the goods' journey ends (s 30(1)-(2)).

Supply of services

MEANING OF SUPPLY OF SERVICES

The supply of a service means "the performance or omission of any act, or the toleration of any situation" other than a supply of goods.

PLACE OF SUPPLY OF SERVICES

There are two place of supply rules, depending on whether customer is a business (B2B service) or a consumer (B2C service):

(a) For B2C services, the place of supply is the supplier's place of establishment. If the supplier has several establishments, the supply takes place at the establishment most concerned with the supply; if the supplier has no establishment, it takes place at the supplier's usual place of residence (s 34).

(b) For B2B services, the place of supply is where the recipient is established - the "reverse charge rule." The supplier must obtain the recipient's VAT number and record it on the invoice.

Exceptions – the following services are treated as supplied where physically performed: property-related services, passenger transport, restaurants, cultural services, hire of means of transport.

The reverse charge mechanism applies to supplies of construction services between connected persons.

Taxable person

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Meaning of taxable person

A trader is a **taxable person** and must register for VAT (s 65) if in any continuous 12 month period if:

- (a) his turnover from the supply of taxable goods exceeds, or is likely to exceed **€75,000**,
- (b) his turnover from the supply of taxable services exceeds, or is likely to exceed **€37,500**,
- (c) the value of his ICAs exceeds, or is likely to exceed **€41,000**,
- (d) he disposes of developed property,
- (e) being a distance seller selling into Ireland, his turnover from the supply of goods exceeds, or is likely to exceed **€35,000** in a calendar year (s 29(1)).

A farmer or sea-fisherman is not obliged to register but may elect to do so.

Property transactions

EXEMPT SUPPLY

The following supplies are exempt:

- (a) undeveloped land,
- (b) immovable goods (land or buildings) where the most recent development was more than five years before the supply,
- (c) a completed property occupied for at least 24 months since its most recent development, where a taxable supply has occurred since that development between unconnected persons,
- (d) a property completed more than five years before the supply, provided only “minor” work was carried out before the supply, i.e., work which does not adapt the property for materially altered use and the cost of which does not exceed 25% of the sale price.

A person making an exempt supply of property, may, together with the acquirer of the property, make a joint option for taxation. In such a case, the acquirer is accountable for the VAT.

TAXABLE SUPPLY

The supply of a developed property which is new and unused is taxable. Broadly, a property is new if it is developed in the five years prior to its disposal and unoccupied.

LETTING OF PROPERTY

A landlord may opt to charge VAT on a letting of *commercial* property. Such an option is exercised by including an appropriate provision in the letting agreement. The option ceases if the landlord:

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- (a) makes an exempt letting,
- (b) agrees in writing with the tenant,
- (c) notifies the tenant accordingly,
- (d) becomes connected with your tenant,
- (e) allows a connected person to occupy the premises,
- (d) allows the property to be used as a residence.

A landlord may not opt to tax a letting to a connected person, unless the connected tenant uses the property for an activity in relation to which he is entitled to 90% deductibility.

CAPITAL GOODS SCHEME

A property's tax-life (adjustment period) is generally 20 years (10 years in the case of a refurbished property). Deductible VAT is adjusted for each year (interval) of the property's VAT life by comparing the VAT deducted on acquisition with the proportion of taxable use during the initial interval. Depending on whether taxable use has increased or decreased, the VAT deduction for that interval will decrease or increase.

Where a person with full VAT recovery sells a property, but did not reclaim VAT on the acquisition of the property, he can get a full VAT credit for the unclaimed VAT, scaled back in accordance with the number of years elapsed since the property was acquired.

A property owner must keep a capital good record for each capital good.

VAT rates

Current VAT rates

The current VAT rates are (s 46(1)):

- (a) **0%** (the zero rate).
- (b) **4.8%** (the agricultural rate). This applies to supplies of live cattle, deer, goats, greyhounds, horses, pigs and sheep.
- (c) **13.5%** (the low rate). This is reduced to 9% for certain goods and services.
- (d) **23%** (the standard rate). This rate applies to goods and services that are not exempt, or specifically liable at 0%, 5.4%, or 13.5%.

A rate of 5.4% (the farmer's flat-rate addition) applies to supplies of agricultural produce by flat-rate (i.e., unregistered) farmers (s 86(1)).

Zero rate

The goods and services chargeable to VAT at 0% (Schedule 2) are:

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INTRA-COMMUNITY TRANSACTIONS

1. (1) Supplies to a VAT-registered person in another EU State.
- (2) The supply of new means of transport, dispatched or transported to a person in another EU State.
- (3) The supply of excisable products, dispatched or transported to a person in another EU State.
- (4) The transport of goods within the EU to and from the Azores or Madeira.

IMPORTS

2. (1) Goods imported from outside the EU consigned to another EU State.
- (2) Transport of goods imported from outside the EU (provided the customs value of the goods includes the transport charge).

EXPORTS

3. (1) The export of goods to a place outside the EU.
- (2) Carriage of goods within the State where part of a contract to transfer the goods to a place outside the EU.
- (3) Goods supplied to an authorised exporter.
- (4) Work on movable goods brought from outside the EU for the purposes of such work.

SERVICES RELATING TO VESSELS AND AIRCRAFT

4. (1) The provision of port or airport facilities (docking, landing, loading, unloading) for passengers and goods.
- (2) The supply, modification, maintenance, repair, chartering and hire of sea-going ships of more than 15 tons and international commercial aircraft.
- (3) The supply, maintenance, repair and hire of equipment for use in sea-going vessels in (2).
- (4) The supply, maintenance, repair and hire of equipment for use in aircraft in (2).
- (5) The supply of fuel and provisions for a sea-going ship or international commercial aircraft.
- (6) The supply of navigation services by the Irish Aviation Authority.

TRANSACTIONS TREATED AS EXPORTS

5. (1) The supply of goods or services to certain international bodies.
- (2) The supply of gold to the Central Bank.

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SERVICES BY INTERMEDIARIES

6. (1) Export agency services.

(2) Export agency services include services in relation to: carriage of goods to or from the Azores or Madeira; carriage of goods in transit to a place outside the EU; provision of docking, landing, loading or unloading facilities; the supply, maintenance, hire and repair of equipment for sea-going vessels; the supply of gold to the Central Bank.

(3) Intermediary services in relation to the travel agent's margin scheme.

INTERNATIONAL TRADE ETC.

7. (1) The supply of goods by a VAT-registered person in a free port to another such person.

(2) The supply of goods by a VAT-registered person in the Shannon zone to another such person.

(3) The supply of goods to be transported directly or on behalf of the supplier to a VAT-registered person in the Shannon zone.

(4) The supply of traveller's goods (goods brought abroad by a traveller in accordance with the retail export scheme), provided the conditions are met.

(5) VAT repayment services in relation to traveller's goods.

(6) The supply of goods in a tax-free shop to travellers departing the State to a place outside the EU.

The supply of food, drink and tobacco, to passengers travelling to another EU State, for consumption on board the ship or aircraft.

(7) The supply of goods and services to a qualifying export business.

FOOD AND DRINK

8. (1) Food and drink for human consumption, excluding:

(a) alcoholic drinks,

(b) tea, coffee, etc. in drinkable form,

(c) ice cream, frozen desserts, yogurts, cereal or grain savoury products,

(d) potato crisps, popcorn, salted or roasted nuts,

(e) chocolates, sweets, biscuits, confectionery, but not plain bread.

(2) "Supplying food and drink" includes supplying food without drink and vice versa.

CERTAIN PRINTED MATTER

9. Printed books and booklets, but not newspapers, stationery, albums, and books of stamps, coupons or tickets.

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CHILDREN'S CLOTHING AND FOOTWEAR

10. (1) Children's clothing, i.e., clothing of sizes not exceeding the size appropriate to a 10-year old child of average build.
- (2) Children's footwear, i.e., footwear of a size not exceeding the average size for a 10-year old child.
- (3) A 10-year old child means a child under eleven years of age.

MEDICINE, MEDICAL EQUIPMENT AND APPLIANCES

11. (1) Medicine for human oral consumption.
- (2) Medicine for animal oral consumption (but not for pets).
- (3) Invalid carriages and appliances, and artificial body parts (but not artificial teeth, corrective spectacles, and contact lenses).

FERTILISERS, FEEDING STUFFS, CERTAIN SEEDS ETC

12. (1) Animal feed other than pet food.
- (2) Fertiliser supplied in packages of 10kg or more.
- (3) Food-producing trees, plants, seeds, spores, bulbs, tubers, tuberous roots, corms and rhizomes.

OTHER ZERO-RATED GOODS AND SERVICES

13. (1) Lighthouse and navigation services provided by the Commissioner of Irish Lights.
 - (2) Life saving services provided by the Royal National Lifeboat Institution.
 - (3) Sanitary towels and tampons.
- Air traffic control services supplied by the Irish Aviation Authority.
- (4) Plain white wax candles and night lights.

Low rate (13.5%, but 9% as regards services marked *)

The goods and services chargeable to VAT at the low rate (Schedule 3) are:

DEFINITIONS

1-2. Definitions.

FOOD AND DRINK FOR HUMAN CONSUMPTION*

3. (1) Food and drink provided for human consumption by a vending machine, or in the course of catering (i.e., in the course of operating a hotel, restaurant, canteen, pub, catering or similar business).
- (2) The supply, in the course of catering, of ice cream, frozen desserts, frozen yoghurts etc., potato crisps, popcorn and salted or roasted nuts, and non-alcoholic drinks.

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- (3) Hot take away food.
- (4) Hot take away food does not include bread that does not meet the ingredient requirements.
- (5) Cakes, crackers, wafers and biscuits, excluding:
 - (a) cakes not covered, or decorated with chocolate,
 - (b) ice cream, frozen desserts, etc.,
 - (c) chocolates, sweets and similar confectionery.

LIVE ANIMALS, ANIMAL FEEDING STUFFS

- 4. (1) Greyhound feed supplied in units of 10kg or more.
- (2) Live poultry and live ostriches.

PHARMACEUTICAL PRODUCTS

- 5. Non-oral contraceptives.

CERTAIN SAFETY EQUIPMENT

- 6. Children's car safety seats.

NEWSPAPERS AND OTHER PRINTED MATTER*

- 7. Printed newspapers and magazines, brochures, leaflets and programmes, catalogues, directories, maps, charts, sheet music – provided the material in question does not consist mainly of advertising.

SHOWS, EXHIBITIONS, CULTURAL FACILITIES, ETC*

- 8. (1) Cinema admission charges.
- (2) Promotion of, and admission to, live theatre and concert shows, other than dances, which are not exempt.
- (3) Amusement services.
- (4) Admission to artistic, cultural, historical or scientific exhibitions (that are not exempt).

PRIVATE DWELLINGS

- 9. (1) Services consisting of the development of immovable goods consisting of private dwellings, i.e., building type work (subject to the two-thirds rule).
- (2) Routine cleaning of private dwellings.

AGRICULTURAL GOODS AND SERVICES

- 10. (1) Agricultural services.
- (2) Animal insemination services.
- (3) Livestock semen.

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HOTELS, HOLIDAY ACCOMMODATION*

11. Accommodation in a hotel, guest house, holiday home or caravan park.

SPORTING FACILITIES*

12. (1) Commercial sports facilities.

(2) Golf facilities provided by a member-owned golf club, if the turnover exceeds €37,500 in any continuous 12 month period.

(3) Golf facilities provided by a non-profit body, if the turnover exceeds €37,500 in any continuous 12 month period.

OTHER SERVICES

13. (1) Waste disposal services.

(2) Minor repairs to movable goods.

(3) Hairdressing services.*

HOUSING

14. The supply of immovable goods used for residential purposes, i.e., houses and apartments.

NON-RESIDENTIAL IMMOVABLE GOODS

15. (1) The supply of immovable goods not used for residential purposes, i.e., commercial property.

(2) Services consisting of the development of commercial property, i.e., building type work (subject to the two-thirds rule).

(3) Routine cleaning of commercial property.

CONCRETE WORKS

16. (1) Concrete ready to pour.

(2) Standard-sized concrete building blocks.

ENERGY PRODUCTS AND SUPPLIES

17. (1) Coal, peat and solid fuel products.

(2) Electricity.

(3) Domestic or industrial gas for heating or lighting.

(4) Home heating oil.

PHOTOGRAPHIC AND RELATED SUPPLIES

18. (1) Photographic development services.

(2) Photographs and negatives supplied by a professional photographer.

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- (3) Professional photographic services.
- (4) Passport photographs supplied by a photographic vending machine.
- (5) Film editing services.
- (6) Photographic agency service receipts.

HIRING FOR SHORT PERIODS

- 19. Short-term hire of road vehicles, boats, caravans, mobile homes, and tents.

CERTAIN REPAIRS AND SERVICES

- 20. (1) Repair and maintenance of movable goods (but not motor accessories, batteries, tyres, tyre flaps or tyre tubes, supplied in the course of a vehicle service).
- (2) Zero-rated repair work (on movable goods for export, on aircraft or sea-going vessels, or on equipment used in international aircraft) is excluded from (1).

MISCELLANEOUS SERVICES

- 21. (1) Care of the human body (health studios).
- (2) Professional jockey services.
- (3) Professional veterinary services.
- (4) Tour guide services.
- (5) Driving instruction (other than heavy goods vehicles).

PLANTS AND BULBS

- 22. (1) Nursery or garden centre produce.
- (2) Goods used for the agricultural production of biofuel.

WORKS OF ART

- 23. Original works of art (paintings, sketches, engravings, sculptures).

ANTIQUES

- 24. Antiques more than 100 years old.

LITERARY MANUSCRIPTS

- 25. Literary manuscripts certified as being of major importance.

Package rule

A supply consisting of a combination of goods and/or services chargeable at different VAT rates for a single price is chargeable at the highest rate applicable to any of the items in the package (s 47).

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Two-thirds rule

If a combination of goods and services is supplied for a single price, provided the value of goods exceeds two-thirds of the total price for the job, the entire transaction is treated as a supply of goods (not a service) (s 41).

Exempt activities

VAT is not charged on any of the following supplies:

POSTAL SERVICES

1. Public postal services.

MEDICAL AND RELATED SERVICES

2. (1) Medical care or treatment provided by a hospital, nursing home or clinic.
(2) Home care services undertaken on behalf of the Health Service Executive.
(3) Professional medical care services.
(4) Dental technician services and the supply of dentures and other dental prostheses.
(5) Professional dental or optical services.
(6) The collection, storage, supply, intra-EU acquisition and importation of human blood, milk and organs.

INDEPENDENT GROUPS, NON-PROFIT MAKING ORGANISATIONS AND OTHER BODIES

3. (1) Services supplied by an independent tax-exempt entity established for administrative convenience in order to render services to the members.
(2) Welfare or social security type goods and services provided by a non-profit body.
(3) Goods and services supplied to its members by a non-profit body.
(4) The provision of sports facilities by a non-profit body.
(5) Cultural services provided by a Revenue-recognised cultural body.

CHILDCARE AND EDUCATION

4. (1) Non-profit childcare services.
(2) Childcare provided by regulated childcarers.
(3) Educational activities.

OTHER ACTIVITIES

5. (1) Catering services supplied to patients in a hospital or nursing home, or to students in a school.
(2) The promotion of, and admission to, live theatre, concert and circus shows.
(3) The promotion of sporting events.

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(4) The national broadcasting and television service.

FINANCIAL SERVICES

6. (1) Financial services: these include all the usual banking type services – lending money, operating bank accounts, credit card management, issuing, transferring and dealing in stocks etc.

(2) They also include managing a collective investment undertaking.

(3) A determination by the Minister for Finance that an undertaking is a collective investment undertaking takes effect from the date of the determination.

(4) Management of an undertaking is as defined by EU law.

AGENCY SERVICES

7. Insurance premium collection services, insurance agency services, and financial agency services.

INSURANCE AND REINSURANCE SERVICES

8. (1) Insurance services.

(2) Related insurance services include collecting premiums and claims-handling.

INVESTMENT GOLD

9. (1) The supply, intra-Community acquisition and importation of investment gold.

(2) Acting as an intermediary in relation to investment gold.

GAMBLING AND LOTTERIES

10. (1) The taking of bets.

(2) The issue of lottery tickets.

LETTING OF LAND AND BUILDINGS

11. (1) Letting of land or buildings, but excluding letting of machinery, hotel or holiday accommodation, provision of sports facilities, car parking and the provision of safes.

(2) Permission to use a toll road is not exempt.

OTHER SUPPLIES OF GOODS

12. Goods in relation to which the supplier was not entitled to a purchases VAT deduction (for example, a car).

GAS AND ELECTRICITY SERVICES

13. (1) Importation of gas through the natural gas system.

(2) Importation of electricity.

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EXEMPTIONS BY DEROGATION

14. (1) Funeral undertaking.
- (2) The supply of water by local authorities.
- (3) The transport of passengers with their baggage.
- (4) Admission to sports events.

Taxable amount

VAT is charged on the total consideration which the supplier become entitled to receive in relation to the goods or services supplied. The gross consideration (i.e., the **taxable amount**) includes all commissions, costs, charges and taxes (apart from VAT) in respect of the supply (ss 36-43).

Cash receipts basis

A taxable person may account for VAT on the cash receipts basis (s 80) if his turnover:

- (a) derives as to **90%** or more from sales to unregistered persons, and
- (b) is less than **€2,000,000** in any continuous 12 month period (effective 1 January 2014).

Self assessment

Generally, a VAT return must be filed, and the VAT paid, between the 10th and the 19th day of the month following the VAT period (ss 74-79).

Distance sellers must file a quarterly VAT return on or before the 20th day of the month following the calendar quarter (s 91(6)(a)-(b)).

If no return is filed, the Revenue may estimate and enforce collection of their estimate of unpaid VAT (s 110).

A taxable person must also file a statement of intra-EU supplies in each calendar quarter. This VIES statement must be filed before the last day of the month following the calendar quarter (s 82).

Revenue powers

Administration

The Revenue Commissioners are responsible for the administration of VAT (s 106).

Audit

A taxable person must:

- (a) keep full and true records of all transactions which affect or may affect his VAT liability (ss 84-85),
- (b) issue customers with a **VAT invoice** containing the details required by regulations (ss

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66-72).

An authorised officer may at all reasonable times enter a business premises and require the owner, or his employees, to produce for inspection any **records** relating to the business (s 108).

An inspector may make an assessment of VAT he believes to be underpaid (s 111).

Collection

Interest is charged at **0.0274%** for each day the VAT is unpaid.

Penalties

A person who fails to comply with VAT obligations is liable to a penalty of €5,000 (s 115). If the failure is negligent, the penalty is €125 plus the difference between the correct liability and the tax paid. If the failure is fraudulent, the penalty is €125 plus twice the difference between the correct liability and the tax paid (s 116).

See INCOME TAX (Penalties) as regards enforcement of penalties.

Appeals

A person aggrieved by an assessment to VAT may appeal within 14 days of the notice of assessment (s 111). The income tax appeal procedures apply (s 119).