

VAT Treatment of establishing and managing a pension scheme

This document should be read in conjunction with section 59 of the Value-Added Tax Consolidation Act 2010 (VATCA 2010)

Document created December 2025



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Introduction

This guidance sets out the VAT treatment relating to the establishment and management of an employee pension scheme.

1 Establishment and management of employee pension scheme

Many employers set up a pension scheme to provide a pension benefit for their employees on retirement.

Contributions paid into a pension scheme by employers are not within the scope of VAT.

2 VAT deductibility

The employer is entitled to VAT deductibility in respect of costs incurred in the establishment, on-going management, administration, and management of the assets of a pension scheme where certain conditions are met.

2.1 Conditions to be met

To be entitled to VAT deductibility, the following conditions must be met:

- The costs must form part of the employer's general costs and must be, as such, included in the price of the taxable goods or services it supplies and/or its [qualifying activities](#).
- The costs incurred must be invoiced to, and paid by, the employer and not passed on to the pension scheme.
- The existence and extent of the right to deduction is determined in the light of the direct and immediate link with the employer's economic activity, and more precisely, its taxable activity and/or its [qualifying activities](#).

3 Employer and pension scheme trustees

There are regulatory regimes to which pension schemes must adhere that may require the trustees of a pension scheme to contract with service providers directly or enter into a tripartite agreement, with the service provider and the employer. In such circumstances, although the employer directly pays the service provider the invoice may be made out in the name of the pension scheme trustees.

Revenue accepts, in the context of these tripartite agreements, that the employer may deduct the VAT it incurs on costs in relation to the establishment and management of a pension scheme where all the following conditions are met:

- The costs form part of the employer's general costs and must be, as such, components of the price of the taxable goods or services it supplies and/or its [qualifying activities](#).
- The employer is responsible for payment of the services, notwithstanding the invoice is addressed to the pension scheme trustees and it pays the service provider directly. This arrangement should be demonstrated by way of a written agreement between the employer and the pension scheme trustees.
- The employer does not, directly or indirectly, get reimbursed in respect of payment of the costs.
- The invoice includes the words "for the account of [name of the employer]".
- The employer and pension scheme trustees must ensure there are clear controls in place to verify that there is an entitlement to recover the input VAT in respect of the costs incurred and a disclaimer by the party not claiming the input credit.

4 Pension scheme reimbursing costs incurred by the employer

Where the employer receives taxable services and makes an onward supply of those services to the pension scheme for consideration, the employer is required to charge VAT on the supply.

Example 1

An employer procures legal services in the amount of €100,000, plus VAT of 23% in respect of its pension scheme. It makes an onward taxable supply to the pension scheme and charges €75,000 plus VAT of 23%.

The employer can deduct the VAT of €23,000 charged to it, subject to the conditions as set out above.

The pension scheme may be able to deduct the VAT charged to it by the employer. Further guidance can be found [here](#).

5 Employer reimbursing pension scheme by way of additional contributions

In some cases, the trustees of a pension scheme contract for and receive services and are subsequently reimbursed by the employer by way of an additional contribution to cover the costs.

The additional contributions made by the employer in these circumstances are outside the scope of VAT.

Accordingly, the employer is not entitled to VAT deductibility in respect of the payment made to the trustees.

Example 2

The trustees of a pension scheme contract for and receive legal services in the amount of €50,000, plus VAT of 23% (VAT inclusive amount of €61,500). The employer agrees to pay the legal fees and does so in the form of an additional contribution into the pension scheme.

This contribution of €61,500 from the employer to the trustees of the pension scheme is outside the scope of VAT.

The employer is not entitled to VAT deductibility in respect of the payment of €61,500 made to the trustees.

The pension scheme will be able to deduct the VAT on the legal services to the extent that it is engaged in either taxable activities or “qualifying activities”. Further guidance can be found [here](#).