


Revenue Commissioners

# Tax Briefing No 06

2014

## **Finance Act 2014 – VAT Update**

The purpose of this Tax Briefing is to outline the principal amendments to the Value-Added Tax Consolidation Act 2010 arising from Finance Act 2014. Detailed  [Notes for Guidance](#) (PDF, 70.8KB) on Finance Act 2014 are available on the Revenue website.

Where appropriate, existing leaflets and guidance notes will be updated in due course to reflect these amendments.

### **Duty to keep records**

Section 84 has been amended to clarify that linking documents, meaning documents drawn up in the making of the accounts or returns and showing details of the calculations linking the records to the accounts or returns, are subject to the record-keeping requirements outlined in the VAT Consolidation Act.

This section has also been amended to provide for an extended period of retention for records in certain circumstances. Where a transaction is the subject of an inquiry, investigation, claim, appeal or legal proceedings in relation to any matter to which the VAT Consolidation Act relates, the normal 6 year retention period for records has been extended, where necessary, to ensure that records relating to that transaction and to any return impacted by that transaction are retained until the issue has been finally determined.

### **Flat-rate addition for farmers**

The flat-rate addition for unregistered farmers has been increased to 5.2% with effect from 1 January 2015. This change was announced as part of Budget 2015 on 14 October 2014.

### **Notice of requirement to issue a document**

A new Chapter (Chapter 1A – "Special measures for the protection of the tax") has been inserted in Part 13 of the VAT Consolidation Act. It includes a new section, section 108B, which deals with notice of requirement to issue a document.

Section 108B enables the Revenue Commissioners to serve a notice on an accountable person, requiring that person to issue a document which is in the same format as a VAT invoice in respect of all supplies for which a VAT invoice is not issued. The notice can have effect for no more than 2 months. Further notices may be issued, where required.

A penalty has also been provided for (in section 115) where an accountable person to whom a notice is served under section 108B fails to comply with that notice.

### **Joint and several liability for tax**

A new section, section 108C, has been inserted into the new Chapter 1A in Part 13 of the VAT Consolidation Act.

This section applies to taxable supplies of goods or services and also to intra-Community acquisitions of goods. It provides that, where VAT has been fraudulently evaded, a person who knowingly or recklessly participates in transactions connected to that fraudulent evasion of VAT is jointly and severally liable for the VAT that has not been remitted and Revenue may notify them accordingly. A person who is jointly and severally liable for tax will be liable for the unpaid net VAT amount and will be liable to pay interest on the outstanding amount of tax but will not be subject to penalties. It is possible to notify more than one accountable person that they are jointly and severally liable for unpaid VAT where they are participants in a chain of transactions involving the same goods or services and where those transactions are linked to the fraudulent evasion of VAT.

### **Assessments of tax due**

Section 111 has been amended to provide that an assessment can include the VAT for which an accountable person is jointly and severally liable. The basis on which a person may appeal an assessment has also been expanded to provide that a person can appeal an assessment with which he or she is aggrieved.

### **Golf club green fees and membership fees**

As a result of the judgment of the European Court of Justice (ECJ) in the Bridport & West Dorset Golf Club Limited case (C-495/12), the Revenue Commissioners advised member-owned golf clubs that they could treat non-member green fees as exempt from VAT from 1 January 2014. Most annual membership fees in member-owned golf clubs are already exempt from VAT.

In order to comply with the ECJ judgment, Schedule 1 and Schedule 3 have been amended and provide that all green fees and membership fees charged by member-owned golf clubs and by non-profit making organisations providing golf facilities will be exempt from VAT with effect from 1 March 2015. The exemption will include memberships of less than 200 days and corporate memberships, both currently taxed at the reduced rate of 9%.

### **Fostering services**

A new subparagraph (2A) has been inserted into paragraph 4 of Schedule 1 extending the exemption from VAT to certain fostering services provided by bodies engaged by the Child and Family Agency.

### **Defined contribution pension schemes**

In the ECJ case of ATP Pension Service case (C-464/12), the Court found that certain defined contribution pension schemes constitute "special investment funds" and therefore the management of those specific pension schemes should be exempt from VAT. In order to give effect to this judgment, a new clause has been inserted

into paragraph 6(2) of Schedule 1 which extends exemption from VAT to the management of certain defined contribution pension schemes, excluding 'one-member arrangements', with effect from 1 March 2015.

This amendment ensures that Irish VAT legislation is in compliance with the VAT Directive as interpreted by the ECJ.

### **Tea and herbal tea**

Schedule 2 has been amended in order to provide that the zero rate of VAT applies to tea, herbal tea and preparations, including fruit infusions, derived from either tea or herbal tea or a combination of these when supplied in non-drinkable form. Such products when sold in drinkable form are excluded from the zero rate.