

## VAT Treatment of eGaming Services

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## Introduction

This guidance confirms the VAT treatment of eGaming Services<sup>1</sup>

### 1. eGaming and Electronically Supplied Services

An electronically supplied service is one which is **“delivered over the Internet or an electronic network and the nature of which renders its supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology”**<sup>2</sup>

The VAT Directive<sup>3</sup> and Council Implementing Regulations 282/2011/EU provide that the supply of games including games of chance “eGaming” delivered over the internet or an electronic network are regarded as electronically supplied services “eServices”.

“Gaming” means playing a game (whether of skill or chance or partly of skill and partly of chance) for stakes hazarded by the players.<sup>4</sup> This contrasts with bets on the outcome of sports events.

The tax treatment of eGaming services to consumers is determined by the place where the consumer is established, has a permanent address or usually resides. eGaming services are exempt without deductibility in some Member States but are taxable in Ireland at the [standard rate](#).

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<sup>1</sup> eGaming does not include the acceptance of bets – see paragraph 10 of Schedule 1 VAT Consolidation Act 2010.

<sup>2</sup> Council Implementing Regulation 282/2011/EU

<sup>3</sup> Council Directive 2006/112/EC

<sup>4</sup> Section 2 of the Gaming & Lotteries Act 1956

## 2. eGaming and Taxable Amount

The European Court of Justice offers guidance as to what constitutes the taxable amount in respect of gaming machines in Case C-38/93 (H.J. Glawe Spiel)<sup>5</sup> and sets out that:

**“the taxable amount does not include the statutorily prescribed proportion of the total stakes inserted which corresponds to the winnings paid out to the players”.**

### **(a) Random Generator Games i.e. Roulette, Bingo, Blackjack etc.**

Revenue understands that eGames are generally operated by a Random Number Generator (RNG). The RNG operates by randomly selecting numbers based on a mathematical algorithm which leads to a winning or losing combination, the probability of which is disclosed. The certified RNGs operate the games and have a set probability of winning/losing combinations, which is effectively a predetermined payout.

Revenue regards the taxable amount in such circumstances as being the net revenue actually received by the eGaming operator i.e. the total amount staked by the customer less the value of winnings paid out to the customer. Bonus plays, free plays and other forms of promotional discounts are excluded from any calculation of the consideration on which VAT is due.

### **(b) Pooled Gaming**

Revenue understands pooled gaming consists of individuals competing against each other for a prize fund e.g. a poker tournament. Where an operator provides pooled games to customers, the operator earns a tournament participation fee (referred to as a rake) from a customer.

The consideration for pooled games that is subject to Irish VAT is the rake that the eGaming operator receives which is attributable to Irish players minus the relevant portion for any top up which the operator has made to the jackpot.

## 3. One-Stop-Shop (OSS)

Subject to a B2C €10,000 threshold eGaming businesses can avail of the special scheme known as the One-Stop-Shop (OSS) which allows suppliers of B2C e-services to submit returns and pay the relevant VAT due to all Member States through the web portal of one Member State. OSS simplifies a supplier's obligations by removing the requirement to register and submit returns in several Member States.

Further information on the OSS is available on the [Revenue website](#).

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<sup>5</sup> H. J. Glawe Spiel- und Unterhaltungsgeräte Aufstellungsgesellschaft mbH & Co. KG v Finanzamt Hamburg-Barmbek-Uhlenhorst