

VAT on Gifts and Promotional items

This document should be read in conjunction with section 21 of the VAT Consolidation Act 2010 (VATCA 2010)

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1. Introduction

As well as dealing with the VAT treatment of gifts, this manual covers self-supplies, industrial samples, replacement goods, promotional schemes, gift vouchers and tokens etc.

2. Gifts

Problems frequently arise when goods are supplied on a promotional basis either on their own or in conjunction with other supplies. A gift for VAT purposes is legislated for in Article 16 of the 2006 VAT Directive and section 21 of the VAT Consolidation Act 2010 and Regulation 5 of the Value-Added Tax Regulations 2010. A gift only arises where no consideration is received for it by the supplier.

However, if there is a requirement for the customer to pay a consideration in connection with the receipt of goods, even if the supplier describes part of that good as a "gift", or as being "free", (for example "buy one, get one free", a free bar of chocolate with the purchase of a jar of coffee, a CD/promotional item with a newspaper/magazine), it does not come within the terms of a gift for VAT purposes. Where there is consideration it is always referable to all the items supplied and the rate(s) subject to the composite/multiple supply rules at Section 47 of the VAT Consolidation Act 2010. See VAT information on Mixed Supplies of Goods and Services .

As a general rule, gifts of taxable goods made in the course or furtherance of a business are liable to VAT unless their cost to the donor, excluding VAT, is €20 or less. Where gifts are taxable, the taxable amount is their cost to the donor, excluding VAT. In the case of gifts costing more than €20 no allowance can be made for the amount below which gifts are not taxable.

Accordingly, the person who makes a gift of goods costing €20 excluding VAT, has no liability, while the same person making a gift of goods costing €21, excluding VAT, has a liability for tax on €21. The rate of tax depends on the goods involved.

A VAT-registered person is generally entitled to an input credit or deduction in his/her VAT return for VAT charged to him/her in respect of the importation, purchase or intra-Community acquisition of goods to be given away as gifts, subject to the usual conditions. In the case of goods on the acquisition of which only certain persons are entitled to a deduction (petrol, cars etc.) only those persons entitled to deduction have a liability to account for VAT on such goods when they are given away as gifts. If, for example, a supermarket were to give away a car as a gift or promotional item, it would not be liable to account for VAT on such a gift since it would not have been entitled to a deduction in respect of the acquisition of the car.

The gifts concession does not apply if the gift forms part of a series or succession of gifts made to the same person (for example, the gift to a person each week or month of a piece of crockery consisting of a part of a complete china set).

Gifts are to be distinguished from self-supplies. A trader who supplies himself/herself or his/her family with goods from stock (e.g. where a record dealer takes one of his CDs for his/her own use) is not entitled to the benefit of the gifts relief.

3. Advertising goods

Gifts in the nature of advertising, such as trophies bearing the name of the donor, or gifts to employees for long service, outstanding sales and the like, are treated in the same way as other gifts.

Certain goods given free of charge for business use to trade customers may continue to be supplied tax free even though in excess of €20 in value. Examples are advertising mirrors, glasses or beer mats, bearing the donor's name, supplied to a hotel or public house, display stands supplied to a grocer or a showcase supplied to a jeweller.

4. Industrial samples

The gift, in reasonable quantity, to an actual or potential customer of industrial samples in a form not ordinarily available for sale to the public is not taxable in any circumstances, regardless of the value of the goods.

5. 'Money-off' Schemes

These are schemes under which a manufacturer (or a distributor or wholesaler) redeems a money-off voucher, issued in his/her name, which has been accepted by a retailer as part payment for a sale. Reimbursement made by the manufacturer to the retailer on redemption of the money-off coupon from the retailer reduces the taxable amount on which the manufacturer must account for VAT. Accordingly, the manufacturer is entitled to deduct the amount reimbursed for the voucher from his/her taxable amount.

This reimbursement to the retailer by the manufacturer should be treated as 'third party consideration' forming part of the total consideration for the supply and taxed accordingly in the hands of the retailer.

The 2006 EU VAT Directive (Article 73) provides that third party consideration is taxable. Section 37 of the VAT Consolidation Act 2010 provides that the amount on which tax is chargeable is 'the total consideration which the person supplying goods becomes entitled to receive' in respect of a supply. This includes third party consideration.

6. 'Cash-back' Schemes

These are schemes under which a manufacturer (or a distributor or wholesaler) undertakes to refund cash to a retail customer on the making of specific purchases. The customer sends a voucher back to the manufacturer (indicating proof of a qualifying purchase) and the manufacturer sends money to the value of the voucher directly back to the customer.

The manufacturer's taxable amount is reduced by the amount reimbursed to the retail customer. The manufacturer must retain adequate records of refunds made and keep such records available for inspection.

7. Gift Vouchers and Tokens

The chargeable amount in the case of goods or services supplied in exchange for tokens is the amount stated on the token as well, of course, as any money paid in addition to that amount.

The sale of gift tokens, book tokens, vouchers, etc. is not liable to tax except where, and to the extent that, the amount charged exceeds the value shown on the tokens (for example, a combined gift token/greeting card). However, when tokens, vouchers etc having a face value are supplied to an intermediary with a view to re-sale to private consumers, and are to be used to exchange goods, these tokens become liable to VAT at the standard rate on the consideration received at the time of their sale by the principal to the intermediary involved. In turn the intermediary must also account for VAT on the onward sale of the vouchers. In these cases, the charge to VAT does not arise at the time the tokens are being redeemed but instead arises on the sale of the voucher.

7.1 Vouchers - Cross Border

The existing special rule for vouchers being supplied to businesses for re-sale is confined to supplies of vouchers to businesses that are established in the State. This means that a voucher with a redeemable value, which is sold to a business outside the State for onward supply, is not taxable on the sale but rather the tax arises at the point of redemption of the voucher, resulting in tax being accounted for when redemption of the voucher takes place.

7.2 Vouchers Sold at a Discount

In some cases, a supplier of goods may sell vouchers at a discount to companies who purchase them to distribute them free to their staff, or to resell to the public. The supplier undertakes to accept a voucher in full or part payment of goods purchased by a customer who was not the buyer of the voucher.

Subject to the conditions set out below, the taxable amount attributable to a voucher in the circumstances outlined is the sum of money obtained by the supplier of the goods from the sale of the voucher and not the face value of that voucher.

There is no VAT on the initial transaction involving the sale of the voucher as the consideration is disregarded. VAT becomes chargeable only when the voucher is presented in exchange for goods or services. For this reason, this is allowed only in cases where a proper audit trail is maintained by the trader to the satisfaction of his/her local Revenue District.

Accordingly, a trader operating such a scheme must be able to demonstrate to the local Revenue District that a system is in place so that, when a voucher is being redeemed, the original purchaser of that voucher can be clearly identified and the amount of any discount granted to that original purchaser can be determined.

8. Replacement goods

Replacement goods supplied free of charge in accordance with warranties or guarantees on original goods are not taxable.

9. Cash Basis

Traders who account on the cash basis and who exchange vouchers, etc. for cash must include the value of such vouchers as cash in their taxable receipts.