

VAT Treatment of Payment Services

This document should be read in conjunction with schedule 1 to the VAT Consolidation Act 2010 (VATCA).

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1. Introduction

This guidance sets out the VAT treatment of transactions concerning the transfer of money.

In recent years there have been a number of cases, such as Everything Everywhere (C-276/09), AXA UK (C-175/09), Bookit Ltd (C-607/14) and National Exhibition Centre Ltd (C-130/15), decided by the Court of Justice of the European Union (CJEU) that have dealt with the VAT exemption relating to the transfer of money. This document sets out the Revenue position as to how this exemption should be applied.

2. Legislative Basis

Paragraph 6(1)(c) of schedule 1 to the VATCA provides an exemption for operating a current, deposit or savings account, and negotiating or dealing in payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collecting and factoring.

This guidance concerns the negotiating or dealing in payments and transfers.

3. Guiding Principles

Transactions are defined according to the purpose and nature of the service provided and not according to the person supplying or receiving the service.

The principles that need to be considered when determining if a service qualifies for exemption are as follows:

1. Exemption can only relate to transactions which form a distinct whole, fulfilling in effect the specific, essential functions of such transfers.
2. An exempted service must be distinguished from the supply of a mere physical or technical service.
3. A transfer is a transaction consisting in the execution of an order for the transfer of a sum of money from one bank account to another.
4. A transfer is characterised by the fact that it involves a change in the legal and financial relationship existing, on the one hand, between the person giving the order and the recipient and, on the other, between those parties and their respective banks; and in some cases, between those banks.
5. The transaction which produces the change is solely the transfer of funds between accounts, irrespective of its cause.
6. The mere fact that a service is essential for completing an exempt transaction does not warrant the conclusion that the service is exempt.

4. Status of the Supplier

When considering whether a service qualifies for exemption, the nature of the person supplying the service is not relevant (i.e. the supplier does not have to be a regulated financial institution). It is the nature of the service being supplied that needs to be considered.

5. Means by which the Service is Supplied

The means by which the service is supplied e.g. electronically or manually is not a decisive factor when considering the application of the exemption. Again it is the precise nature of the service being supplied that will determine the VAT treatment.

6. Physical or Technical Services

Where a supplier provides the infrastructure that facilitates the transfer of funds, those supplies cannot qualify for VAT exemption unless they themselves fulfil the specific and essential function of a transfer, in particular creating the change in the financial and legal relationship between the parties.

For example, providing the technical infrastructure which facilitates the sharing of relevant information relating to a transfer between parties does not qualify for VAT

exemption on the basis that sharing information does not, of itself, create a change in the financial and legal situation between parties.

7. Charges for Using Certain Payment Methods

Where a supplier supplies goods or services to a customer and charges an additional fee to accept payment via a specified method, e.g. credit card, this charge is not independent from the supply of goods or services and cannot qualify for VAT exemption.

The receipt of a payment and the handling of that payment are intrinsically linked to any supply of goods or services provided for consideration. It is inherent in such a supply that the provider should seek payment and make appropriate efforts to ensure that the customer can make effective payment in consideration for the goods or services supplied.

8. Composite and Multiple Supplies

Consideration will also need to be given to the entire range of supplies being made. Where a package of supplies is being made it will need to be considered whether the supply is comprised of a principal element and ancillary supplies or a multiple supply of physically and economically dissociable elements.

Where an element of a package of supplies is potentially exempt or potentially taxable, it might not impact on the overall VAT treatment but this will be dependent on whether the element is a distinct stand alone supply or whether it is a constituent part of the whole supply which is physically and economically dissociable from the other goods and services.

9. Evolving Nature of Services

On examination, it will be obvious that some supplies are either taxable or exempt. However, due to the evolving nature of business models and product offerings, there may be cases where a distinction between a financial service and a technology service is difficult to determine.

Where a taxpayer is unsure of which treatment to apply they should contact their [local Revenue district](#).

Example 1 – Standard Banking Services

A customer instructs his bank to transfer funds to another party. The service of the bank in this instance is the taking of the fund from the customer's account and placing those funds directly into the account of the transferee. By transferring the fund the actions of the bank have directly resulted in the change of the financial and legal relationship between the customer and the transferee. Therefore, the service of the bank is exempt from VAT.

Example 2 – Information Messaging Services

In order to arrange for international transfers of funds, payment orders may be sent between financial institutions using a secure messaging system. The system ensures that standard message formats are used to transmit the financial information between the institutions. The messaging system does not settle the transfer of funds, this must be settled by the correspondent accounts that the institutions have with each other.

Whilst the service supplied by the messaging service is essential for completing the transfer of the funds, the change to the financial and legal relationship between the parties is effected by the transactions through the correspondent account between the financial institutions. Therefore, the messaging system services do not qualify for VAT exemption.

Example 3 – Merchant Acquiring Services

A merchant acquirer is typically a bank or financial institution that processes debit or credit card transactions on behalf of merchants. When a customer uses a credit or debit card to pay for a transaction, the card details are transmitted to the merchant acquirer who in turn checks the validity of the card with the issuing card network. At the end of the day the merchant acquirer will send the relevant sales information to the card issuing bank, via the card network, who in turn will charge the cardholders account and send the funds to the merchant acquirer. The merchant acquirer will then debit the merchants account.

The services of a merchant acquirer are exempt from VAT on the basis that the merchant acquirer provides settlement and clearing services that directly result in the change of financial and legal relationship between the parties involved.

Example 4 – Financial Infrastructure Services

In some cases it may be possible for a supplier to operate between smaller merchants and merchant acquirer. This supplier may provide the merchants with the infrastructure and technology to enable them to accept card payments.

The services of such a supplier would allow the merchant to collect the card data of customers and transmit this information to the merchant acquirer for further processing.

The services of the supplier would not qualify for VAT exemption on the basis that the change in financial and legal relationship is being effected at the level of the merchant acquirer and these services only facilitate the transmission of the relevant information to the merchant acquirer to enable them to process the transaction. Whilst such service may be essential to the conclusion of the transaction they do not have the requisite characteristics to qualify for exemption in their own regard.