



STATUTORY INSTRUMENTS.

S.I. No. 639 of 2010



VALUE-ADDED TAX REGULATIONS 2010

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VALUE-ADDED TAX REGULATIONS 2010

The Revenue Commissioners, in exercise of the powers conferred on them by section 120 of the Value-Added Tax Consolidation Act (No. 31 of 2010), and as respects Regulations 14, 15, 31, 38, 44 and 46 with the consent of the Minister for Finance, hereby make the following regulations:

Preliminary and General*Citation and commencement*

1. (1) These Regulations may be cited as the Value-Added Tax Regulations 2010.

(2) These Regulations come into operation on 1 January 2011.

Interpretation

2. In these Regulations—

“Act” means the Value-Added Tax Consolidation Act 2010;

“Commissioners” means the Revenue Commissioners;

“repealed enactment” means the Value-Added Tax Act 1972 (No. 22 of 1972);

“registration number”, in relation to a person, means the number assigned to the person for the purposes of registration under section 65 of the Act;

“value-added tax identification number in another Member State”, in relation to a person, means the identification number issued to the person by the authorities of another Member State for the purposes of value-added tax referred to in the VAT Directive;

“VAT Directive” means Council Directive 2006/112/EC of 28 November 2006 on the common system of value-added tax¹.

Accountable Persons*Election to be an accountable person and cancellation of such election*

3. (1) In this Regulation—

“application form” means such form as is provided by the Commissioners for the purpose of enabling a person to apply to elect to be an accountable person;

¹OJ No. L 347 of 11 December 2006, p. 1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 31st December, 2010.*

“end-date” means the last day of the taxable period immediately preceding the request period;

“relevant taxable periods” means the taxable periods comprised in whichever of the periods referred to in paragraph (5)(b)(i) is appropriate;

“request period” means the taxable period during which a person notifies the Commissioners that he or she requests the cancellation of an election;

“start-date” means—

- (a) in the case of an accountable person referred to in paragraph (4)(b), the date that person was first treated as an accountable person,
- (b) by agreement between the person concerned and the Commissioners, the beginning of the taxable period during which the application form is received by the Commissioners, or
- (c) in any other case, the beginning of the taxable period immediately following the taxable period during which the application form is received by the Commissioners.

(2) A person who, in accordance with section 6(1) of the Act, is not an accountable person but who wishes to elect to be such a person is required to register for tax by completing the application form.

(3) The submission of the application form referred to in paragraph (2) constitutes an election to be an accountable person. Such election is effective from the start-date until the date the election is cancelled in accordance with paragraph (7).

(4) (a) A person who is an accountable person by reason only of an election made in accordance with paragraphs (2) and (3) is entitled to have such election cancelled, subject to fulfilling the requirements of paragraph (5).

(b) An accountable person who satisfies the Commissioners that, in accordance with section 7 of the Act, he or she may be treated as a person who is not an accountable person is entitled to have his or her registration as an accountable person cancelled, subject to fulfilling the requirements of paragraph (5).

(5) A person who wishes to have his or her election cancelled is required to—

(a) apply to the Commissioners in writing to have his or her election cancelled,

(b) furnish particulars to the Commissioners of—

(i) the total amount of tax paid by him or her in accordance with sections 76 and 77 of the Act on the supply by him or her of

goods or services, other than services consisting of the letting of immovable goods referred to in paragraph 11 of Schedule 3 to the Act, in respect of whichever of the following periods is the shorter:

- (I) all the taxable periods comprised in the period commencing with the start-date and ending with the end-date, or
- (II) the 18 consecutive taxable periods up to the end-date,
- (ii) the total amount of tax refunded to him or her in accordance with section 99(1) of the Act in respect of tax borne or paid in relation to the supply by him or her of goods or services, other than services consisting of the letting of immovable goods referred to in paragraph 11 of Schedule 3 to the Act, in respect of the relevant taxable periods, and
- (iii) the tax deductible under Chapter 1 of Part 8 of the Act in respect of the intra-Community acquisition of goods, if any, made by him or her in the same relevant taxable periods,

and

- (c) furnish a return in accordance with sections 76 and 77 of the Act for the request period, and at the same time pay to the Collector-General—
 - (i) any tax payable in respect of goods and services supplied by him or her during the request period, and
 - (ii) an amount equal to the excess (if any) of the sum of the tax referred to in clauses (ii) and (iii) of subparagraph (b) over the tax referred to in clause (i) of that subparagraph;

but, if that person supplied qualifying goods and services in accordance with section 56 of the Act during the relevant taxable periods, he or she may include in the amount referred to in subparagraph (b)(i) the tax that would have been chargeable had the supplies not been zero-rated under that section.

(6) Where a person who supplies services consisting of the letting of immovable goods referred to in paragraph 11 of Schedule 3 to the Act wishes to have his or her election cancelled, he or she is required to—

- (a) apply to the Commissioners in writing to have his or her election cancelled, and
- (b) furnish a return in accordance with sections 76 and 77 of the Act, and at the same time pay to the Collector-General—

- (i) any tax payable in respect of those services supplied during the request period, and
- (ii) the cancellation amount provided for in section 8(2) of the Act, as if it were tax due in accordance with Chapter 3 of Part 9 of the Act, in addition to any amount payable in accordance with section 8(1) of the Act.

(7) Where the Commissioners are satisfied that the requirements of paragraph (5) and, where appropriate, paragraph (6) are fulfilled by the person concerned, they shall—

- (a) notify that person in writing accordingly, and
- (b) cancel that person's election to be an accountable person with effect from the end of the taxable period during which those requirements have been fulfilled.

(8) A person who requests the cancellation of his or her election to be an accountable person is not entitled, under section 99(1) of the Act, to any refund of tax, other than a refund referable solely to an error or mistake made by him or her, for the request period or any subsequent taxable periods in excess of an amount calculated in accordance with the following formula:

$$A + B$$

where—

A is the excess of the amount referred to in clause (i) of paragraph (5)(b) over the sum of the amounts referred to in clauses (ii) and (iii) of that paragraph but, where there is no such excess, A is equal to zero, and

B is the sum of the amounts of tax paid under sections 76 and 77 of the Act for the request period and any subsequent taxable periods until the election is cancelled.

(9) In the case of a farmer who, had he or she made no election to be an accountable person, would not be an accountable person by virtue of section 6(1)(a) of the Act, paragraph (5)(b)(i) applies as if—

- (a) the amount of tax paid by him or her in accordance with sections 76 and 77 of the Act in respect of each of the relevant taxable periods were increased by an amount equal to the flat-rate addition, which that farmer would be required (in accordance with section 86(1) of the Act) to indicate on an invoice in respect of the supply of agricultural produce or of an agricultural service if that farmer had not elected to be an accountable person, and
- (b) the total amount of tax refunded to him or her in respect of all the relevant taxable periods comprised in the period included in the calculation in paragraph (5)(b)(i) were reduced by the total amount of

tax which qualified for deduction under Chapter 1 of Part 8 of the Act in respect of those taxable periods and which, in accordance with any order made under section 103 of the Act, would fall to be refunded to him or her if he or she were not an accountable person.

Groups

4. (1) Where 2 or more persons seek to satisfy the Commissioners that those persons should be treated as being in a group in accordance with section 15 of the Act, each of those persons is required to complete such forms as are provided for that purpose by the Commissioners.

(2) The Commissioners shall—

- (a) determine whether a notification under section 15 of the Act should be issued to such persons, and
- (b) where they determine that such notification should so issue, specify the date from which the notification applies.

Taxable Transactions

Exemption of certain business gifts

5. For the purposes of section 21(a) of the Act, a gift of goods made in the course or furtherance of business (otherwise than as one forming part of a series or succession of gifts made to the same person) the cost of which to the donor does not exceed €20, exclusive of tax, shall be deemed not to have been effected for consideration.

Death, bankruptcy or liquidation

6. Where an accountable person dies, becomes bankrupt or, being a body corporate, goes into liquidation, anything which that person would have been liable to do under the Act or these Regulations shall be done by that person's personal representative, assignee, trustee, committee or liquidator, as the case may be.

Supply of services comprising use of immovable goods for private or non-business purposes

7. (1) In this Regulation “private use proportion”, in relation to immovable goods, means the proportion that correctly reflects the extent to which those goods are used for private or non-business purposes in the relevant taxable period.

(2) Where section 27(2) of the Act applies in relation to immovable goods, being immovable goods acquired or developed by an accountable person before 1 January 2011, the private use proportion shall be calculated in accordance with the following formula:

$$\frac{A}{B}$$

where—

A is equal to the floor area of that part of the immovable goods that is used for private or non-business purposes in the relevant taxable period, and

B is equal to the total floor area of those immovable goods.

(3) The amount on which tax is chargeable in relation to the supply of services referred to in section 27(2) of the Act in any taxable period shall be calculated in accordance with the following formula:

$$\frac{C \times D}{20 \times 6}$$

where—

C is the amount on which tax is chargeable on the acquisition or development of the immovable goods, and

D is the private use proportion calculated in accordance with the formula in paragraph (2).

(4) The rate of tax applicable to the supply of services referred to in paragraph (3) is the rate specified in section 46(1)(a) of the Act.

Supply of certain services

8. (1) Subject to paragraph (2) and in accordance with section 27(2) of the Act, the following services are deemed to be a supply of services by a person for consideration in the course or furtherance of the person's business, that is to say, the supply free of charge of catering services for such person's own private use or that of the staff of such person.

(2) This Regulation does not apply to any such supplies as are referred to in paragraph (1) if the total cost of providing those supplies has not exceeded, and is not likely to exceed, the amount specified in the definition of "services threshold" in section 2(1) of the Act in any continuous period of 12 months, unless the person making those supplies elects to be an accountable person in respect of those supplies.

Taxable Amount

Adjustments for returned goods, discounts and price alterations

9. (1) Paragraphs (2) to (4) apply where, in a case in which section 39(2) of the Act applies and section 67(5) of the Act does not apply, by reason of the allowance of discount, a reduction in price or the return of goods other than the return of goods in an early termination of a hire purchase agreement—

(a) the consideration exclusive of tax actually received by an accountable person in respect of the supply by the accountable person of any goods or services is less than the amount on which tax has become chargeable in respect of such supply, or

(b) no consideration is actually received.

(2) The amount of the deficiency in respect of any supply shall be ascertained by deducting from the amount on which tax has become chargeable in respect of such supply, the consideration actually received exclusive of tax.

(3) (a) Subject to subparagraph (b), the sum of the deficiencies ascertained in accordance with paragraph (2), incurred in each taxable period and relating to consideration chargeable at each of the various rates of tax (including the zero rate) specified in section 46(1) of the Act, shall be deducted from the amounts ascertained in accordance with Chapter 1 of Part 5 of the Act which would otherwise be chargeable with tax at each of those rates, and the net amounts as so ascertained shall be the amounts on which tax is chargeable for the taxable period during which the deficiencies are ascertained.

(b) For the purposes of subparagraph (a), where the sum of the deficiencies as ascertained in accordance with that subparagraph in relation to tax chargeable at any of the rates so specified in section 46(1) of the Act exceeds the amount on which, but for this Regulation—

(i) tax would be chargeable at that rate, or

(ii) no tax is chargeable at that rate,

then, the tax appropriate to the excess or to the sum of the deficiencies, if no tax is chargeable, shall be treated as tax deductible in accordance with Chapter 1 of Part 8 of the Act for that taxable period.

(4) (a) Where, in accordance with Chapter 2 of Part 9 of the Act, a credit note is issued by an accountable person in respect of an adjustment under this Regulation, then the accountable person to whom the credit note is issued shall reduce the amount which would otherwise be deductible under Chapter 1 of Part 8 of the Act for the taxable period during which the credit note is issued (in this paragraph referred to as the “tax deduction”) by the appropriate amount of tax shown thereon (in this paragraph referred to as the “tax reduction”).

(b) Where the tax reduction exceeds the tax deduction, then the excess shall be carried forward and deducted from the tax deductible under Chapter 1 of Part 8 of the Act for the next taxable period and so on until the tax reduction is exhausted.

(5) (a) Where, in accordance with section 68(2)(b) of the Act, a farmer credit note is issued by a flat-rate farmer, then the accountable person to whom the credit note is issued shall reduce the amount which would otherwise be deductible under section 59(2)(o) of the Act for the taxable period during which the farmer credit note is issued (in this paragraph referred to as the “flat-rate deduction”) by the amount of the appropriate flat-rate addition shown thereon (in this paragraph referred to as the “flat-rate reduction”).

- (b) Where the flat-rate reduction exceeds the flat-rate deduction, the excess shall be carried forward and deducted from the amount deductible under section 59(2)(o) of the Act for the next taxable period and so on until the flat-rate reduction is exhausted.

Adjustments for bad debts and for early termination of hire purchase agreements

10. (1) In this Regulation—

“early termination”, in relation to a hire purchase agreement, means the termination of the hire purchase agreement on a date prior to the date fixed for such termination under that agreement and the return of the goods which are subject to that agreement;

“part payment” means the amount of money or the value of goods traded in by the customer, which amount or value is shown in the hire purchase agreement as representing that part of the sale price of goods that is not being financed under the terms of the hire purchase agreement;

“sale price” means the price shown in the hire purchase agreement which is inclusive of tax, and vehicle registration tax where appropriate, and which is the price for which the goods would be sold to a customer if their purchase were not financed in whole or in part under a hire purchase agreement.

(2) In a case in which section 39(2) of the Act applies by reason of the default of a debtor, where—

- (a) the consideration, exclusive of tax, actually received by an accountable person in relation to the supply by that person of any goods or services is less than the amount on which tax was chargeable in respect of such supply, or
- (b) no consideration is actually received,

then, subject to the conditions in paragraph (3), relief in respect of the tax attributable to the deficiency (in this Regulation referred to as a “bad debt”) may be claimed in accordance with this Regulation.

(3) An accountable person who has accounted for tax in respect of a supply covered by paragraph (2) may subsequently claim bad debt relief for the tax attributable to the bad debt, where—

- (a) the accountable person has taken all reasonable steps to recover the bad debt,
- (b) the bad debt is allowable as a deduction under section 81(2)(i) of the Taxes Consolidation Act 1997 (No. 39 of 1997) in cases where the accountable person is chargeable to tax under Case I or II of Schedule D of that Act,
- (c) the bad debt has been written off in the financial accounts of the accountable person and the requirements of Regulation 27(1)(m) in

respect of that debt have been fulfilled by that accountable person, and

- (d) the person from whom the debt is due is not connected with the accountable person at any time in the period from the date the supply giving rise to the debt is made to the date on which the debt is written off in the financial accounts of the accountable person, and the question of whether a person is connected with the accountable person shall be determined in accordance with section 97(3) of the Act.

(4) The amount of the relief which an accountable person may claim in respect of a supply covered by paragraphs (2) and (3), which is not a supply within the meaning of section 19(1)(c) of the Act, is calculated in accordance with the following formula:

$$A \times \frac{B}{100+B}$$

where—

A is the amount that is outstanding from the debtor in relation to the taxable supply, and

B is the percentage rate of tax, specified in section 46(1) of the Act, which was applied to the supply in question.

- (5) (a) The amount of the relief that an accountable person may claim in respect of a supply covered by paragraphs (2) and (3), which is a supply within the meaning of section 19(1)(c) of the Act (in this Regulation referred to as a “supply of the goods under the hire purchase agreement”), is calculated in accordance with the following formula:

$$(C - D) \times \frac{(E - F)}{C}$$

where—

C is the sum of all the amounts scheduled for payment by instalment under the hire purchase agreement,

D is the total amount paid by the customer against the instalments scheduled for payment under the hire purchase agreement up to and including the date on which the bad debt is written off in the financial accounts of the accountable person,

E is an amount equal to the amount of tax accounted for by the accountable person on the supply of the goods under the hire purchase agreement, and

F is an amount equal to the tax attributable to a part payment shown in the hire purchase agreement calculated in accordance with subparagraph (b).

- (b) The tax attributable to a part payment is calculated in accordance with the following formula:

$$G \times \frac{E}{H}$$

where—

G is an amount equal to the part payment,

E is an amount equal to the amount of tax accounted for by the accountable person on the supply of the goods under the hire purchase agreement, and

H is the sale price of the goods.

(6) In a case in which section 39(2) of the Act applies by reason of the return of the goods by a customer to his or her supplier as part of an early termination of a hire purchase agreement, relief in respect of the supply of the goods under the hire purchase agreement may, subject to section 39(4) of the Act, be claimed in accordance with paragraph (7).

(7) The amount of the relief that an accountable person may claim in respect of a supply of the goods referred to in paragraph (6) is established by—

- (a) calculating the tax attributable to the part payment in accordance with the formula in paragraph (5)(b), and
- (b) calculating, in accordance with the following formula, the tax attributable to the sum of the total amount paid by the customer against the instalments scheduled for payment under the hire purchase agreement and any amount paid by the customer as part of the early termination of that agreement:

$$J \times \frac{(E - K)}{C}$$

where—

J is the total amount paid by the customer against the instalments scheduled for payment under the hire purchase agreement up to and including the prior date agreed under the early termination plus any amount paid by the customer as part of the early termination,

E is an amount equal to the amount of tax accounted for by the accountable person on the supply of the goods under the hire purchase agreement,

K is an amount equal to the amount of tax attributable to the part payment shown in the hire purchase agreement calculated in accordance with paragraph (5)(b), and

C is the sum of all the amounts scheduled for payment by instalment under the hire purchase agreement,

and then subtracting the sum of the amounts calculated in accordance with subparagraphs (a) and (b) from the tax accounted for by the accountable person on the supply of the goods under the hire purchase agreement.

(8) Notwithstanding paragraphs (4), (5) and (7), the accountable person may, subject to the prior agreement of the Commissioners, use any other method of calculating the relief that correctly reflects the tax appropriate to the amount outstanding.

(9) An accountable person is entitled to claim the total amount of relief calculated in accordance with paragraph (4), (5), (7) or (8), as if that amount were tax deductible in accordance with Chapter 1 of Part 8 of the Act for the taxable period for which a claim is made.

(10) Where an accountable person, who has claimed relief in respect of any bad debt in accordance with this Regulation, subsequently recovers all or part of that debt, then—

- (a) the amount so recovered is treated as inclusive of tax,
- (b) the accountable person is liable to account for the tax on the amount so recovered, and
- (c) that tax is due and payable by the accountable person for the taxable period in which the amount is so recovered.

Stamps, coupons, tokens and vouchers

11. (1) The amount on which tax is chargeable by virtue of section 3(a) or (c) of the Act in relation to supplies of stamps, coupons, tokens or vouchers specified in section 43(4)(a) of the Act shall be nil, where the supplies are made by a person in relation to the operation of a business consisting mainly of the supply of goods or services in exchange for the stamps, coupons, tokens or vouchers, and the goods or services are of a kind which the person to whom the stamps, coupons, tokens or vouchers are surrendered does not supply except in relation to the operation of such a scheme.

(2) The amount on which tax is chargeable by virtue of section 3(a) or (c) of the Act in relation to supplies of goods or services to which section 43(4)(b) of the Act relates shall be the consideration which was disregarded for the purpose of the Act in accordance with section 43(2) of the Act.

Rates and Exemption

Apportionment of consideration

12. (1) In this Regulation “remaining individual supply” means an individual supply which is not disregarded.

(2) (a) Subject to paragraphs (3) and (4), an individual supply or supplies in a multiple supply may be disregarded by an accountable person for the purpose of the application of section 47(1)(b) of the Act, where the total tax exclusive cost to the accountable person of such supply or supplies does not exceed 50 per cent of the total tax exclusive consideration that the accountable person becomes entitled to receive for that multiple supply or €1, whichever is the lesser.

(b) Notwithstanding subparagraph (a), an individual supply of a beverage suitable for human consumption on which tax is chargeable at a rate other than the rate specified in section 46(1)(b) of the Act shall not be disregarded.

(3) Where a multiple supply consists of an individual supply or supplies which an accountable person disregards in accordance with paragraph (2) and one remaining individual supply, then the total consideration which the accountable person is entitled to receive for that multiple supply shall be treated as an amount chargeable at the rate specified in section 46(1) of the Act appropriate to that remaining individual supply.

(4) Where a multiple supply consists of an individual supply or supplies which an accountable person disregards in accordance with paragraph (2) and more than one remaining individual supply, then the taxable amount referable to the disregarded individual supply as ascertained in accordance with section 47(1)(b) of the Act shall be treated as an amount chargeable to tax—

- (a) where there is more than one rate applicable to those remaining individual supplies, at the lowest of those rates, and
- (b) in any other case, at the rate applicable to the remaining individual supplies.

Determination in regard to tax

13. (1) In this Regulation a “determination” means a determination made for the purposes of section 51 of the Act.

(2) A determination shall—

- (a) be in writing,
- (b) contain the particulars of the determination,
- (c) be signed by the officer making the determination, and
- (d) specify the date as on and from which the determination has effect.

(3) Determinations concerning 2 or more matters may be included in the same document.

Provisions Relating to Imports, Exports, etc

Imported goods

14. (1) Without prejudice to paragraph (3), section 5(1) of the Customs-Free Airport Act 1947 (No. 5 of 1947) shall not, in so far as it applies to tax, have effect in relation to goods brought from the Customs-free airport (within the meaning of that Act) into any other part of the State, where it is established to the satisfaction of the Commissioners that those goods are Community goods or that the tax has already been borne or paid on those goods.

(2) Section 29(7) of the Finance Act 1978 (No. 21 of 1978) applies in relation to tax payable at importation with the modification that the reference to goods entered for home use shall be deemed to include a reference to imported goods entered for free circulation.

(3) Legislation relating to customs adopted by the European Communities concerning the placing of goods under—

- (a) arrangements for temporary importation with total exemption from customs duty,
- (b) external transit arrangements,
- (c) temporary storage arrangements,
- (d) free zone or free warehouse arrangements,
- (e) customs warehousing arrangements,
- (f) inward processing (suspension) arrangements,
- (g) arrangements for processing under customs control,
- (h) arrangements for the admission of goods into territorial waters in connection with drilling or production platforms, and
- (i) outward processing arrangements,

shall apply only in relation to tax chargeable at importation where, and for such time as, goods are held under those arrangements for the purpose of compliance with and implementation of the Community rules relating to customs.

(4) Without prejudice to paragraph (3), legislation relating to customs adopted by the European Communities concerning suspension of customs duties, reduction in customs duties, or repayment or remission of customs duties does not apply to tax chargeable at importation.

(5) In accordance with sections 54 and 120(7) of the Act, where goods are reimported by the person who exported them, in the state in which they were

exported, being goods which are exempt from customs duties on such re-importation, then those goods shall be exempt from value-added tax.

Retail Export Scheme

15. (1) In this Regulation “traveller” and “traveller’s qualifying goods” have the meanings assigned to them by section 58(1) of the Act.

(2) The application of the rate of zero per cent to a supply of goods or services specified in section 58(2) of the Act is subject to the following conditions:

- (a) that, at the time of the supply of the goods to the traveller, the supplier makes, and subsequently retains for the period provided for in Chapter 7 of Part 9 of the Act, a record of the details of the documentary proof inspected by him or her confirming that the purchaser was a traveller,
- (b) that, at the time of supply of the goods to the traveller, the supplier issues an invoice to the traveller showing the following details:
 - (i) the date on which the invoice is issued,
 - (ii) the name, address and registration number of the supplier,
 - (iii) the name and address of the traveller,
 - (iv) a description of the goods supplied,
 - (v) the amount payable by the traveller at the time of the sale of the goods,
 - (vi) the tax charged, if any, and
 - (vii) the exchange rate or method to be used in determining the exchange rate, if repayment of the tax is to be made to the traveller by the supplier in a currency other than the euro,
- (c) that the traveller signs the completed invoice referred to at subparagraph (b),
- (d) that the notification of the charges made by the supplier, referred to in section 58(2)(iv) of the Act, is made at the latest—
 - (i) where the goods are exported by the traveller, at the time of the handing over of those goods to the traveller,
 - (ii) where the goods are exported on behalf of the traveller, at the time when those goods are supplied to the traveller,

and where an amount is charged to the traveller for procuring a repayment of tax or arranging for the zero-rating of the supply, such amount does not exceed the amount notified in accordance with section 58(2)(iv) of the Act,

- (e) that the time limit for making a repayment to the traveller, referred to in section 58(2)(ii) of the Act, is not later than the twenty-fifth working day following the receipt by the supplier of the traveller's claim to repayment,
 - (f) that the supplier keeps a copy of the invoice issued in accordance with subparagraph (c), signed by the traveller, and keeps a record in relation to each invoice of—
 - (i) the net amount (being the amount of tax charged to the traveller minus any commission or fee charged by the supplier to the traveller in respect of the transaction in question) repaid by the supplier to the traveller in respect of the supply in question, expressed in the currency in which the repayment was made,
 - (ii) where appropriate, the exchange rate used,
 - (iii) the date and method of such repayment, and
 - (iv) proof in accordance with paragraph (3) that the goods were exported by or on behalf of the traveller.
- (3) Where the goods—
- (a) are exported by the traveller, the proof of export of the goods required shall be the invoice issued in accordance with paragraph 2(b) in respect of that supply, certified—
 - (i) by an officer of the Commissioners assigned to a customs office in the State,
 - (ii) where the goods have been exported via another Member State of the Community, by a customs officer in that Member State, or
 - (iii) in such other manner as the Commissioners may deem acceptable for the purpose,
 - (b) are exported on behalf of the traveller, the proof of export of the goods shall take the form of documentary evidence of export, certified—
 - (i) by an officer of the Commissioners assigned to a customs office in the State, or
 - (ii) where the goods are exported from another Member State of the Community, by a customs officer in that Member State.
- (4) Where the value of the goods referred to in paragraph (3) exceeds €2,000, the traveller is required to present both the goods and the invoice issued in accordance with paragraph (2)(b) in respect of the supply of those goods to an officer of the Commissioners assigned to a customs office in the State.

Deductions

Relief for stock-in-trade held at commencement of taxability

16. (1) An accountable person who makes a claim for a deduction under section 59(2) of the Act of an amount that he or she is entitled to deduct in accordance with section 86(1) of the Act is required—

- (a) to keep detailed records of all stock-in-trade held at the commencement of the first taxable period for which he or she is deemed to be an accountable person (in this Regulation referred to as the “relevant day”), and
 - (b) to so keep those records under the headings set out in paragraph (2).
- (2) The following are the headings for the purposes of paragraph (1):
- (a) stocks supplied to the accountable person concerned by other accountable persons and in respect of which, if supplied immediately before the relevant day, tax would be chargeable on the full amount of the consideration at the rate specified in section 46(1)(a) of the Act,
 - (b) stocks supplied to the accountable person concerned by other accountable persons and in respect of which, if supplied immediately before the relevant day, tax would be chargeable on the full amount of the consideration at the rate specified in section 46(1)(c) of the Act,
 - (c) agricultural produce supplied by flat-rate farmers, and
 - (d) stocks, other than stocks referred to in subparagraph (c), in respect of which, if supplied immediately before the relevant day, tax would not be chargeable or would be chargeable at the zero rate.
- (3) (a) The total amount of the deduction to which the accountable person concerned is entitled in respect of stocks specified in subparagraph (a) or (b) of paragraph (2) is calculated by the formula:

$$(A - B) \times \frac{C}{100 + C}$$

where—

A is the value of stocks specified in subparagraph (a) or (b) of paragraph (2), as the case may be, which is calculated on the basis of cost inclusive of tax, or market value, whichever is the lower,

B is the value of the stocks referred to in A in respect of which an invoice issued in accordance with Chapter 2 of Part 9 of the Act has been, or is likely to be, received on or after the relevant day, and

C is the percentage rate of tax, applicable on the day before the relevant day, as specified in section 46(1)(a) of the Act in respect of

stocks referred to in paragraph (2)(a) and in section 46(1)(c) of the Act in respect of stocks referred to in paragraph (2)(b).

- (b) The deduction to which the accountable person concerned is entitled in respect of stocks specified in paragraph (2)(c) is determined by the formula:

$$(D - E) \times F$$

where—

D is the value of stocks specified in paragraph (2)(c) which is calculated on the basis of cost inclusive of tax, or market value, whichever is the lower,

E is the value of the stocks referred to in D in respect of which an invoice issued in accordance with Chapter 2 of Part 9 of the Act has been, or is likely to be, received on or after the relevant day, and

F is the percentage rate of flat-rate addition applicable on the day before the relevant day, specified in section 86(1) of the Act.

- (4) A detailed record must be kept of the relief, claimed under this Regulation, which is included in a return made in accordance with section 76 or 77 of the Act.

Apportionment

17. (1) In this Regulation—

“authorised officer” means a person authorised for the purposes of section 108 of the Act;

“final accounting year” means the period from the end of the previous accounting year to the date that a person ceases to be an accountable person;

“review period” means a period consisting of all the taxable periods that end during an accounting year.

- (2) (a) Where an accountable person deducts, in accordance with sections 59(2) and 61 of the Act, a proportion of the tax borne or payable on the accountable person’s acquisition of dual-use inputs for a taxable period, then that proportion of tax deductible by that person for a taxable period is—

- (i) the proportion which—

(I) correctly reflects the extent to which the dual-use inputs are used for the purposes of that person’s deductible supplies or activities, and

(II) has due regard to the range of that person’s total supplies and activities,

for that taxable period,

(ii) the proportion which was calculated as being the proportion of tax deductible for the review period immediately preceding the taxable period in question,

(iii) the proportion which that person estimates will—

(I) correctly reflect the extent to which the dual-use inputs will be used for the purposes of that person's deductible supplies or activities, and

(II) have due regard to the range of that person's total supplies and activities,

for the review period in which that taxable period ends, or

(iv) any other proportion of tax deductible which is determined in accordance with paragraph (2)(c).

(b) Where an accountable person estimates a proportion of tax deductible for a taxable period in accordance with subparagraph (a)(iii), then the accountable person is required to submit, at the same time as the return required to be furnished in accordance with section 76 or 77 of the Act for the taxable period in question, details setting out the basis for that estimate to the office of the Commissioners that would normally deal with the examination of the records kept by that person in accordance with Chapter 7 of Part 9 of the Act.

(c) If an authorised officer is satisfied that the proportion of tax deductible, estimated in accordance with subparagraph (a)(iii)—

(i) does not correctly reflect the extent to which the dual-use inputs will be used for the purposes of the accountable person's deductible supplies or activities, and

(ii) does not have due regard to the range of that person's total supplies and activities for the review period in which the taxable period ends,

then that officer may direct that accountable person to use a proportion of tax deductible in accordance with clause (i) or (ii) of subparagraph (a) or any other appropriate proportion which that officer agrees with that person.

(3) (a) An accountable person who deducts, in accordance with sections 59(2) and 61 of the Act, a proportion of the tax borne or payable on the accountable person's acquisition of dual-use inputs is required, at the end of each review period—

- (i) to calculate the proportion of tax deductible for that review period, and
 - (ii) to adjust, if necessary in accordance with subparagraph (b), the amount of tax deducted in that review period to ensure that it correctly reflects the extent to which the dual-use inputs were used for the purposes of that person's deductible supplies or activities and had due regard to the range of that person's total supplies and activities for that review period.
- (b) Subject to subparagraph (c), any necessary adjustment under subparagraph (a) is required to be made by way of an increase or decrease, in accordance with the circumstances, in the amount of tax deductible by the accountable person, for—
- (i) the taxable period immediately following the end of the review period, or
 - (ii) such later taxable period as is agreed between the accountable person and an authorised officer.
- (c) Where the adjustment under subparagraph (b) relates to the final accounting year of the accountable person concerned, then any necessary adjustment is required to be made by way of an increase or decrease in the amount of tax deductible for the taxable period in which that final accounting year ends. Any such adjustment is required to be made in the return to be furnished by the accountable person in accordance with section 76 or 77 of the Act in respect of the appropriate taxable period.
- (d) Any increase or decrease in the amount of tax deductible resulting from an adjustment of tax deductible that is made in accordance with this paragraph is to be disregarded in calculating the proportion of tax deductible for the review period in which that adjustment was made.
- (4) Where in accordance with paragraph (3) an accountable person adjusts the amount of tax deductible for a review period and, subsequent to that adjustment, it is established that that adjustment was incorrect, then section 114 of the Act does not apply to any additional liability for tax arising out of the correction of that adjustment, but only if—
- (a) that person, or any person acting on his or her behalf, did not act fraudulently or negligently in relation to that adjustment,
 - (b) that person submitted, by the due date for submission of the return referred to in paragraph (3)(c), details setting out the basis on which the adjustment was made to the office of the Commissioners which would normally deal with the examination of the records kept by that person in accordance with Chapter 7 of Part 9 of the Act, and

- (c) that additional liability is not the subject of an assessment of tax under section 111 of the Act.

Capital Goods Scheme

18. (1) For the purposes of Chapter 2 of Part 8 of the Act where a capital goods owner changes the end date of his or her accounting year during a subsequent interval of the adjustment period for a capital good, then—

- (a) the duration of that subsequent interval shall be a period of 12 months from the start date of that subsequent interval, and
- (b) in such circumstances, starting from and including the first day following the end of that subsequent interval, the remaining subsequent intervals in the adjustment period shall be consecutive periods of 12 months.

(2) Notwithstanding paragraph (1), where the change in the end date of the accounting year results in that accounting year ending—

- (a) more than 12 months from the start date of the subsequent interval in which that change takes place, then the capital goods owner may extend the period of that subsequent interval to the end date of that accounting year, or
- (b) less than 12 months from the start date of the subsequent interval in which that change takes place, then the capital goods owner may extend the period of that subsequent interval to the end date of the following accounting year.

(3) Where—

- (a) a capital good is transferred in accordance with section 64(10)(c) of the Act during a subsequent interval of the adjustment period for that capital good, and
- (b) the accounting year of the transferee differs from the accounting year of the transferor,

then—

- (i) that subsequent interval shall be a period of 12 months from the start date of that subsequent interval in which the transfer takes place, and
- (ii) in such circumstances, starting from and including the first day following the end of the subsequent interval during which the transfer takes place, the remaining subsequent intervals in the adjustment period shall be consecutive periods of 12 months.

(4) Notwithstanding paragraph (3), in a case where the accounting year of the transferee ends—

- (a) more than 12 months from the start of the subsequent interval in which the transfer takes place, the transferee may extend that subsequent interval to the last day of that accounting year, or
- (b) less than 12 months from the start of the subsequent interval in which the transfer takes place, the transferee may extend that subsequent interval to the last day of the following accounting year.

Obligations of Accountable Persons

Registration

19. (1) An accountable person is required—

- (a) to register for tax by completing such form as is provided for that purpose by the Commissioners, and
- (b) to certify that the particulars shown on such form are correct.

(2) Where a change occurs in any of the particulars furnished in the form referred to in paragraph (1), then—

- (a) the registered person,
- (b) if the registered person has died, his or her personal representative, or
- (c) if the registered person is a body of persons which is in liquidation or is otherwise being wound up, the liquidator or any other person who is carrying on the business during such liquidation or, as the case may be, winding up,

is required to furnish to the Commissioners particulars of the change within 30 days immediately following the date of the change.

(3) A person who is registered in accordance with section 65 of the Act and who ceases—

- (a) to supply taxable goods or services, and
- (b) to make intra-Community acquisitions,

in the State is required to notify the Commissioners in writing of such cessation. Such written notification is required to be furnished by the end of the taxable period following that in which the cessation occurred.

(4) The Commissioners may, by notice in writing, cancel the registration of a person who does not become, or who ceases to be, an accountable person, and such cancellation has effect as on and from the date of the notice or such other date as may be specified in the notice.

Invoices and other documents

20. (1) In this Regulation “reverse charge supply” means a supply of goods or services to a person in another Member State who is liable to pay value-added tax under the VAT Directive on such supply.

(2) The following particulars are specified for purposes of section 66(1) of the Act and are required to be included in every invoice issued, or deemed to be issued, by an accountable person:

- (a) the date of issue of the invoice,
- (b) a sequential number, based on one or more series, which uniquely identifies the invoice,
- (c) the full name, address and registration number of the person who supplied the goods or services to which the invoice relates,
- (d) the full name and address of the person to whom the goods or services were supplied,
- (e) in the case of a reverse charge supply, the value-added tax identification number of the person to whom the supply was made and an indication that a reverse charge applies,
- (f) in the case of a supply of goods, other than a reverse charge supply, to a person registered for value-added tax in another Member State, the person’s value-added tax identification number in that Member State and an indication that the invoice relates to an intra-Community supply of goods,
- (g) the quantity and nature of the goods supplied or the extent and nature of the services rendered,
- (h) the date on which the goods or services were supplied or, in the case of supplies specified in section 70(2) of the Act, the date on which the payment on account was made, in so far as that date differs from the date of issue of the invoice,
- (i) in respect of the goods or services supplied—
 - (i) the unit price exclusive of tax,
 - (ii) any discounts or price reductions not included in the unit price, and
 - (iii) the consideration exclusive of tax,
- (j) in respect of the goods or services supplied, other than reverse charge supplies—
 - (i) the consideration exclusive of tax per rate of tax, and

- (ii) the rate of tax chargeable,
- (k) the tax payable in respect of the supply of the goods or services, except—
 - (i) in the case of a reverse charge supply, or
 - (ii) where section 87(9) or 89(5) of the Act applies,
 and
 - (l) in the case where a tax representative is liable to pay the value-added tax in another Member State, the full name and address and the value-added tax identification number of that representative.

(3) An invoice, credit note or debit note issued by an accountable person in accordance with Chapter 2 of Part 9 of the Act relating to an intra-Community supply of a new means of transport (within the meaning given by section 2 of the Act) is required to include the details necessary to identify the goods as a new means of transport.

(4) Every invoice issued by an accountable person in accordance with section 67(1)(a) of the Act in respect of an increase in consideration is required to include the particulars specified in subparagraphs (a) to (f) of paragraph (2), and shall indicate—

- (a) the amount, exclusive of tax, of the increase in consideration for the supply,
- (b) the rate or rates of tax and the amount of tax at each rate appropriate to that increase in consideration, and
- (c) a cross-reference to every other invoice issued by the accountable person in respect of the total consideration for the supply.

(5) Every credit note or debit note issued by a person in accordance with section 67(1)(b) or 67(2) of the Act is required to include the following particulars:

- (a) the date of issue of the note,
- (b) a number which uniquely identifies the note,
- (c) the full name, address and registration number of the person issuing the note,
- (d) the full name, address and registration number of the person to whom the note is being issued,
- (e) in the case of a supply to a person who is registered for value-added tax in another Member State, the person's value-added tax identification number in that Member State,

- (f) the reason why the note is being issued and a cross-reference to the invoice which was issued for the supply in respect of which the consideration was reduced,
 - (g) the amount of the consideration, exclusive of tax, in respect of which the note is being issued, and
 - (h) the rate or rates of tax current when the invoice referred to in subparagraph (f) was issued and the amount of tax at each rate as appropriate to the consideration shown on the note.
- (6) Every invoice issued by an accountable person in accordance with section 87(9) or 89(5) of the Act is required to indicate that the margin scheme or auction scheme, as appropriate, has been applied.
- (7) An invoice issued by an accountable person in respect of a supply of margin scheme services within the meaning of section 88 of the Act is required to include the endorsement “margin scheme — travel agents”.
- (8) The amount of tax included on an invoice or other document issued in accordance with Chapter 2 of Part 9 of the Act is required to be expressed in euro.
- (9) (a) Notwithstanding this Regulation, the Commissioners may allow invoices, credit notes, settlement vouchers or debit notes to be issued under simplified arrangements in accordance with Article 238 of the VAT Directive, but only if they include the following particulars:
- (i) the date of issue,
 - (ii) identification of the supplier,
 - (iii) identification of the type of goods or services supplied,
 - (iv) the tax due or the information needed to calculate it, and
 - (v) such other details as the Commissioners may require.
- (b) The Commissioners shall publish in the *Iris Oifigiúil* the details to be included in the documents referred to in subparagraph (a) and the circumstances under which they qualify for the simplified arrangements.
- (10) Any person issuing (other than by electronic means in accordance with Regulation 21(2)(a)) an invoice, credit note or debit note in accordance with Chapter 2 of Part 9 of the Act is required to keep an exact copy of it and references in this Regulation to any such document include references to that copy.

(11) Where a document containing—

- (a) a schedule of dates on which rent in respect of a letting of immovable goods which is chargeable to tax is due (in this paragraph referred to as “due dates”) under a letting agreement, and
- (b) the particulars specified in paragraph (2),

is issued prior to the earliest of those due dates listed in that schedule, then that document shall be treated as an invoice issued in accordance with section 66(1) of the Act and shall be deemed to be so issued in respect of each rent payment listed in that schedule on the due date for that rent payment.

(12) Where the rate of tax changes during the period covered by the document referred to in paragraph (11), then that document shall be amended to provide for the new rate of tax and the corresponding amounts of tax due for the periods following the date of that change in the tax rate.

Electronic invoicing

21. (1) In this Regulation—

“advanced electronic signature” means an electronic signature which is—

- (a) uniquely linked to the signatory,
- (b) capable of identifying the signatory,
- (c) created using means that are capable of being maintained by the signatory under his or her sole control, and
- (d) linked to the data to which it relates in such a manner that any subsequent change of the data is detectable;

“electronic data interchange” means the electronic transfer, from computer to computer, of commercial and administrative data using an agreed standard to structure a message;

“electronic record” means a record required to be kept for the purposes of Chapter 7 of Part 9 or section 124(7) of the Act which is generated, transmitted and stored electronically;

“electronic signature” means data in electronic form which are attached to or logically associated with a message and which serve as a method of authentication;

“message” means an invoice, credit note, debit note, settlement voucher or document issued or received in accordance with Chapter 2 of Part 9 of the Act and which is transmitted electronically;

“signatory”, “signature-creation data”, “signature-creation device”, “signature-verification-data” and “signature-verification device” have the meanings assigned to them by the Electronic Commerce Act 2000 (No. 27 of 2000);

“trading partners” means any 2 persons engaged by prior agreement in the electronic exchange of messages;

“transmission” means the transfer or making available of a message to a trading partner by electronic means;

“unique identification number” means a sequential number which is based on one or more series and which uniquely identifies a message transmitted between trading partners.

- (2) (a) A message issued or received by electronic means by an accountable person is deemed to be so issued or received for the purposes of section 66(2) of the Act if each such message—
- (i) is transmitted between trading partners using an electronic data interchange system which satisfies the requirements specified in subparagraphs (b) and (c), or
 - (ii) is transmitted between trading partners using an advanced electronic signature and an associated system which satisfy the requirements specified in subparagraphs (b) and (c).
- (b) The electronic data interchange system or the advanced electronic signature and associated system used by the accountable person referred to in subparagraph (a) is required to be capable of—
- (i) producing, retaining and storing, and making available to an officer of the Commissioners on request, electronic records and messages in such form and containing such particulars as may be required in accordance with Chapters 2 and 7 of Part 9 and section 124(7) of the Act and Regulations made under the Act,
 - (ii) causing to be reproduced on paper any electronic record or message required to be produced, retained or stored in accordance with Chapters 2 and 7 of Part 9 and section 124(7) of the Act and Regulations made under the Act,
 - (iii) allocating a unique identification number for each message transmitted, and
 - (iv) maintaining electronic records in such manner that allows their retrieval by reference to the name of a trading partner or the date of the message or the unique identification number of the message.
- (c) The electronic data interchange system or the advanced electronic signature and associated system used by the accountable person referred to in subparagraph (a) is required to—
- (i) preclude the repeated transmission of a message,

- (ii) preclude the omission of any message from the electronic record,
 - (iii) verify the origin or receipt of a message by a trading partner, and
 - (iv) guarantee the integrity of the contents of a message, or of an electronic record related to that message, during transmission and during the period provided for in Chapter 7 of Part 9 of the Act for the retention of records, invoices or any other documents specified in the Act or in Regulations made under the Act.
- (3) An accountable person may transmit messages by means other than those referred to in paragraph (2)(a) where—
- (a) he or she is satisfied that such messages are recorded, retained and transmitted in accordance with section 66(2) of the Act,
 - (b) the requirements of subparagraphs (b) and (c) of paragraph (2) and paragraph (4) are met, and
 - (c) he or she notifies the Commissioners accordingly.
- (4) (a) An accountable person who issues or receives messages by electronic means in accordance with paragraph (2)(a) is required to—
- (i) retain and store such messages or copies of such messages, as appropriate, together with electronic records relating to those messages, and
 - (ii) retain and store electronically the following data:
 - (I) details of the form of encryption, electronic signature, signature creation data or device, signature verification data or device, or any other method used to ensure the integrity of the records and messages transmitted, retained and stored and the authenticity of their origin,
 - (II) details of where and in what format the information required in accordance with subclause (I) is stored and how it can be accessed.
- (b) An accountable person who issues or receives messages by electronic means is required to—
- (i) provide details on request to an officer of the Commissioners on where and how an electronic record or message is stored on that person's system and how it can be accessed by that officer,
 - (ii) allow such access to electronic records or messages for inspection by an officer of the Commissioners at all reasonable times, and

- (iii) reproduce any such electronic record or message on paper on request by an officer of the Commissioners including details required to be retained and stored under subparagraph (a).

Invoicing provisions for flat-rate farmers

22. (1) Every invoice issued by a flat-rate farmer in respect of agricultural produce or an agricultural service in accordance with section 68(1) of the Act is required to be acknowledged by that farmer and to include the following particulars:

- (a) the date of issue of the invoice,
- (b) the full name and address of the flat-rate farmer who supplied the goods or services to which the invoice relates,
- (c) the full name, address and registration number of the person to whom the goods or services have been supplied,
- (d) in the case of a supply of agricultural produce or an agricultural service to a person registered for value-added tax in another Member State, the person's value-added tax identification number in that Member State,
- (e) the quantity and nature of the goods supplied or the extent and nature of the services rendered,
- (f) the date on which the goods or services were supplied,
- (g) the consideration, exclusive of the flat-rate addition, for the supply, and
- (h) the rate and amount of the flat-rate addition appropriate to the consideration shown on the invoice.

(2) Every invoice issued by a flat-rate farmer in respect of an increase in consideration in accordance with section 68(2)(a) of the Act is required to be acknowledged by that farmer and to include, in addition to the particulars specified in subparagraphs (a) to (d) of paragraph (1), the following particulars:

- (a) the amount, exclusive of the flat-rate addition, of the increase in consideration for the supply,
- (b) the rate and amount of the flat-rate addition, and
- (c) a cross-reference to every other invoice issued by the flat-rate farmer in respect of the total consideration for the supply.

(3) Every farmer credit note or farmer debit note issued by a flat-rate farmer in accordance with section 68(2)(b) and (3) of the Act is required to include the following particulars:

- (a) the date of issue of the note,

- (b) the full name, address and registration number (if any) of the person issuing the note,
- (c) the full name, address and registration number (if any) of the person to whom the note is being issued,
- (d) in the case of a supply to a person who is registered for value-added tax in another Member State, the person's value-added tax identification number in that Member State,
- (e) the reason why the note is being issued and a cross-reference to the invoice or settlement voucher which was issued for the supply in respect of which the consideration was reduced,
- (f) the amount of the consideration exclusive of the flat-rate addition in respect of which the note is being issued, and
- (g) the rate and amount of the flat-rate addition as appropriate to the consideration shown on the note.

(4) Every settlement voucher issued in accordance with section 68(4) of the Act in respect of agricultural produce or agricultural services supplied to a registered person by a flat-rate farmer is required to be acknowledged by that farmer and to include the following particulars:

- (a) the date of issue of the settlement voucher,
- (b) the full name and address of the flat-rate farmer who supplied the produce or services to which the voucher relates,
- (c) the full name, address and registration number of the person to whom the produce or services have been supplied,
- (d) a description, including quantity, of the produce or services supplied,
- (e) the date on which the produce or services were supplied,
- (f) the consideration, exclusive of the flat-rate addition, for the supply, and
- (g) the rate and amount of the flat-rate addition appropriate to the consideration shown on the voucher.

(5) A taxable dealer to whom section 12C of the repealed enactment applied is required to keep all invoices received in respect of agricultural machinery acquired by him or her and copies of all invoices in respect of agricultural machinery disposed of by him or her, in accordance with that section.

(6) Any person issuing (other than by electronic means in accordance with Regulation 21) an invoice, credit note, settlement voucher or debit note in accordance with Chapter 2 of Part 9 of the Act is required to keep an exact

copy of it and references in this Regulation to any such document include references to that copy.

Time limits for issuing invoices and credit notes

23. The following are the time limits specified for issuing invoices, credit notes and documents for the purposes of section 70(1) of the Act—

- (a) within the 15 days following the end of the month during which the goods or services were supplied, in the case of an invoice required to be issued in accordance with section 66(1) or 86 of the Act,
- (b) within the 15 days following the end of the month during which a supply of greenhouse gas emission allowances (within the meaning of section 16(2) of the Act) is made,
- (c) within 15 days following the end of the month during which a supply of services consisting of construction operations (to which section 16(3) of the Act applies) is made,
- (d) within the 15 days following the end of the month during which the qualifying accommodation (within the meaning of section 60(1) of the Act) was supplied, in the case of a document required to be issued in accordance with section 66(5) of the Act,
- (e) within the 15 days following the day on which the increased consideration is paid or the day on which the increase in consideration is agreed between the parties, whichever day is the earlier, in the case of an invoice required to be issued in accordance with sections 67(1)(a) or 68(2) of the Act,
- (f) in the case of a credit note required to be issued in accordance with section 67(1)(b) or 68(2)(b) of the Act—
 - (i) where a decrease is due to a discount, within the 15 days of the date of receipt of the money to which the discount relates, or
 - (ii) in any other case, within the 15 days of the day on which the decrease in consideration is agreed between the parties,

and
- (g) within the 15 days following the end of the month during which the payment was received, in the case of an invoice required to be issued in accordance with section 70(2) of the Act in respect of a payment for a supply of goods or services before the supply is completed.

Returns

24. (1) Where an accountable person is required to furnish a return in accordance with section 76(1) or (2) of the Act, then that person, or another person acting under that person's authority—

- (a) shall complete such form as is issued for that purpose by the Commissioners in respect of the taxable period concerned, and
- (b) shall sign a declaration on the form to the effect that the particulars shown on it are correct,

and, if that form provides for the inclusion of supplementary trading details in respect of any period, those details are deemed to be part of the return in respect of the taxable period concerned.

(2) Where an accountable person is authorised to furnish a return in accordance with section 77 of the Act, then that person, or another person acting under that accountable person's authority—

- (a) shall complete such form as is issued for that purpose by the Commissioners, and
- (b) shall sign a declaration on the form to the effect that the particulars shown on it are correct.

(3) The obligation of an accountable person to make a return is fulfilled by that person if the information required in such a return is transmitted electronically in accordance with Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 (No. 39 of 1997).

Determination of tax due by reference to moneys received

25. (1) In this Regulation—

“moneys received basis of accounting” means the method of determining, in accordance with section 80(1) of the Act, the amount of tax which becomes due by an accountable person;

“turnover from taxable supplies”, in relation to any period, means the total of the amounts on which tax is chargeable for that period at any of the rates specified in section 46(1) of the Act.

(2) For the purposes of section 80(1)(a) of the Act and this Regulation, supplies to persons who are not registered persons shall be deemed to include any supply to an accountable person where the accountable person is not entitled to claim, under Chapter 1 of Part 8 of the Act, a full deduction of the tax chargeable in relation to that supply.

- (3) (a) An application by an accountable person (referred to in this Regulation as the “applicant”) for authorisation to use the moneys received basis of accounting is required to be made in writing to the Commissioners and to include—
 - (i) the applicant's full name and address,
 - (ii) the applicant's registration number (if any),

(iii) the nature of the business activities carried on by the applicant.

(b) An applicant who claims eligibility under section 80(1)(a) of the Act is required to include in the application made in accordance with this paragraph particulars of—

(i) the percentage of the applicant's turnover from taxable supplies, if any, which related to supplies to persons who are not registered persons—

(I) in the period of 12 months ended on the last day of the taxable period prior to the application, or

(II) in the period from the commencement of his or her business activities to the last day of the taxable period referred to in subclause (I),

whichever is the shorter, and

(ii) the applicant's estimate of the percentage of his or her turnover from taxable supplies which will relate to supplies to persons who are not registered persons in the period of 12 months commencing with the beginning of the taxable period during which the application is made.

(c) An applicant who claims eligibility under section 80(1)(b) of the Act is required to include in the application made in accordance with this paragraph particulars of—

(i) the amount of the applicant's turnover from taxable supplies in the period of 12 months ended on the last day of the taxable period prior to the application, and

(ii) the applicant's estimate of his or her turnover from taxable supplies in the period of 12 months commencing with the beginning of the taxable period during which the application is made.

(4) Where the Commissioners consider that a person satisfies the requirements of section 80(1) of the Act, they shall authorise the person, by notice in writing, to use the moneys received basis of accounting subject to this Regulation. An authorisation given for the purposes of section 80(1) of the Act shall have effect from the commencement of the taxable period during which it is given or from such other date as may be specified in the authorisation.

(5) (a) An authorisation of any person for the purposes of section 80(1) of the Act does not apply to tax chargeable on any supply where the person to whom or to whose order the supply is made is a person connected to that authorised person.

(b) For the purposes of this paragraph any question of whether a person is connected with another person shall be determined in accordance with the following:

(i) a person is connected with an individual if that person is the individual's spouse, or is a relative, or the spouse of a relative, of the individual or of the individual's spouse;

(ii) a person is connected with any person with whom he or she is in partnership, and with the spouse or a relative of any individual with whom he or she is in partnership;

(iii) subject to subparagraphs (iv) and (v), a person is connected with another person if he or she has control over that other person, or if the other person has control over the first-mentioned person, or if both persons are controlled by another person or persons;

(iv) a body corporate is connected with another person if that person, or persons connected with him or her, have control of it, or the person and persons connected with him or her together have control of it;

(v) a body corporate is connected with another body corporate—

(I) if the same person has control of both or a person has control of one and persons connected with that person or that person and persons connected with that person have control of the other, or

(II) if a group of 2 or more persons has control of each body corporate and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he or she is connected;

(vi) in this subparagraph “relative” means brother, sister, ancestor or lineal descendant.

(c) In this paragraph “control”, in relation to a body corporate or in relation to a partnership, has the meaning assigned to it by section 4 of the Act.

(6) Tax chargeable in respect of the supply of goods within the meaning of section 19(1)(c) of the Act is excluded from the application of section 80(1) of the Act.

(7) Tax chargeable in respect of—

(a) the supply of services referred to in section 16(3)(b) of the Act, or

(b) the supply of goods or services in any of the circumstances referred to in section 37(3) and sections 38 to 44 of the Act,

is excluded from the application of section 80(1) of the Act,

(8) An authorisation for the purposes of section 80(1) of the Act does not affect the amount on which tax is chargeable under the Act.

(9) (a) An accountable person authorised for the purposes of section 80(1) of the Act is required to notify the Commissioners in writing if, for any period of 4 consecutive calendar months during the validity of such authorisation, he or she no longer satisfies the requirements of that section, and such notification shall be made within 30 days of the end of such 4 month period.

(b) Where an accountable person fails to notify the Commissioners in accordance with subparagraph (a), the authorisation for the purposes of section 80(1) of the Act is deemed to be cancelled in accordance with paragraph (10). Such cancellation has effect for the purposes of section 80(1) of the Act from the commencement of the taxable period during which the accountable person should have notified the Commissioners in accordance with subparagraph (a).

(10) (a) The Commissioners shall cancel an authorisation to which section 80(1) of the Act and paragraph (4) relates if either—

(i) the person so authorised makes a request to them in writing to have the authorisation cancelled, or

(ii) they consider that the person no longer satisfies the requirements of section 80(1) of the Act.

(b) The Commissioners shall cancel the authorisation to which section 80(1) of the Act and paragraph (4) relates by issuing a notice in writing to the authorised person. Without prejudice to paragraph (9)(b), such cancellation has effect from the commencement of the taxable period during which notice is given or from the commencement of such later taxable period as may be specified in the notice.

(11) (a) Where a person who for any period is authorised under section 80(1) of the Act ceases to be so authorised or ceases to be an accountable person, the tax payable by him or her for the taxable period during which the cessation occurs shall be adjusted in accordance with this paragraph.

(b) The total amount due to the person at the end of the authorised period for goods and services supplied by him or her shall be apportioned between each rate of tax specified in section 46(1) of the Act in accordance with the following formula—

$$A \times \frac{B}{C}$$

where—

A is the total amount due to the person at the end of the authorised period for goods and services supplied by him or her during the authorised period,

B is the taxable amount in respect of taxable supplies at each rate of tax in the 12 months prior to the date of cessation or in the authorised period, whichever is the shorter, and

C is the taxable amount in respect of total taxable supplies in the 12 months prior to the date of cessation or in the authorised period, whichever is the shorter,

but the apportionment between the various rates of tax may be made in accordance with any other basis which may be agreed between the accountable person and the Commissioners.

- (c) The amount so apportioned at each rate is a tax-inclusive amount and the tax therein shall be treated as tax due for the taxable period in which the cessation occurs.
- (d) No adjustment of liability as provided for in this paragraph shall be made if the cessation referred to in subparagraph (a) was occasioned by the death of the taxable person.
- (e) For the purposes of this paragraph—

“the authorised period” means the period during which the person was authorised to apply the moneys received basis of accounting but, where the person was authorised to apply the moneys received basis of accounting for more than 6 years, the authorised period is deemed to be for a period of 6 years ending on the date on which the cancellation of the authorisation has effect;

“the tax therein” shall be established at the rates specified in section 46(1) of the Act—

- (i) applicable on the date the authorised period ends, or
- (ii) applicable at the time the relevant goods and services were supplied, where such details can be established to the satisfaction of the Commissioners.

Statement of intra-Community supplies

26. (1) In this Regulation—

“correction statement” means a statement of corrective details furnished in relation to a statement previously supplied;

“intra-Community supplies of goods” has the meaning assigned to it by section 82(1) of the Act;

“intra-Community supplies of services” has the meaning assigned to it by section 83(1) of the Act;

“statement” means a statement of intra-Community supplies of goods required to be furnished to the Commissioners by an accountable person in accordance with section 82 of the Act and intra-Community supplies of services required to be furnished to the Commissioners by an accountable person in accordance with section 83 of the Act;

“working day” means a day other than—

- (a) a Saturday or Sunday,
 - (b) a day that is a public holiday (within the meaning of the Organisation of Working Time Act 1997 (No. 20 of 1997)), or
 - (c) any other day when the offices of the Commissioners are closed generally to the public.
- (2) (a) Subject to paragraph (3), an accountable person who is required in accordance with section 82 or 83 of the Act to furnish a statement of intra-Community supplies of goods or intra-Community supplies of services shall complete to the satisfaction of the Commissioners such forms as are provided for that purpose by the Commissioners.
- (b) Where for any reason an accountable person becomes aware of an error in a statement furnished in accordance with subparagraph (a), that person is required, within 5 working days, to furnish a correction statement on the form provided for that purpose by the Commissioners.
- (3) Notwithstanding paragraph (2), an accountable person may, on written application to the Commissioners, be authorised by them to furnish a statement or correction statement on a document, or in a manner, other than by use of the forms referred to in paragraph (2). In such case the relevant statement is required to—
- (a) be furnished in a format specified by the Commissioners, and
 - (b) include all the particulars that would have been provided had the person completed the forms referred to in paragraph (2).
- (4) In furnishing a statement or correction statement in accordance with paragraph (2) or (3), an accountable person is required to—
- (a) make a separate entry in respect of his or her intra-Community supplies of goods and intra-Community supplies of services to each person registered for value-added tax in another Member State, and

- (b) make a separate entry, including the indicator “T”, in respect of any supplies of the type referred to in section 32(3)(c) of the Act to each person registered for value-added tax in another Member State,

in respect of the period covered by the statement and to furnish such other particulars of his or her intra-Community supplies of goods and intra-Community supplies of services as are requested on the appropriate form.

- (5) (a) A statement or correction statement may be prepared and furnished to the Commissioners by a person other than the accountable person where that other person has been authorised by the accountable person to act on his or her behalf in that regard. The Act applies to such a statement as if it had been prepared and furnished to the Commissioners by the accountable person.
- (b) A statement or correction statement purporting to be prepared and furnished to the Commissioners by or on behalf of any accountable person is, for all the purposes of the Act, deemed to have been prepared and furnished to the Commissioners by that accountable person, or on his or her authority, as the case may be, unless the contrary is proved.
- (c) An accountable person who authorises another person in accordance with subparagraph (a) is required to notify the Commissioners in writing of such authorisation.
- (d) An accountable person is required, on cancelling an authorisation referred to in subparagraph (a), to advise the Commissioners in writing of the cancellation within 5 working days of such cancellation.
- (e) The Commissioners may by notice in writing exclude an accountable person from the provisions of this paragraph.
- (6) (a) Subject to subparagraph (b) and unless otherwise permitted by the Commissioners under this Regulation, every statement and correction statement is required to be completed by means of typing or other similar process.
- (b) Every statement and correction statement is required to be signed and dated by—
 - (i) the accountable person, or
 - (ii) the person authorised by the accountable person in accordance with paragraph (5)(a).
- (c) Where an accountable person has been authorised in accordance with paragraph (3) to furnish a statement or correction statement by electronic means or through magnetic media, any such statement has the same effect as if it were a signed statement or correction statement, as the case may be.

(7) (a) An accountable person may, on written application to the Commissioners, be authorised by the Commissioners to submit an annual statement in accordance with section 82(4) of the Act, where—

- (i) his or her supplies of goods and services do not exceed or are not likely to exceed €85,000 in a calendar year, and
- (ii) his or her intra-Community supplies of goods do not exceed or are not likely to exceed €15,000 in that calendar year,

but only if such intra-Community supplies of goods do not include the supply of new means of transport.

(b) An accountable person authorised to submit a return in accordance with section 77 of the Act may, on written application to the Commissioners, be authorised by the Commissioners to submit an annual statement in accordance with section 82(4) of the Act, where—

- (i) his or her supplies of goods and services do not exceed or are not likely to exceed €200,000 in a calendar year, and
- (ii) his or her intra-Community supplies of goods do not exceed or are not likely to exceed €15,000 in that calendar year,

but only if such intra-Community supplies of goods do not include the supply of new means of transport.

(8) The cancellation of an authorisation referred to in section 82(4) of the Act shall be by notice in writing given by the Commissioners to the person who was the subject of the authorisation, and any such cancellation has effect from the date of the notice or such later date as may be specified in the notice.

(9) Paragraphs (2) to (6) apply to a statement or correction statement furnished on a monthly or annual basis, as the case may be. However, the accountable person referred to in paragraph (7)(a) is not obliged to furnish details of the value of his or her intra-Community supplies or to comply with paragraph (4)(b).

Accounts

27. (1) The full and true records of all transactions that affect or may affect the accountable person's liability to tax and entitlement to deductibility, which every accountable person is required to keep in accordance with Chapter 7 of Part 9 and section 124(7) of the Act, shall be entered up to date and include—

(a) in relation to consideration receivable from registered persons—

- (i) the amount receivable from each such person in respect of each transaction for which an invoice or other document is required to be issued under Chapter 2 of Part 9 of the Act, and

- (ii) a cross-reference to the copy of the relevant invoice or other document,
- (b) in relation to consideration receivable from unregistered persons—
 - (i) a daily total of the consideration receivable from all such persons,
 - (ii) a cross-reference from that daily total to the relevant books or other documents which are in use for the purposes of the business, and
 - (iii) where the accountable person uses an electronic cash register or point of sale system, the complete record of each entry on that register or system, uniquely identified by sequential number, date and time of such entry,
- (c) in relation to consideration receivable from persons registered for value-added tax in another Member State—
 - (i) the amount receivable from each such person in respect of each transaction for which an invoice is required to be issued under Chapter 2 of Part 9 of the Act, and
 - (ii) a cross-reference to the copy of the relevant invoice,
- (d) in relation to intra-Community acquisitions of goods, in respect of which the accountable person is liable to pay the tax chargeable—
 - (i) the amount of the consideration relating to those acquisitions, and
 - (ii) a cross-reference to the relevant invoice,
- (e) in relation to importations of goods, a description of those goods together with—
 - (i) particulars of their value as determined in accordance with section 53(1) of the Act,
 - (ii) the amount of the consideration relating to the purchase of the goods if purchased in connection with the importation,
 - (iii) the amount of tax, if any, paid on importation, and
 - (iv) a cross-reference to the invoices and customs documents used in connection with the importation,
- (f) in relation to goods supplied in accordance with section 19(1)(f) of the Act, being goods developed, constructed, assembled, manufactured, produced, extracted, purchased, imported or otherwise acquired by the accountable person or by another person on his or her behalf, and applied by the accountable person (otherwise than by way of disposal

to another person) for the purposes of any business carried on by him or her—

- (i) a description of the goods in question, and
 - (ii) the cost, excluding tax, to the accountable person of acquiring or producing those goods, except where tax chargeable in relation to the application of the goods would, if it were charged, be wholly deductible under Chapter 1 of Part 8 of the Act,
- (g) in relation to goods supplied in accordance with section 19(1)(g) of the Act, being goods appropriated by an accountable person for any purpose other than the purpose of his or her business or disposed of free of charge, where tax chargeable in relation to the goods—
- (i) on their purchase, intra-Community acquisition or importation by the accountable person, or on their development, construction, assembly, manufacture, production, extraction, or application in accordance with section 19(1)(f) of the Act, as the case may be, was wholly or partly deductible under Chapter 1 of Part 8 of the Act, or
 - (ii) where the ownership of those goods was transferred to the accountable person in the course of a transfer of a totality of assets, or part thereof, of a business and that transfer of ownership was deemed not to be a supply of goods in accordance with section 20(2) of the Act,

a description of the goods in question and the cost, excluding tax, to the taxable person, of acquiring or producing them,

- (h) in relation to services deemed to be supplied by a person in the course or furtherance of business in accordance with section 27(1) of the Act—
- (i) a description of the services in question, and
 - (ii) particulars of the cost, excluding tax, to the accountable person of supplying the services and of the consideration, if any, receivable by him or her in respect of the supply,
- (i) in the case of the supply of services in circumstances that, by virtue of any of the provisions of Chapter 3 of Part 4 or section 104(2) of the Act, are deemed to be supplied outside the State—
- (i) the full name and address of the person to whom the services are supplied,
 - (ii) the nature of the services,

- (iii) the amount of the consideration receivable in respect of the supply, and
- (iv) a cross-reference to the copy of the relevant invoice or other document,
- (j) in the case of the receipt of goods and services in the State in respect of which the recipient of those goods and services is liable to pay the tax chargeable—
 - (i) a description of the goods and services in question, and
 - (ii) a cross-reference to the relevant invoice,
- (k) in relation to discounts allowed, or price reductions made, to a registered person subsequent to the issue of an invoice to such person—
 - (i) the amount credited to such person, and
 - (ii) except in a case in which section 67(5)(a) of the Act applies, a cross-reference to the corresponding credit note,
- (l) in relation to discounts allowed, or price reductions made, to unregistered persons—
 - (i) a daily total of the amount so allowed, and
 - (ii) a cross-reference to the goods returned book, cash book or other record used in connection with the matter,
- (m) in relation to bad debts written off—
 - (i) particulars of the name and address of the debtor,
 - (ii) the nature of the goods or services to which the debt relates,
 - (iii) the date or dates on which the debt was incurred, and
 - (iv) the date or dates on which the debt was written off,
- (n) in relation to goods and services supplied to the accountable person by another accountable person—
 - (i) the amount of the consideration payable,
 - (ii) the corresponding tax invoiced by the other accountable person, and
 - (iii) a cross-reference to the corresponding invoice,
- (o) in relation to goods and services supplied to the accountable person by unregistered persons, and goods and services in respect of which

flat-rate farmers are required in accordance with section 86 of the Act to issue invoices—

- (i) a daily total of the consideration payable to such persons, and
 - (ii) a cross-reference to the purchases book, cash book, purchases docket or other records which are in use in connection with the business,
- (p) in relation to goods and services supplied to the accountable person by flat-rate farmers who are required, in accordance with section 86 of the Act, to issue invoices—
- (i) the amount of the consideration payable (exclusive of the flat-rate addition) and the amount of the flat-rate addition invoiced by each such farmer, and
 - (ii) a cross-reference to the corresponding invoice,
- (q) in relation to discounts or price reductions received from registered persons, subsequent to the receipt of invoices from such persons, except in a case in which section 67(5)(a) of the Act applies—
- (i) the amount of the discount or price reduction, and the corresponding tax received from each such person, and
 - (ii) a cross-reference to the corresponding credit note,
- (r) in relation to discounts or price reductions in relation to goods and services supplied to the accountable person by flat-rate farmers who are required, in accordance with section 86 of the Act, to issue invoices—
- (i) the amount of the discount or price reduction (exclusive of the flat-rate addition) and the amount of the corresponding flat-rate addition, and
 - (ii) a cross-reference to the invoice issued in connection with the goods and services in question,
- (s) in relation to discounts or price reductions received other than those referred to in subparagraphs (q) and (r)—
- (i) a daily total of the amounts so received, and
 - (ii) a cross-reference to the cash book or other record used in connection with such matters,
- (t) in relation to a supply of margin scheme services by a travel agent (within the meaning of section 88(1) of the Act) that includes qualifying accommodation (within the meaning of section 60(1) of the Act), a copy of the document that the travel agent is required to issue to a

traveller (being a “delegate” within the meaning of section 60(1) of the Act) in accordance with section 66(5) of the Act,

- (u) in relation to the receipt of margin scheme services by a traveller (being a “delegate” within the meaning of section 60(1) of the Act) that includes “qualifying accommodation” within the meaning of that section, the document issued by the travel agent in accordance with section 66(5) of the Act to the traveller in respect of that qualifying accommodation,
- (v) in relation to each capital good in respect of which a capital goods owner is required to create and maintain a capital good record in accordance with section 64(12) of the Act—
 - (i) the total tax incurred,
 - (ii) the amount of the total tax incurred which is deductible in accordance with Chapter 1 of Part 8 of the Act,
 - (iii) the date on which the adjustment period begins,
 - (iv) the number of intervals in the adjustment period,
 - (v) the initial interval proportion of deductible use,
 - (vi) the total reviewed deductible amount,
 - (vii) the proportion of deductible use for each interval,
 - (viii) details of any adjustments required to be made in accordance with Chapter 2 of Part 8 of the Act, and
 - (ix) details of any sale or transfer of the capital good or details of any assignment or surrender of a lease where section 64(7)(b) of the Act applies in relation to that capital good,

and
- (w) in respect of supplies of goods specified in paragraphs 1(1) to (3), 3(1) and (3) and 7(1) to (4) of Schedule 2 to the Act—
 - (i) the name and address of the person to whom the goods are supplied,
 - (ii) a description of the goods supplied,
 - (iii) the amount of the consideration,
 - (iv) a cross-reference to the copy of the relevant invoice, and
 - (v) a cross-reference to the relevant customs and transport documents.

(2) The accounts kept in accordance with paragraph (1) are required to set out, separately, the consideration, discounts, price reductions, bad debts and values at importation under separate headings in relation to—

- (a) exempted activities, and
- (b) goods and services chargeable at each rate of tax including the zero rate.

(3) In relation to a person authorised in accordance with section 80(1) of the Act to determine the amount of tax which becomes due by such person by reference to the amount of moneys which he or she receives, references in this Regulation to consideration in respect of the supply of goods or services are to be construed as references to such moneys received in respect of such supply.

Intra-Community acquisitions — certain new means of transport

28. (1) In this Regulation—

“new aircraft” means a new means of transport other than a motorised land vehicle or a vessel;

“new vessel” means a new means of transport other than a motorised land vehicle or an aircraft.

(2) Where a person makes an intra-Community acquisition of a new aircraft or a new vessel, in respect of which he or she is not entitled to a deduction of tax under Chapter 1 of Part 8 of the Act, the person is required to—

- (a) complete such form as may be provided by the Commissioners for the purpose of this paragraph,
- (b) provide such further documentation in support of the details provided on the form as the Commissioners may request,
- (c) certify that the particulars and documentation provided are true and accurate,
- (d) not later than 3 days after the arrival of the aircraft or vessel, furnish to the Commissioners the completed form and supporting documentation referred to in subparagraphs (a) and (b) and at the same time pay to the Commissioners the amount of tax due, and
- (e) if requested to do so, make the new aircraft or the new vessel, as appropriate, available for inspection in the State by an officer of the Commissioners.

Conditions under which the intra-Community supply of goods may be zero-rated

29. (1) In this Regulation—

“evidence”, in relation to goods removed from the State and dispatched to another Member State, means commercial documentation confirming that the

goods were supplied to a person registered for value-added tax in another Member State and clearly identifying—

- (a) the supplier,
- (b) the customer,
- (c) the goods and the value of those goods,
- (d) the consignor (if different from the supplier),
- (e) the method of consignment and
- (f) the destination of the goods.

(2) A supply of goods by an accountable person to a person in another Member State (in this paragraph referred to as the “customer”) is chargeable to tax at the rate specified in section 46(1)(b) of the Act, if and only if—

- (a) the customer is registered for value-added tax in that other Member State,
- (b) the customer’s value-added tax identification number, including the country prefix, is obtained by the supplier in advance of, or at the time of, the supply and is retained in the supplier’s records in relation to that supply,
- (c) the value-added tax identification number of the customer and the supplier is quoted on the invoice issued in accordance with Chapter 2 of Part 9 of the Act, and
- (d) the goods are dispatched or transported to that other Member State and there is evidence that those goods are removed from the State and are dispatched to that other Member State within a period of 3 months from the date the supply took place.

(3) The supply of goods by an accountable person in the State to a person registered for value-added tax in another Member State for onward supply to a person in a third Member State is chargeable to tax at the rate specified in section 46(1)(b) of the Act provided that the conditions in subparagraphs (a) to (d) of paragraph (2) are satisfied.

(4) Where the conditions in subparagraphs (a) to (c) of paragraph (2) are not satisfied, or where the accountable person fails to produce evidence that the goods have been removed from the State and dispatched to another Member State within the period of 3 months from the date the supply of the goods took place, then, tax is chargeable on the supply of those goods at the rate that would be applicable if those goods were supplied by the accountable person to another person within the State.

Investment gold — records of transactions

30. (1) In this Regulation “intermediary services” means services supplied by an intermediary.

(2) Every person who trades in investment gold is required to keep full and true records entered up to date of—

- (a) in relation to supplies of investment gold, the name of each person to whom the investment gold is supplied, the amount receivable from each such person in respect of such supplies and a cross-reference to the relevant invoices or documents which issued in respect of such supplies,
- (b) in relation to purchases of investment gold, the name of each person from whom the investment gold is purchased, the purchase price of the investment gold and a cross-reference to the relevant invoices or documents which were received in respect of such purchases,
- (c) in relation to importations of investment gold, the value of the investment gold determined in accordance with section 53(1) of the Act in respect of each importation, the purchase price of the investment gold imported and a cross-reference to the invoices and customs documents used in connection with such importations,
- (d) in relation to intra-Community acquisitions of investment gold, the name of the person from whom the investment gold is acquired, the purchase price of the investment gold and a cross-reference to the relevant invoices which were received in respect of such acquisitions,
- (e) in relation to the supply of intermediary services, the name of each person to whom the service is supplied, the amount receivable in respect of the supply and a cross-reference to the relevant invoices or documents which issued in respect of the supply of such services,
- (f) in relation to intermediary services received, the name of the intermediaries, the amount payable in respect of the supply of the services and a cross-reference to the relevant invoices or documents which were received in respect of such services,
- (g) in relation to discounts allowed or price reductions made to a person subsequent to the issue of an invoice or other document to such person, the amount credited to such person and, except in a case to which section 67(5) of the Act applies, a cross-reference to the corresponding credit note,
- (h) in relation to discounts or price reductions received from accountable persons subsequent to the receipt of invoices from such persons, except in a case to which section 67(5) of the Act applies, the amount of the discount or price reduction and corresponding tax received from each such person and a cross-reference to the corresponding credit note,

- (i) in relation to discounts or price reductions received from persons who are not accountable persons, the amount of the discount or price reduction and a cross-reference to the document which was received in respect of such discount or price reduction, and
 - (j) in relation to bad debts written off, particulars of the name and address of the debtor, a description of the supply of investment gold to which the debt relates, the date or dates upon which the debt was incurred and the date or dates on which the debt was written off.
- (3) Regulation 27(1) does not apply in relation to transactions in investment gold.

Special Schemes

Antique furniture, silver, glass and porcelain

31. (1) For the purposes of paragraph 24 of Schedule 3 to the Act, the following articles of furniture, silver, glass and porcelain are specified to be the antiques to which that paragraph applies:

- (a) in the case of furniture, any article being movable goods which have been manufactured wholly or mainly from wood, metal (other than silver), marble or other stone, or any combination thereof, and which were designed for use as furnishings, fitments or decoration for private, commercial or public buildings, or for gardens, and which is not covered by paragraph 23 of Schedule 3 to the Act,
 - (b) in the case of silver, any article manufactured wholly or mainly from silver, not being jewellery, coins, medals, ingots or bars,
 - (c) in the case of glass, any article manufactured wholly or mainly from glass, including mirrors, chandeliers and leaded or stained glass windows, and
 - (d) in the case of porcelain, any article being a cup, saucer, bowl, plate, dish, jug, vase, pot, urn or similar goods, or a statue or statuary (other than an article to which paragraph 23(c) of Schedule 3 to the Act relates), manufactured wholly or mainly from porcelain, china, terracotta, clay, ceramics or similar materials, or any combination thereof.
- (2) Evidence that the antiques referred to in paragraph (1) are more than 100 years old shall consist of—
- (a) a certificate issued by a member of the Irish Antique Dealers' Association, or of an equivalent trade association recognised by the Commissioners for the purpose of issuing such a certificate,
 - (b) a certificate issued by or on behalf of the National Museum of Ireland,

- (c) a statutory declaration made by a person recognised, for the purpose of making such a declaration, as a connoisseur by the Commissioners in respect of articles of the types concerned,
 - (d) in the case of imported goods, a certificate, declaration or other document issued or made under the laws of the country of exportation which in the opinion of the Commissioners correspond to a certificate issued under subparagraph (a) or (b) or a statutory declaration made under subparagraph (c), or
 - (e) an invoice issued in accordance with paragraph (5) or a certification made in accordance with paragraph (6).
- (3) Antiques which meet the requirements of paragraphs (1) and (2) and which are not supplied—
- (a) by a taxable dealer in accordance with section 87(3) or (8) of the Act, or
 - (b) by an auctioneer within the meaning of section 89 and in accordance with section 89(3) of the Act,

shall be referred to as “Schedule 3 antiques” for the purpose of this Regulation.

(4) A non-taxable person who supplies Schedule 3 antiques to an accountable person who is acquiring such antiques for resale shall, on the date of such supply or within 10 days of that date, issue to the accountable person who acquires the antiques a document in respect of that supply, and the taxable dealer to whom the antiques are supplied shall provide the form for that purpose, setting out the following particulars:

- (a) the date of issue of the document,
- (b) the name and address of the person who is supplying the goods to which the document relates,
- (c) the name, address, and registration number of the accountable person concerned,
- (d) a description of the goods, including details of the quantity, type, apparent material of construction, possible origin and identifying features,
- (e) the date on which the goods to which the document relates are supplied,
- (f) the consideration for the supply, and
- (g) the acknowledgement of the person by whom the document is issued,

and the accountable person shall give a copy of the document to the supplier of the goods.

(5) An accountable person who supplies Schedule 3 antiques to another accountable person shall include on the invoice concerned, which he or she is required to issue in accordance with section 66(1) of the Act, a declaration to the effect that the antiques are more than 100 years old.

(6) An accountable person who supplies Schedule 3 antiques to a non-taxable person shall, for the purposes of paragraph (6), certify in writing in respect of each such supply that the said antiques are more than 100 years old.

(7) Every accountable person shall, in relation to antiques which he or she has acquired or supplied, keep full and true records, entered up to date, of the acquisition and resale of such goods, together with cross-references between all such records, the relevant document issued in accordance with paragraph (4), the relevant invoice issued in accordance with paragraph (5) and the certification made in accordance with paragraph (6).

Travel Agents' Margin Scheme

32. (1) A travel agent who supplies margin scheme services shall calculate the amount of tax that is included in that travel agent's margin in accordance with the following formula:

$$M \times \frac{R}{100 + R}$$

where—

M is the travel agent's margin as calculated in accordance with this Regulation, and

R is the percentage rate of tax specified in section 46(1)(a) of the Act.

(2) Where a travel agent—

(a) organises a qualifying conference (within the meaning of section 60(1) of the Act), and

(b) supplies margin scheme services that include “qualifying accommodation” within the meaning of that section to a traveller, being a “delegate” within the meaning of that section,

then the document referred to in section 66(5) of the Act that the travel agent is required to issue shall include the following details in addition to the details specified in section 60(1) of the Act:

(i) the date of issue of the document,

(ii) a sequential number, based on one or more series, which uniquely identifies the document,

(iii) the full name, address and registration number of the accommodation provider from whom the travel agent purchased the

bought-in accommodation and particulars of the amount of tax chargeable to the travel agent in respect of the qualifying accommodation,

- (iv) a cross-reference to the relevant invoice issued by the accommodation provider to the travel agent for the accommodation, and
- (v) the full name and address of the traveller to whom the accommodation was supplied as part of a supply of margin scheme services.

(3) Where a travel agent supplies services of the type referred to in paragraph (2)(b) but does not organise the relevant qualifying conference (within the meaning of section 60(1) of the Act, the document referred to in section 66(5) of the Act that the travel agent is required to issue shall include the following details:

- (a) the full name, address and registration number of the travel agent,
- (b) the date of the issue of the document,
- (c) a sequential number, based on one or more series, which uniquely identifies the document,
- (d) the full name, address and registration number of the accommodation provider from whom the travel agent purchased the bought-in accommodation and particulars of the amount of tax chargeable to the travel agent in respect of the qualifying accommodation,
- (e) a cross-reference to the relevant invoice issued by the accommodation provider to the travel agent for the accommodation,
- (f) the full name and address of the traveller to whom the accommodation was supplied as part of a supply of margin scheme services, and
- (g) the dates on which the accommodation was provided to the traveller.

(4) A travel agent who is obliged to account for the tax due on his or her travel agent's margin in respect of each transaction in accordance with section 88 of the Act may opt to fulfil that obligation by using the simplified accounting arrangements as provided for in this Regulation in respect of the totality of those transactions, and where a travel agent so opts he or she shall—

- (a) choose either the option provided for in paragraph (5) (referred to in this Regulation as “simplified accounting option 1”) or in paragraph (7) (referred to in this Regulation as “simplified accounting option 2”) and apply the chosen option as the method of accounting for all his or her supplies of margin scheme services,

- (b) obtain the prior consent of the Commissioners if he or she wishes to change that option, which change shall take effect only at the start of that travel agent's accounting year, and
 - (c) create and maintain a record (referred to in this Regulation as a "margin scheme record") containing details of the option chosen by the travel agent and the estimates and the adjustments made by the travel agent for the purposes of applying those simplified accounting arrangements.
- (5) A travel agent who opts for simplified accounting option 1 in respect of his or her margin scheme services shall—
- (a) at the start of the accounting year estimate in accordance with paragraph (6) that travel agent's percentage margin for each journey beginning during that accounting year,
 - (b) apply the percentage so calculated to the consideration received in each taxable period of that accounting year in order to calculate the travel agent's margin in respect of margin scheme services supplied in that taxable period and the amount of the tax that is included in that travel agent's margin, and
 - (c) include that tax in the return which the travel agent is required to furnish in accordance with section 76 or 77 of the Act for the taxable period in which the consideration is received.
- (6) (a) The estimate of the percentage margin referred to in paragraph (5)(a) for each journey beginning during an accounting year shall be calculated by the travel agent in accordance with the following formula:

$$\frac{(EA - EB)}{EA} \times 100$$

where—

EA is the total consideration which the travel agent estimates that he or she is entitled to receive in respect of or in relation to the supply of margin scheme services for all journeys beginning during that accounting year including all taxes, commissions, costs and charges whatsoever and value-added tax payable in respect of that supply, and

EB is the amount which the travel agent estimates is payable to that travel agent's suppliers in respect of the bought-in services included in the supply of the margin scheme services referred to in EA, but any bought-in services purchased by the travel agent prior to 1 January 2010 in respect of which that travel agent claims deductibility in accordance with section 12 of the repealed enactment shall be disregarded.

- (b) In order to determine the total percentage margin, a travel agent may opt to subdivide the estimate of his or her percentage margin at the start of the accounting year on the basis of a regional, seasonal or other identifiable category, and in that case the estimates referred to in subparagraph (a) for the consideration and the amounts payable to the travel agent's suppliers should be apportioned accordingly for the purposes of the calculation in subparagraph (a).
 - (c) The estimate of the percentage margin shall be based on the travel agent's actual and projected bookings for journeys beginning in the accounting year in question, or on any other basis which may be agreed with the Commissioners.
 - (d) The percentage calculated in accordance with the formula in subparagraph (a), the basis for determining that percentage and the particulars of the estimate as provided for in subparagraphs (b) and (c) shall be recorded in the margin scheme record of the travel agent at the start of the accounting year.
- (7) A travel agent who opts for simplified accounting option 2 in respect of his or her margin scheme supplies shall—
- (a) estimate in accordance with paragraph (8) that travel agent's margin in respect of margin scheme services supplied in a taxable period for each journey that begins in that taxable period on the basis of his or her best estimate,
 - (b) calculate in accordance with paragraph (1) the amount of tax that is included in that travel agent's margin, and
 - (c) include that tax in the return which that travel agent is required to furnish in accordance with section 76 or 77 of the Act in respect of that taxable period.
- (8) The estimate of the travel agent's margin referred to in paragraph (7) for a taxable period shall be calculated by the travel agent in accordance with the following formula:

$$A - EB$$

where—

A is the total consideration which the travel agent becomes entitled to receive in respect of or in relation to the supply of margin scheme services for each journey that begins in that taxable period, including all taxes, commissions, costs and charges whatsoever and value-added tax payable in respect of that supply, and

EB is the amount which the travel agent estimates is payable to that travel agent's suppliers in respect of the bought-in services included in the supply of the margin scheme services referred to in A, but any bought-in

services purchased by the travel agent prior to 1 January 2010 in respect of which that travel agent claims deductibility in accordance with section 12 of the repealed enactment shall be disregarded.

(9) A travel agent who opts for simplified accounting option 1 or 2 is obliged at the end of the accounting year to carry out an annual review and make the necessary adjustments in accordance with paragraphs (10) to (12).

(10) For the purposes of carrying out the annual review and adjustments referred to in paragraph (9) for an accounting year, a travel agent shall—

- (a) calculate his or her travel agent's margin in relation to the supply of margin scheme services for each journey which began in that accounting year in accordance with the following formula:

$$Y - Z$$

where—

Y is the total consideration which the travel agent became entitled to receive in respect of or in relation to a supply of margin scheme services in respect of each journey which began in that accounting year, including all taxes, commissions, costs and charges whatsoever and value-added tax payable in respect of that supply, and

Z is the amount payable by the travel agent to all suppliers for bought-in services included in the supply of the margin scheme services referred to in the meaning of "A" in subparagraph (8), but any bought-in services purchased by the travel agent prior to 1 January 2010 in respect of which that travel agent claims deductibility in accordance with section 12 of the repealed enactment shall be disregarded,

and

- (b) calculate in accordance with paragraph (1) the amount of tax that is included in the travel agent's margin as calculated in subparagraph (a).

(11) In order to determine whether the amount of tax calculated in accordance with paragraph (10)(b) for an accounting year differs from the tax accounted for in respect of the supply of margin scheme services for journeys which began in that accounting year, the travel agent shall calculate the amount of the difference in accordance with the following formula:

$$D - E$$

where—

D is the amount of tax calculated in accordance with paragraph (10)(b), and

E is the amount of tax actually accounted for by the travel agent in respect of the supply of margin scheme services for journeys that began in that accounting year,

and

- (a) where that D is greater than that E, the travel agent shall be liable for an amount of tax equal to the amount of the difference so calculated, and that tax shall be payable as if it were tax due in accordance with Chapter 3 of Part 9 of the Act, and
- (b) where that E is greater than that D, the travel agent is entitled to increase the amount of tax deductible for the purposes of Chapter 1 of Part 8 of the Act by an amount of tax equal to the amount of the difference so calculated.

(12) The tax payable or the increase in the amount of tax deductible calculated in accordance with paragraph (11) is to be included by the travel agent in the tax return required to be furnished in accordance with section 76 or 77 of the Act in—

- (a) the taxable period immediately following the end of the travel agent's accounting year, or
- (b) such later period as is agreed between the travel agent and the Commissioners.

(13) Where a travel agent supplies margin scheme services together with other goods and services to a traveller for a total consideration, then, in order to establish the value of those services that are subject to the travel agent's margin scheme, the travel agent shall reduce that total consideration by an amount equal to the open market value of those other goods and services increased by the value-added tax applicable thereto.

(14) Where a travel agent makes a supply of margin scheme services to a traveller that includes bought-in services performed inside the Community and bought-in services performed outside the Community, then that agent shall apportion his or her travel agent's margin in accordance with the following formula:

$$F \times \frac{G}{H}$$

where—

F is the total travel agent's margin in respect of the margin scheme supply,

G is the cost to the travel agent of the goods and services used in that margin scheme supply that are bought-in services performed outside the Community, and

H is the total cost to the travel agent of all the bought-in services used in making that margin scheme supply.

(15) As regards the calendar year 2010, where the end date of the accounting year of the travel agent is other than 31 December, all references to accounting year for the purpose of applying this Regulation are to be taken as a reference to the period from 1 January 2010 to that end date.

(16) Nothing in this Regulation has the effect of including in the travel agent's margin scheme—

- (a) in respect of a travel agent that opts for the simplified accounting option 1, any consideration received by a travel agent before 1 January 2010 in respect of journeys beginning on or after that date, or
- (b) in respect of a travel agent that opts for the simplified accounting option 2, the travel agent's margin in respect of any journey which begins on or after 1 January 2010 for which full consideration was received prior to that date.

Investment gold — waiver of exemption

33. (1) A person who produces investment gold or transforms any gold into investment gold and who, in accordance with section 90(3) of the Act, wishes to waive his or her right to exemption from tax on supplies of investment gold to another person who is engaged in the supply of goods and services in the course or furtherance of business, is required to apply to the Commissioners for authorisation to do so and to furnish them with the following particulars:

- (a) his or her name, address and registration number (if any), and
- (b) a declaration stating that he or she produces investment gold or transforms any gold into investment gold and that he or she supplies or intends to supply investment gold to other persons engaged in the supply of goods and services in the course or furtherance of business.

(2) Where they are satisfied that it is appropriate to do so for the proper administration of the tax, the Commissioners shall authorise the applicant to waive, in accordance with section 90(3) of the Act, his or her right to exemption from tax on a supply of investment gold.

(3) A person who is authorised in accordance with paragraph (2) in respect of a supply of investment gold to another person shall, in relation to that supply, issue to that other person an invoice showing the following particulars:

- (a) the date of issue of the invoice,
- (b) a sequential number, based on one or more series, which uniquely identifies the invoice,
- (c) his or her full name, address and registration number,

- (d) the full name, address and registration number of the person to whom the investment gold is being supplied,
- (e) in the case of a supply of investment gold to—
 - (i) a person in another Member State, that person's value-added tax identification number (if any) in that Member State,
 - (ii) a person outside the Community, an indication of the type of business being carried on by that person,
- (f) a description of the investment gold including, where applicable, form, weight, quantity, purity and any other distinguishing features,
- (g) the date of supply of the investment gold,
- (h) the total consideration, exclusive of tax, receivable in respect of the supply,
- (i) the rate or rates of tax and the amount of tax at each rate chargeable in respect of the supply of the investment gold, and
- (j) an endorsement stating "The right to exemption from tax has been waived in respect of this supply and the person to whom the investment gold is being supplied is liable for the tax chargeable on the supply in accordance with section 90(5) of the Value-Added Tax Consolidation Act 2010" or words to that effect.

(4) Where a person is authorised to waive, in accordance with paragraph (2), his or her right to exemption from tax on supplies of investment gold, an intermediary who supplies services in respect of those supplies of investment gold, and who wishes to waive his or her right to exemption from tax in respect of those services, is required to apply to the Commissioners for authorisation to do so and to furnish them with the following particulars:

- (a) his or her name, address and registration number (if any), and
- (b) a declaration stating that he or she supplies services in respect of the supply of investment gold.

(5) Where they are satisfied that it is appropriate to do so for the proper administration of the tax, the Commissioners shall authorise the intermediary referred to in paragraph (4) to waive, in accordance with section 90(4) of the Act, his or her right to exemption from tax on the supply of a service in respect of the supply of investment gold for which the supplier of such investment gold has waived his or her right to exemption from tax in accordance with section 90(3) of the Act.

(6) An intermediary who is authorised in accordance with paragraph (5) in respect of the supply of investment gold to another person shall, in relation to

that supply, issue to that other person an invoice showing the following particulars:

- (a) the date of issue of the invoice,
- (b) a sequential number, based on one or more series, which uniquely identifies the invoice,
- (c) his or her full name, address and registration number,
- (d) the full name, address and registration number (if any) of the person on whose name and account he or she is acting in respect of the supply of investment gold and, where that person is in another Member State, that person's value-added tax identification number (if any) in that Member State,
- (e) a description of the services being supplied in respect of the supply of investment gold,
- (f) the date of the supply of the services,
- (g) the total consideration, exclusive of tax, receivable in respect of the supply of the services,
- (h) the rate of tax and the amount of tax chargeable in respect of the supply of the services, and
- (i) an endorsement stating "The right to exemption from tax has been waived in respect of this supply" or words to that effect.

(7) Where the right to exemption from tax has been waived in respect of a supply of investment gold or the supply of services relating to the supply of investment gold, that waiver shall be irrevocable for that supply.

Investment gold — refunds of tax

34. A person who is entitled, in accordance with section 90(6)(b), (7)(b) or (8)(b) of the Act, to claim a refund of the tax charged, paid or deferred in the circumstances specified in those subsections shall claim such refund of tax—

- (a) by completing such claim form as may be provided for that purpose by the Commissioners and by certifying that the particulars shown on such claim form are correct,
- (b) by establishing the amount of tax borne by the production, where requested to do so by the Commissioners, of invoices or import documents, and
- (c) by establishing that such person is not entitled to repayment of the tax under any other provision of the Act, any Regulations made thereunder or of any other Act or instrument made under statute administered by the Commissioners.

Immovable Goods

Waiver of exemption under old property rules — backdating and cancellation

35. (1) In this Regulation—

“back-dating”, in relation to a waiver, means the waiving of a right to exemption from tax in respect of an exempt letting of immovable goods to which paragraph 11 of Schedule 1 to the Act applies (in this Regulation referred to as a “specified letting”) from a date earlier than the current taxable period, and “back-dated” shall be construed accordingly;

“cancellation request period” means the taxable period during which a request for the cancellation of a waiver of exemption is made in accordance with paragraph (7);

“waiver” means the waiver by a person of his or her right to exemption from tax on a specified letting.

(2) Where—

(a) an accountable person makes a specified letting, and

(b) the immovable goods which are the subject of that letting were acquired or developed by him or her before 1 July 2008 for the purpose of his or her taxable supplies,

that person may apply to the Commissioners to backdate the waiver of his or her right to exemption in respect of that letting.

(3) An application under paragraph (2) is required to be made in writing to the Commissioners and to include the following:

(a) the full name, address and registration number of the accountable person making the application,

(b) the tenant’s name, address and registration number,

(c) details of the letting agreement, and

(d) the date from which the accountable person desires that the waiver shall have effect.

(4) A waiver of exemption shall be backdated only where the tenant would have been entitled to deduct, in accordance with section 12 of the repealed enactment, all the tax that would have been chargeable in respect of the letting if the waiver had applied from the date specified in accordance with paragraph (5) to the date on which the Commissioners issue the notification referred to in paragraph (5).

(5) Where the Commissioners are satisfied that an applicant has complied with paragraph (3) and that paragraph (4) applies, then they shall notify the applicant that the waiver may be back-dated in respect of the letting for which

back-dating of a waiver was sought specifying the date to which the waiver is to be back-dated, being a date not earlier than 26 March 1997 and not later than 30 June 2008.

(6) Any tax chargeable prior to the date the Commissioners issue the notification referred to in paragraph (5), which becomes chargeable on the letting of immovable goods as a result of the back-dating of a waiver, is deemed to have been due and paid by the applicant in accordance with Chapter 3 of Part 3 of the Act and deducted by the tenant in accordance with Chapter 1 of Part 8 of the Act.

(7) A person who waives his or her right to exemption in respect of a specified letting is entitled to have such waiver cancelled provided he or she—

(a) applies to the Commissioners in writing to have the waiver of his or her right to exemption cancelled,

(b) furnishes particulars to the Commissioners of—

(i) the tax due and accounted for by him or her, in accordance with Chapter 3 of Part 3 of the Act, in relation to the supply of services by him or her to which the waiver applied for all taxable periods comprised in the period commencing with—

(I) in the case of a back-dated waiver, the start of the period in which the Commissioners issued the notification referred to in paragraph (5), or

(II) in any other case, the taxable period from the commencement of which the waiver of exemption has effect,

and ending with the last day of the taxable period immediately preceding the cancellation request period, and

(ii) the total amount of tax deducted or deductible by him or her referred to in section 96(3)(a), (c) and (d) of the Act in respect of all of the taxable periods comprised in the appropriate period referred to in clause (i), together with the total amount of tax deducted by him or her referred to in section 96(b) of the Act,

and

(c) pays to the Collector-General an amount equal to the excess (if any) of the tax referred to in subparagraph (b)(ii) over the tax referred to in subparagraph (b)(i).

(8) Where a person complies with paragraph (7) to the satisfaction of the Commissioners, his or her waiver shall be cancelled with effect from the end of the taxable period during which he or she so complies. The Commissioners shall notify the person of such cancellation in writing, and from the end of that taxable

period the person shall be treated as a person who had not waived his or her right to exemption.

(9) A person who applies for the cancellation of his or her waiver in accordance with paragraph (7) is not entitled, under section 99(1) of the Act, to any refund of tax, other than a refund referable solely to some error or mistake made by him or her, for the cancellation request period or any subsequent taxable periods, in relation to all the lettings to which the waiver relates, in excess of an amount calculated in accordance with the following formula:

$$A + B$$

where—

A is the excess of the amount referred to in paragraph 7(b)(i) over the amount referred to in paragraph 7(b)(ii) but, where there is no such excess, A is equal to zero, and

B is the sum of the amounts of tax paid under sections 76 and 77 of the Act, in relation to all the lettings to which the waiver relates, for the cancellation request period and any subsequent taxable periods until the waiver is cancelled.

Refunds and Repayments of Tax

Refund of tax

36. A claim for refund of tax shall be made in writing to the Commissioners and shall—

- (a) set out the grounds on which the refund is claimed,
- (b) contain a computation of the amount of the refund claimed, and
- (c) if so required by the Commissioners, be vouched by the receipts for tax paid and such other documents as may be necessary to prove the entitlement to a refund of the amount claimed.

Refund to foreign traders

37. (1) A person not established in the territory of the Community to whom section 102 of the Act applies is entitled, under the terms of Council Directive No. 86/560/EEC of 17 November 1986², to be repaid tax borne by that person on the purchase of goods or services supplied to that person in the State or in respect of goods imported into the State by that person, if he or she fulfils to the satisfaction of the Commissioners the following conditions:

- (a) provides proof, in the form of a written document from the relevant official department of the country in which that person has an establishment, that he or she is engaged in carrying on an economic activity,

²OJ No. L 326 of 21 November 1986, p. 40.

- (b) claims a refund, within 6 months of the end of the calendar year in which the tax became chargeable, by completing and lodging the appropriate claim form, provided for that purpose by the Commissioners, together with the appropriate documentation as specified in subparagraph (c),
- (c) establishes the amount of tax borne by the production of the invoice issued by the supplier or the relevant import documents,
- (d) establishes that he or she is not entitled to repayment of the tax under any other provision of the Act or Regulations, or any other instrument made under statute that is administered by the Commissioners.

(2) A claim for a refund under this Regulation shall relate to invoiced purchases of goods and services or to imports made during a period, within a calendar year, of not less than 3 months or a period of not more than one calendar year, but where that claim relates to the last quarter of a calendar year a claim for a refund may relate to a period of less than 3 months.

(3) A person is not entitled to make a claim under this Regulation for an amount less than—

- (a) €400 if the claim is for a period of less than one calendar year and not less than 3 months,
- (b) €50 if the claim is for a period that represents a full calendar year or the last quarter of a calendar year.

(4) The written document mentioned in paragraph (1)(a) shall be taken as evidence of the matters contained therein for the purposes of this Regulation only for a period of one year from the date such document was issued by the official authorities in the State in which that person is established.

Remission or repayment of tax on fishing vessels and equipment

38. (1) In accordance with section 104(4)(b) of the Act, tax is remitted in respect of the supply or importation of fishing nets, and sections of fishing nets, used or to be used for the purposes of commercial sea-fishing.

(2) A person who—

- (a) establishes to the satisfaction of the Commissioners that he or she has borne or paid tax on any goods or services specified in paragraph (3), and
- (b) fulfils to the satisfaction of the Commissioners the conditions specified in paragraph (4),

is entitled to be repaid the tax so borne or paid.

(3) The goods and services to which paragraph (2) relate are—

- (a) the supply or hire to that person, the importation by that person or the maintenance or repair for that person of a commercial sea-fishing vessel of a gross tonnage of not more than 15 tons, on the acquisition of which he or she received from An Bord Iascaigh Mhara a grant or loan of money,
 - (b) the supply or hire to that person, the importation by that person, or the repair, modification or maintenance for that person, of goods of the kind specified in the Table to this Regulation for use exclusively in the operation by that person of a commercial sea-fishing vessel of a gross tonnage of not more than 15 tons, on the acquisition of which he or she received from An Bord Iascaigh Mhara a grant or loan of money, or
 - (c) the repair or maintenance for that person of a fishing net specified in paragraph (1) for use exclusively for the purposes of his or her commercial sea-fishing business.
- (4) The conditions to be fulfilled are that the person specified in paragraph (2)—
- (a) claims a refund of tax by completing such claim form as may be provided for that purpose by the Commissioners,
 - (b) produces sufficient documentary evidence to establish that the outlay in relation to which his or her claim for a refund of tax arises was incurred in the operation by him or her of a vessel specified in paragraph (3) for the purposes of a commercial sea-fishing business,
 - (c) produces either an invoice provided in accordance with section 73(1)(b) of the Act or a receipt for tax paid on goods imported to establish the amount of tax borne or paid in relation to the outlay referred to in paragraph (3),
 - (d) produces a certificate from An Bord Iascaigh Mhara, or such other documentary evidence acceptable to the Commissioners, to establish that the outlay in relation to which his or her claim for a refund of tax arises relates to a commercial sea-fishing vessel in respect of which he or she qualified for financial assistance by grant or loan from An Bord Iascaigh Mhara,
 - (e) is not, or is not required to be, registered for tax in accordance with section 65 of the Act.

TABLE

<p>Anchors, autopilots, bilge and deck pumps, buoys and floats, compasses, cranes, echo graphs, echo sounders, electrical generating sets, fish boxes, fish finders, fishing baskets, life boats and life rafts, marine lights, marine engines, net drums, net haulers, net sounders, radar apparatus, radio navigational aid apparatus, radio telephones, refrigeration plant, trawl doors, trawl gallows, winches.</p>
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Administration and General

Nomination of officers

39. Any functions authorised by the Act to be performed or discharged by the Commissioners may be performed or discharged by officers nominated by the Commissioners for that purpose.

Service of notices

40. Any notice, notification or requirement that is authorised or required to be given, served, made, sent or issued under the Act or under these Regulations may be sent by post.

Estimates and assessments

41. (1) A notice of an amount of tax estimated in accordance with section 110 of the Act shall contain the following:

- (a) the name, address and registration number of the person whose tax liability is estimated,
- (b) the period to which the estimate relates, and
- (c) the amount of tax estimated to be payable in respect of the period referred to in subparagraph (b).

(2) A notice of an amount of tax assessed in accordance with section 111 of the Act shall contain the following:

- (a) the name, address and registration number of the person whose tax liability or refund is assessed,
- (b) the period to which the assessment relates (in this paragraph referred to as the “assessment period”),
- (c) an assessment of the total amount of tax which should have been paid or the total amount of tax (including, where appropriate, a nil amount) which in accordance with section 99(1) of the Act should have been refunded, as the case may be, in respect of the assessment period,
- (d) the total amount of tax (including, where appropriate, a nil amount) paid by the person or refunded to the person, as the case may be, in respect of the assessment period, and
- (e) the net amount due in respect of the assessment period.

Disclosure of information to Commissioners

42. Any person engaged in the supply of goods or services in the course or furtherance of business shall, when required to do so by notice in writing served on such person by the Commissioners, disclose to the Commissioners such particulars of any goods or services supplied to him or her as may be required by such notice.

Remission of small amounts of tax

43. The Commissioners may, at their discretion, remit the amount of tax, together with interest thereon, payable by a person in respect of goods and services supplied by the person during any taxable period, if the total amount of the tax, exclusive of any interest chargeable thereon does not exceed €20.

Miscellaneous*Free ports*

44. (1) In this Regulation “control” has the meaning assigned to it by section 4 of the Act.

(2) Subject to paragraph (3), goods that are imported by a registered person may be delivered or removed directly to a free port without payment of the tax chargeable on the importation, if that person—

(a) shows to the satisfaction of the Commissioners that—

- (i) he or she has been granted a licence under section 4 of the Free Ports Act 1986 (No. 6 of 1986) authorising him or her to carry on within that free port any trade, business or manufacture, and
- (ii) the goods are being imported for the purposes of his or her trade, business or manufacture in that free port,

and

(b) complies with such other conditions as the Commissioners may impose.

(3) Paragraph (2) does not apply to the importation of food, drink, motor vehicles or petrol, except where tax on the importation of those goods would, if it were paid, be wholly deductible under Chapter 1 of Part 8 of the Act.

(4) Except in accordance with paragraph (5), goods that have been imported without payment of the tax in accordance with paragraph (2) may not be removed from the free port concerned to any other part of the State (other than into another free port or the customs-free airport), unless such removal is in relation to a supply of those goods and is not a supply between the supplier and—

(a) a person who exercises control over the supplier,

(b) a person over whom the supplier exercises control, or

(c) a person over whom the supplier and another person exercise control.

(5) Goods in a free port whose removal from that free port is precluded by paragraph (4) may be so removed with the prior agreement in writing of the Commissioners in such exceptional cases as may be determined by them. Where such removal is allowed, tax which, but for this Regulation, would have been

payable on the importation of the goods is payable at the time of that removal by the supplier.

Supplies for onboard consumption

45. (1) In this Regulation “excisable products” means the alcoholic products referred to in paragraphs (a) to (e), and the tobacco products referred to in paragraph (f), of section 104 (inserted by the Finance Act 1999 (No. 2 of 1999)) of the Finance Act 1992 (No. 9 of 1992).

(2) The conditions that apply for the purposes of paragraph 7(6) of Schedule 2 to the Act are that the food, drink and tobacco products must be supplied—

- (a) in the case of excisable products, in such form, manner and quantities as may be permitted by the Commissioners in respect of relief from excise duty, and
- (b) in the case of food and drink, other than drink to which paragraph (a) applies—
 - (i) from outlets on board vessels or aircraft approved by the Commissioners, and
 - (ii) in such form and quantity as renders it suitable to be consumed by passengers while on board such vessels or aircraft.

Lettings in the short-term guest sector or holiday sector

46. A letting which constitutes a letting that is provided in the short-term guest sector or holiday sector for the purposes of paragraph 11(a)(ii) of Schedule 3 to the Act is a letting of all or part of a house, apartment or other similar establishment to a tourist, holidaymaker or other visitor for a period which does not exceed or is unlikely to exceed 8 consecutive weeks, but is not a letting—

- (a) governed by the Housing (Rent Books) Regulations 1993 (S.I. No. 146 of 1993),
- (b) of a dwelling to which Part II of the Housing (Private Rented Dwellings) Act 1982 (No. 6 of 1982) applies, or
- (c) of accommodation which is provided as a temporary dwelling for emergency residential purposes.

Revocations

47. The Regulations set out in the Schedule to these Regulations are revoked.

SCHEDULE

Value-Added Tax Regulations 2006 (S.I. No. 548 of 2006)

Value-Added Tax (Amendment) Regulations 2007 (S.I. No. 272 of 2007)

Value-Added Tax (Amendment) Regulations 2008 (S.I. No. 238 of 2008)

Value-Added Tax (Amendment) Regulations 2009 (S.I. No. 289 of 2009)

Value-Added Tax (Amendment) (No. 2) Regulations 2009 (S.I. No. 577 of 2009)

Value-Added Tax (Amendment) Regulations 2010 (S.I. No. 144 of 2010).

GIVEN this 22 December 2010.

MICHAEL O'GRADY,
Revenue Commissioner.

The Minister for Finance consents to the making of Regulations 14, 15, 31, 38, 44 and 46 of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for Finance,
21 December 2010.

BRIAN LENIHAN,
Minister for Finance.

EXPLANATORY NOTE

These Regulations are, largely, a restatement of the Value-Added Tax Regulations 2006, as amended, which are being revoked. They are consequent on the recent enactment of the Value-Added Tax Consolidation Act 2010. The Regulations follow the structure of that Act, and update the secondary law relating to value-added tax (VAT) by reference to that Act. They cross-reference to the new statutory references of that Act and also take account of the repeal by that Act of obsolete or redundant provisions.

The Regulations contain a small number of new measures. These are highlighted in the outline of the Regulations below.

Preliminary and General

Citation and commencement

1. This Regulation contains the provisions relating to the title and commencement of the Regulations. The Regulations come into force on 1 January 2011.

Interpretation

2. This Regulation defines certain terms for the purposes of the Regulations as a whole.

Accountable Persons

Election to be an accountable person and cancellation of such election

3. This Regulation deals with the procedures concerning elections to be an accountable person, the cancellation of such elections and the cancellation of a VAT registration at the request of an accountable person whose turnover falls below the registration thresholds.

Groups

4. This Regulation caters for the formalities to be observed where a number of “linked companies” wish to be grouped for VAT purposes.

Taxable Transactions

Exemption of certain business gifts

5. This Regulation provides for an exemption from VAT for business gifts of negligible value.

Death, bankruptcy or liquidation

6. This Regulation specifies who must undertake the liabilities of the accountable person where that person dies or becomes bankrupt or, in the case of a company, goes into liquidation.

Supply of services comprising the use of immovable goods for private or non-business purposes

7. This Regulation deals with the private or non-business use of certain immovable goods.

Supply of certain services

8. This Regulation deals with the supply by a taxpayer free of charge of certain catering services for the taxpayer's own private or personal use or that of his or her staff.

Taxable Amount*Adjustments for returned goods, discounts and price alterations*

9. This Regulation deals with the adjustments to be made where the consideration received is less than the chargeable amount for any supply, e.g. in the case of discounts or in the case of price reductions, etc.

Adjustments for bad debts and for early termination of hire purchase agreements

10. This Regulation deals with the conditions to be fulfilled and the procedures to be followed to qualify for bad debt relief for VAT already accounted for in respect supplies of goods and services. It also provides for relief for VAT already accounted for in respect of a supply of goods under a hire purchase agreement in cases where that agreement is terminated early and the goods are returned to the hire purchase company.

A new measure (paragraph (10)) provides that an accountable person who has claimed relief in respect of any bad debt, and who subsequently recovers all or part of that debt, must treat the amount so recovered as inclusive of VAT and is liable to account for the VAT concerned, which is due and payable for the taxable period in which the amount is so recovered.

Stamps, coupons, tokens and vouchers

11. This Regulation deals with the amount chargeable on supplies of certain stamps, coupons, tokens or vouchers and the amount chargeable when they are redeemed. It provides that the taxable amount of the goods when redeemed is the consideration that was disregarded in accordance with section 43(2) of the Value-Added Tax Consolidation Act 2010.

Rates and Exemption*Apportionment of consideration*

12. This Regulation deals with the circumstances and conditions under which an accountable person may disregard an individual supply or supplies in a multiple supply and the manner in which the consideration for such a multiple supply must be treated as regards the rate or rates of taxation to apply.

Determination in regard to tax

13. This Regulation sets out the form and content of a determination made by the Commissioners for the purposes of section 51 of the Value-Added Tax Consolidation Act 2010.

Provisions Relating to Imports, Exports, etc

Imported goods

14. This Regulation deals with the application of certain customs rules to VAT at import.

A new measure (paragraph (3)(i)) is included in order to cater for the VAT treatment of goods re-imported into the State after being temporarily exported.

Retail Export Scheme

15. This Regulation sets out the conditions for granting relief of VAT (zero-rating), in accordance with section 58 of the Value-Added Tax Consolidation Act 2010, on goods purchased in the State by non-EU residents or by Irish residents who are taking up residence outside the EU.

Paragraphs (2)(a) and (4) are new measures which provide that, at the time of the supply of the goods to the traveller, the supplier must make a record of the details of the documentary proof inspected by him or her confirming that the purchaser was a qualifying traveller, and that where the value of the goods bought by the traveller exceeds €2,000, the traveller is required to present both the goods and the relevant invoice to Customs.

Deductions

Relief for stock in trade held at commencement of taxability

16. This Regulation deals with relief for stock-in-trade at the commencement of taxability and sets out how the deduction in respect of such stock must be calculated and recorded.

Apportionment

17. This Regulation deals with the proportion of tax deductible in relation to inputs that are used for both taxable and non-taxable transactions and the adjustment of that proportion over a review period.

Capital Goods Scheme

18. This Regulation deals with a change in accounting year during an adjustment period in relation to the capital goods scheme.

Obligations of Accountable Persons

Registration

19. This Regulation sets out the procedures to be followed in relation to registration. It also covers cancellation of a registration when the accountable person ceases to trade.

Invoices and other documents

20. This Regulation deals with the provisions relating to the issuing of invoices, credit notes, debit notes, etc. It also provides for a mechanism for simplified invoicing arrangements.

Electronic invoicing

21. This Regulation deals with the issuing of invoices and other documents by electronic means and sets out the conditions and the system specifications required in order for those invoices, etc. to be valid for VAT purposes.

Invoicing provisions for flat-rate farmers

22. This Regulation deals with the provisions relating to the issuing of invoices, credit notes, debit notes, etc. in the case of flat-rate farmers supplying agricultural produce or services.

Time limits for issuing invoices and credit notes

23. This Regulation sets out the time limits for the issue of invoices and credit notes.

Paragraphs (b) and (c) are new measures in the Regulation, which prescribe time limits for the issuing of documents in relation to supplies of certain construction services and supplies of greenhouse gas allowances.

Returns

24. This Regulation requires an accountable person to furnish the details requested on a VAT return. The accountable person or another person acting under the authority of the accountable person may furnish the details.

Determination of tax due by reference to moneys received

25. This Regulation sets out the terms and conditions relating to the operation of the moneys received basis of accounting.

Statement of intra-Community supplies

26. This Regulation sets out the particulars required on statements of intra-Community supplies (VIES returns). The Regulation also specifies the means by which such statements may be returned to the Commissioners and the frequency of such returns.

Accounts

27. This Regulation deals with the type of records and accounts that are required to be kept by accountable persons.

Intra-Community acquisitions — certain new means of transport

28. This Regulation sets out the procedures to be followed in relation to the payment of VAT on the intra-Community acquisition of new aircraft and new vessels by private individuals and other persons not entitled to deduct the tax chargeable on the goods.

Conditions under which intra-Community supply of goods may be zero-rated

29. This is a new Regulation to provide conditions under which the intra-Community supply of goods may be zero-rated.

Investment gold — records of transactions

30. This Regulation deals with the type of records and accounts that are required to be kept by accountable persons who trade in investment gold.

Special Schemes

Antique furniture, silver, glass and porcelain

31. This Regulation specifies the types of antique furniture, silver, glass and porcelain to which the reduced rate of VAT can apply in accordance with paragraph 24 of Schedule 3 to the Value-Added Tax Consolidation Act 2010.

Travel Agents' Margin Scheme

32. This Regulation provides for the taxation of margin scheme services from 1 January 2010 supplied by tour operators and travel agents, acting as principals (referred to in the VAT Directive as “travel agents”). The Regulation in particular caters for—

- simplified accounting arrangements,
- supplies to a traveller of margin scheme services together with goods and services provided from the travel agent’s own resources,
- margin scheme services where the bought-in services are performed both inside and outside the Community, and
- certain transitional arrangements.

Investment gold — waiver of exemption

33. This Regulation deals with the conditions and procedures for waiving exemption on supplies of investment gold or related intermediary services.

Investment gold — refunds of tax

34. This Regulation sets out the conditions for a refund of tax on the purchase, intra-Community acquisition or importation of gold.

Immovable Goods

Waiver of exemption under old property rules — backdating and cancellation

35. This Regulation sets out the conditions with which a person must comply if he or she wishes to backdate a waiver of exemption from tax on the short-term letting of immovable goods. It also deals with the provisions relating to the cancellation of waivers of exemption generally.

Refunds and Repayments of Tax

Refund of tax

36. This Regulation sets out the procedures for claiming a refund of tax.

Refund to foreign traders

37. This Regulation deals with the refund of tax to foreign traders as provided for under the EU Thirteenth VAT Directive.

Remission or repayment of tax on fishing vessels and equipment

38. This Regulation sets out the conditions under which an unregistered person may qualify for a refund of VAT on commercial sea-fishing vessels and equipment.

Administration and General

Nomination of officers

39. This Regulation allows the Revenue Commissioners to delegate certain functions.

Service of notices

40. This Regulation provides that the issue of any notice under the Value-Added Tax Consolidation Act 2010 may be sent by post.

Estimates and assessments

41. This Regulation deals with estimates and assessments of tax due and payable in accordance with sections 109 to 111 of the Value-Added Tax Consolidation Act 2010.

Disclosure of information to the Commissioners

42. This Regulation requires a person in business to disclose information to the Revenue Commissioners when requested by them to do so.

Remission of small amounts of tax

43. This Regulation provides for the remission of negligible amounts of tax at the discretion of the Revenue Commissioners.

Miscellaneous

Free ports

44. This Regulation sets out the conditions for the relief of VAT at import of goods for use in a free port.

Supplies for onboard consumption

45. This Regulation provides the conditions under which certain food, drink and tobacco products supplied to passengers for consumption on board a vessel or aircraft during an intra-EU journey qualify for the zero rate of VAT.

Lettings in the short-term guest sector or holiday sector

46. This Regulation specifies what lettings are treated as being in the short-term guest sector or holiday sector for the purpose of applying the reduced rate of VAT.

Revocations

47. This Regulation lists in a Schedule the various Regulations revoked by these Regulations.

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