

## **VAT Treatment of the management of pension schemes**

This document should be read in conjunction with paragraph 6(2) of Schedule 1 to the VAT Consolidation Act 2010 (VATCA 2010)

Document created December 2025

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## Introduction

This guidance sets out the VAT treatment of the management of defined contribution pension schemes and defined benefit pension schemes.

This manual does not cover other types of pension schemes.

### 1 What is a defined contribution pension scheme?

A defined contribution pension scheme is a pension scheme where contributions are made by both the employee and employer, which are then invested to provide the employee with a pension and/or other benefits on retirement. The value of the ultimate benefits payable from the defined contribution pension scheme depends on the amount of contributions paid and on the investment performance.

### 2 What is a defined benefit pension scheme?

A defined benefit pension scheme (or final salary scheme) is a pension scheme that provides a set level of pension at retirement, the amount of which usually depends on the employee's service and earnings at retirement or in the years immediately preceding retirement. Typically, contributions are made by both the employee and employer, which are then invested to provide the employee with a pension and/or other benefits on retirement.

## 3 VAT Treatment

### 3.1 Management of a defined contribution pension scheme

A defined contribution pension scheme is a [Special Investment Fund](#) if: -

- It is funded by the persons to whom the retirement benefit is to be paid,
- The savings are invested using a risk spreading principle, and
- The pensioner bears the investment risk.

The management of Special Investment Funds is VAT exempt and the guidance on Management of Special Investment Funds sets out the definition of management, which includes (i) investment management, (ii) administration and (iii) marketing.

Management services that include (i) the opening of accounts in the pension scheme's system and (ii) the crediting to those accounts of the contributions paid (which establishes the rights of the pensioner vis-à-vis the pension funds) are essential to the management of a Special Investment Fund and are therefore, VAT exempt.

### 3.2 Management of a defined benefit pension scheme

A defined benefit pension scheme is not a Special Investment Fund for the purposes of the fund management exemption for the following reasons: -

- A defined benefit pension scheme is not open to the public but constitutes an employment-related benefit which employers grant only to their employees.
- Members of a defined benefit pension scheme do not bear the risk arising from the management of the investment funds in which the scheme's assets are pooled, unlike investors with assets in a collective investment undertaking.
- The employer is not in a situation comparable to that of an investor since, although the employer must bear the financial consequences of the investments made by the scheme's managers, the contributions paid are a means by which the employer complies with its legal obligations towards its employees.

Management of a defined benefit pension scheme includes a service that consists of (i) analysing and monitoring assets of client investors and (ii) purchasing and selling securities. This management service is subject to VAT at the [standard rate](#).

In circumstances where fees are charged by the service provider to the defined benefit pension scheme strictly for the purchase or sale of shares or securities on a transaction-by-transaction basis, such fees are exempt from VAT where certain criteria are met. Further guidance can be found here [TDM Portfolio Management Services](#).

## 4 VAT Deductibility

### 4.1 Pension schemes (both defined contribution pension schemes and defined benefit pension schemes)

In general, pension schemes engage in share dealing activities. This is a VAT exempt activity. On that basis, pension schemes are not, in general, entitled to VAT deductibility. However, pension schemes are entitled to VAT deductibility in respect of their [qualifying activities](#).

## 4.2 Methodology to use to identify “qualifying activities”

Pension schemes that engage in share dealing activities typically determine their “qualifying activities” based on the sale of stocks, shares and other securities to non-EU counterparties/customers.

It can be difficult to identify the location of the counterparty/customer. Therefore, in cases where the location of the counterparty/customer cannot be ascertained, the following principles can apply to determine the location of the counterparty/customer:

1. If the shares are sold to an identified broker, the place where the broker is located.
2. If the place where the share is traded or listed (on only one exchange) can be identified, that location should be taken as the place of supply. That location can be identified by reference to the SEDOL (Stock Exchange Daily Official Listing Code) or MIC (Market Identification Code) or other appropriate code that shows the location of trading or listing.
3. If the location of the trade or listing cannot be established or the share is listed on more than one exchange or is unlisted, then the International Securities Identification Number (ISIN) code can be used.

## 5 Management Service Providers

As set out above, the management of a defined benefit pension scheme is taxable, and the management of a defined contribution pension scheme is VAT exempt.

Under normal deductibility rules, a taxable person engaging in taxable activities (such as the management of a defined benefit pension scheme) has an entitlement to deduct VAT on costs incurred in respect of this activity. A taxable person engaging in VAT exempt supplies (such as the management of a defined contribution pension scheme) has no entitlement to deduct VAT on costs incurred in respect of this activity unless it is a [qualifying activity](#).

A taxable person engaging in (i) taxable activities, (ii) “qualifying activities” and (iii) VAT exempt activities has an entitlement to deduct VAT incurred in respect of activities (i) and (ii) only. VAT on general overheads and on costs that relate to both:

(a) taxable activities and “qualifying activities”

and

(b) VAT exempt activities

will need to be apportioned taking account of all business activities in accordance with normal deductibility rules. Further information can be found on the Revenue website [here](#).

## 6 Employers

Employers have an entitlement to deductibility of VAT incurred in the setting up and management of a pension fund for their employees. Further guidance can be found [here](#).