

## Services connected with Immovable Property

This document should be read in conjunction with section 33(2) and section 34(c) of the VAT Consolidation Act 2010 (as amended) and Article 31a and 31b of Council Implementing Regulation 282/2011/EU (as amended).

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## 1 Introduction

This guidance sets out the place of supply rules for services connected with immovable property. Appendix 1 contains a list of examples.

## 2 Place of Supply rule

The purpose of a specific place of supply rule on services connected with immovable property is to ensure taxation occurs at the place of consumption of the service.

Generally, if the supply of services is connected with immovable property, or is the grant of a right to use the property, the place of supply is where the property is located.

This rule applies regardless of whether the service is supplied to a business customer (B2B) or to a final consumer (B2C).

The place of supply rule for services connected with immovable property includes:

1. A supply of services by experts or estate agents.
2. A provision of accommodation in:
  - a) a hotel or guesthouse, or in an establishment having a similar function.
  - b) a holiday camp.
  - c) a site developed for use as a camping site.
3. The supply of telecommunication services, radio or television broadcasting services or electronically supplied services, together with the provision of accommodation of the kind specified in point 2 above, where the supply is by the provider of that accommodation acting in his or her own name.
4. A supply of services involving the preparation and coordination of construction work (including supply of services of architects and of persons who provide on-site supervision).
5. Specific services as specified in EU VAT Regulation 282/2011/EU (see paragraph 5 below).

### 3 What does immovable property mean?

For VAT purposes, the definition of property is provided for under Article 13b of Regulation 282/2011/EU. Generally, immovable property means, land, and any buildings or fixtures attached to the land, including:

- Tenements.
- Hereditaments (items of inheritance).
- House buildings, walls, fences.
- Other permanent structures or fixtures, such as pipeline systems for gas, water, sewage.
- Land covered by water, and any estate interest in, or over land.

### 4 When is a service connected to immovable property?

The specific rule concerning the place of supply of services relating to immovable property only applies where the service supplied is directly related to a specific property. It does not apply if the service in question only has an indirect connection with property, or if the property related service is only an incidental component of a more comprehensive supply of services.

Services shall be regarded as having a sufficiently direct connection with immovable property in the following cases:

- A. where they are derived from an immovable property and that property makes up a constituent element of the service and is central to, and essential for, the services supplied,

Or

- B. where they are provided to, or directed towards, an immovable property, having as their object the legal or physical alteration of that property.

### 5 Specific services as specified in EU VAT Regulations

In addition to the above, a list of specific services has been set out in EU Regulations<sup>1</sup> as being considered connected and not connected to immovable property (see sub paragraphs 5.1 and 5.2 below).

These lists do not restrict the definition of the concept of services connected with immovable property provided above. Any service that is not covered in these lists should be assessed against the criteria set out above.

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<sup>1</sup> Council Implementing Regulation 282/2011 (as amended).

## 5.1 Services connected to immovable property

The following services are taxable where the immovable property or structure is located as provided by Regulations:<sup>2</sup>

- (a) The drawing up of plans for a building or parts of a building designated for a particular plot of land regardless of whether or not the building is erected.
- (b) The provision of on-site supervision or security services.
- (c) The construction of a building on land, as well as construction and demolition work performed on a building or parts of a building.
- (d) The construction of permanent structures on land, as well as construction and demolition work performed on permanent structures such as pipeline systems for gas, water, sewerage and the like.
- (e) Work on land, including agricultural services such as tillage, sowing, watering and fertilisation.
- (f) Surveying and assessment of the risk and integrity of immovable property.
- (g) The valuation of immovable property, including where such service is needed for insurance purposes, to determine the value of a property as collateral for a loan or to assess risk and damages in disputes.
- (h) The leasing or letting of immovable property other than that covered by point (c) of paragraph 5.2, including the storage of goods for which a specific part of the property is assigned for the exclusive use of the customer.
- (i) The provision of accommodation in the hotel sector or in sectors with a similar function, such as holiday camps or sites developed for use as camping sites, including the right to stay in a specific place resulting from the conversion of timeshare usage rights and the like.
- (j) The assignment or transfer of rights other than those covered by points (h) and (i) to use the whole or parts of an immovable property, including the licence to use part of a property, such as the granting of fishing and hunting rights or access to lounges in airports, or the use of an infrastructure for which tolls are charged, such as a bridge or tunnel.
- (k) The maintenance, renovation and repair of a building or parts of a building, including work such as cleaning, tiling, papering and parqueting.
- (l) The maintenance, renovation and repair of permanent structures such as pipeline systems for gas, water, sewerage and the like.

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<sup>2</sup> Article 31a(2) of Council Implementing Regulation 282/2011 (as amended).

(m) The installation or assembly of machines or equipment which, upon installation or assembly, qualify as immovable property.

(n) The maintenance and repair, inspection and supervision of machines or equipment if those machines or equipment qualify as immovable property.

(o) Property management other than portfolio management of investments in real estate covered by point (g) of paragraph 5.2, consisting of the operation of commercial, industrial or residential real estate by or on behalf of the owner of the property.

(p) Intermediation in the sale, leasing or letting of immovable property and in the establishment or transfer of certain interests in immovable property or rights in rem over immovable property (whether or not treated as tangible property), other than intermediation covered by point (d) of paragraph 5.2.

(q) Legal services relating to the transfer of a title to immovable property, to the establishment or transfer of certain interests in immovable property or rights in rem over immovable property (whether or not treated as tangible property), such as notary work, or to the drawing up of a contract to sell or acquire immovable property, even if the underlying transaction resulting in the legal alteration of the property is not carried through.

## 5.2 Services not connected to immovable property

The following services are not taxable where the immovable property is located as provided by Regulations.<sup>3</sup> The [general place of supply](#) rules apply to:

(a) The drawing up of plans for a building or parts of a building if not designated for a particular plot of land.

(b) The storage of goods in an immovable property if no specific part of the immovable property is assigned for the exclusive use of the customer.

(c) The provision of advertising, even if it involves the use of immovable property.

(d) Intermediation in the provision of hotel accommodation or accommodation in sectors with a similar function, such as holiday camps or sites developed for use as camping sites, if the intermediary is acting in the name and on behalf of another person.

(e) The provision of a stand location at a fair or exhibition site together with other related services to enable the exhibitor to display items, such as the design of the stand, transport and storage of the items, the provision of machines, cable laying, insurance and advertising.

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<sup>3</sup> Article 31a(3) of Council Implementing Regulation 282/2011 (as amended).

(f) The installation or assembly, the maintenance and repair, the inspection or the supervision of machines or equipment which is not, or does not become, part of the immovable property.

(g) Portfolio management of investments in real estate.

(h) Legal services other than those covered by point (q) of paragraph 5.1, connected to contracts, including advice given on the terms of a contract to transfer immovable property, or to enforce such a contract, or to prove the existence of such a contract, where such services are not specific to a transfer of a title on an immovable property.

The following services are not specifically specified in the Regulations but are not taxable where the immovable property is located:

- advice and information relating to land prices, or property markets, which do not relate to specific properties.
- feasibility studies of the commercial potential of development in a geographical area.
- legal or estate agents fees for services that do not relate to specific properties.
- the hiring out of equipment for use on a building site.
- the making available of equipment, together with staff qualified to operate the equipment, for a customer carrying out work on immovable property where the customer is responsible for carrying out the work.

### 5.3 What if my service is not provided for in the Regulations?

Where your service is not included in either of the two lists from Articles 31a(2) and 31a(3) (paragraph 5.1 and 5.2), then you must apply the test set out in paragraph 4 above to determine whether your service is connected with immovable property.

## 6 Supply of equipment as provided by Regulations<sup>4</sup>

Where equipment is put at the disposal of a customer with a view to carrying out work on immovable property, that transaction shall only be a supply of services connected with immovable property if the supplier assumes responsibility for the execution of the work.

A supplier who provides the customer with equipment, together with sufficient staff for its operation, with a view to carrying out work shall be presumed to have

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<sup>4</sup> Article 31b of Council Implementing Regulation 282/2011 (as amended).

assumed responsibility for the execution of that work. The presumption that the supplier has the responsibility for the execution of the work may be rebutted by any relevant means in fact or law.

## 7 What VAT rate applies?

If the place of supply is the State, then you must consider the appropriate rate of VAT. The rate of VAT will depend on the nature of the service supplied. While it is not possible to list the VAT rates for all services, the following rates generally apply:

- Professional services connected with property, such as legal, auctioneers, architects, surveyors and so on, are liable to VAT at the [standard rate](#).
- Services consisting of the development of immovable goods are liable to VAT at the [reduced rate](#), subject to the [two-thirds rule](#).
- Hotel accommodation, and other accommodation (e.g. guesthouses), camp sites are liable to VAT at the [second reduced rate](#).

## 8 Construction and related services

Construction operations include construction, demolition, conversion, reconstruction, alteration, enlargement, repairs or maintenance of a building or civil engineering development. These operations are taxable where the immovable property is located.

Services directly connected with the pre-construction, construction and / or the development of immovable goods, where the nature of the services requires the suppliers to be involved in actual on-site activities, are also regarded as construction operations.

This includes all building and construction service providers, architects, engineers, surveyors, decorators, site supervisors and other service providers where the supplier has a specific onsite function concerning a specific property.

Suppliers of these services must register and [account](#) for VAT in the State as the services are directly connected with immovable property located in the State, except where the reverse charge for [construction activities applies](#).

Generally, where a [foreign trader](#) supplies services in this category to a taxable person who carries on a business in the State, or to a public body, then the foreign trader does not have to register for VAT in the State. Instead, the taxable person or public body must account for the VAT under the reverse charge mechanism. Where a foreign trader supplies the services to final consumers (B2C), those traders are [obliged to register](#) for VAT in the State.

## Appendix 1 - Examples

Practical examples of various transactions and the appropriate VAT treatment applicable to those transactions are set out below.

Please note that Irish service providers referred to in the examples below are regarded as registered for VAT in the State.

### **Example 1**

An Irish building contractor is engaged to supply construction services in the UK.

As the place of supply of the service is the UK, the Irish building contractor may be obliged to register for VAT in the UK and charge UK VAT. The Irish building contractor will not charge Irish VAT but will be entitled to recover any VAT on inputs incurred in Ireland in connection with that activity.

### **Example 2**

An Irish architect is engaged to supply services in connection with the refurbishment of a specific building in France.

As the place of supply of the service is France, the architect may be obliged to register for VAT in France and charge French VAT. The Irish architect will not charge Irish VAT but will be entitled to recover any VAT on inputs incurred in Ireland in connection with that activity.

### **Example 3**

An Irish auctioneer is engaged to sell a specific property in Spain.

As the place of supply of the service is Spain, the auctioneer may be obliged to register for VAT in Spain and charge Spanish VAT. The Irish auctioneer will not charge Irish VAT but will be entitled to recover any VAT on inputs incurred in Ireland in connection with that activity.

### **Example 4**

An Irish auctioneer is engaged by a non-taxable person based in Ireland and a non-taxable person based abroad to give general information on holiday property in Italy.

As the service provided does not relate to a specific property the place of supply is where the auctioneer is established and Irish VAT must be charged in both instances.



**Example 5**

An Irish auctioneer is engaged by a company based in Ireland and a company based abroad to give general information on office property located in Germany.

As the service provided does not relate to a specific property the place of supply follows the general place of supply rules for services.

In the case of the supply to a taxable person based in Ireland Irish VAT should be charged.

In the case of the supply to a taxable person based outside Ireland no Irish VAT should be charged and the recipient, based within the EU, will have an obligation to account for any VAT due on the reverse charge basis in their Member State.

**Example 6**

A UK building contractor (acting as principal contractor) is engaged to carry out construction work on a specific building in Ireland.

As the place of supply of the construction service is Ireland, the UK building contractor must register for VAT in Ireland. No registration threshold applies in such cases.

**Example 7**

An Irish contractor (acting as principal contractor) is engaged to carry out construction work on a specific building in Ireland. The contractor engages subcontractors from the UK.

As the place of supply of the construction services is Ireland the principal contractor must charge Irish VAT on its supply. The principal must also account for the VAT due on the UK subcontractors services on the reverse charge basis. The UK subcontractor does not have to register for VAT in Ireland.

For further information on the reverse charge for construction see [Revenue.ie](http://Revenue.ie).

**Example 8**

A French architect is engaged to work on a specific building in Ireland.

As the service provided relates to specific property, the place of supply of the service is Ireland. The French architect must register for VAT in Ireland and charge Irish VAT on this supply. No registration threshold applies.

**Example 9**

A French architect is engaged by an Irish developer to supply drawings for a development that the developer may undertake, in an as yet unnamed location, in the future.

As no specific building is involved, the general rules on the place of supply of services apply. As the developer is a taxable person based in Ireland the developer will account for the VAT on a reverse charge basis and the French architect will not have to register for VAT in Ireland.

**Example 10**

A UK interior designer is engaged by a taxable person in Ireland to supply design services involving a specific building in Ireland.

As the services of an interior designer relate to a specific property, the place of supply is Ireland. However, the UK interior designer does not have to register for VAT in Ireland. The customer who is a taxable person will account for Irish VAT under the reverse charge mechanism.

**Example 11**

A UK interior designer is engaged by a private individual to supply design services for a specific domestic dwelling in Ireland.

As the service provided relates to specific property and the recipient of the service is a non-taxable person, the UK interior designer must register for VAT in Ireland and charge Irish VAT. No registration threshold applies.

**Example 12**

An Irish solicitor is engaged by a private individual resident in the USA to carry out Irish legal work in connection with the administration of an estate. The individual is the personal representative of a person who died domiciled and resident in Co. Kerry. The estate includes a 500-acre farm in Co. Kerry.

As the service provided does not relate to a specific property and the recipient of the service is resident in the USA, the Irish solicitor does not charge VAT on his legal services.

If the solicitor supplied the same service to a private individual resident in the EU, the solicitor would be obliged to charge Irish VAT on the service.

**Example 13**

As part of the legal services described in Example 12, the solicitor acts for the personal representative in legal proceedings relating to a claim against the estate for a right of way through the farm.

As the service provided does not relate to a specific property and the recipient of the service is resident in the USA, the Irish solicitor does not charge VAT on this service.

**Example 14**

An Irish solicitor is engaged by a Canadian resident to provide legal services in relation to the sale of a holiday home situated in Ireland.

As the services provided relate to a specific property in Ireland the solicitor is obliged to charge Irish VAT on this service to the Canadian resident.