


## VAT treatment of Member-Owned Golf clubs

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This manual sets out the revised VAT treatment applicable to member-owned golf clubs following the recent judgment of the European Court of Justice (CJEU) in *Bridport & West Dorset Golf Club* ([Case C-495/12](#)) 

It is intended for guidance only and does not purport to be a definitive legal interpretation of the provisions of the VAT Consolidation Act 2010, as amended

## 1. Introduction

The Court held in *Bridport & West Dorset Golf Club* that where a supply is made by a non-profit making organisation it is immaterial whether it is provided to a member or visitor, and found that green fees received from non-members could benefit from the exemption set out in Article 132.1(m) of the EU VAT Directive (112/2006/EC).

Revenue accepts that as a consequence of the judgment, green fees charged by member-owned clubs which are non-profit making organisations to non-members should be treated as exempt from VAT. In order to ensure Irish VAT law complies with the judgment, a number of provisions are contained in the 2014 Finance Act to amend the VAT Consolidation Act 2010, as amended ("VAT Act"). The amendments provide that VAT exemption shall apply to all golf income of member-owned clubs in respect of providing golf facilities with effect from 1 March 2015. The exemption will apply to green fees, competition fees and membership fees, including short-term and corporate, which had previously been taxed at the second reduced rate of 9%. However, in line with eBrief No. 09/14, member-owned clubs may exempt such fees on an administrative basis with effect from 1 January 2014.

Member-owned clubs whose golf income and membership fees are exempt will no longer have an entitlement to a credit for VAT incurred on their inputs in relation to such income and input credits should be adjusted accordingly.

This leaflet is written on the assumption that member-owned clubs are non-profit making organisations as defined in Chapter 2 of Title IX of the EU VAT Directive. The existence of a non-profit making organisation depends on a range of factors including the club's constitution and articles of association, the manner in which the organisation is managed and administered and the manner in which surpluses are dealt with by the club. A non-distribution of profit/surplus clause in the constitution of the organisation does not, in itself, determine that a club is a non-profit making organisation.

## 2. Obligation to account for VAT

Member-owned clubs are obliged to register and account for VAT in respect of their taxable income at the appropriate rates where the total taxable income exceeds or is likely to exceed the registration thresholds in any 12-month period.

The following income is generally regarded as taxable income:

- Income from the clubs bar, restaurant or pro-shop including licence and franchise fees
- Income from the sale of golf equipment
- Income received from the hire of golf equipment (the hire of golf equipment including golf clubs, golf balls for a driving range etc. are chargeable to VAT at the standard rate. Where the hire charge is ancillary to the supply, and is included in the green fee/membership charge, the supply may be regarded as exempt from VAT)
- Income from the hire of function rooms etc
- Advertising Income.

The following income received by member-owned clubs is generally regarded as exempt from VAT:

- Membership fees (including corporate and short-term membership)
- Pavillion Membership – Pavillion membership can be used to describe membership which is largely social (involving use of the clubhouse) but can also involve various levels of restricted use of the training facilities and some limited use of the golf course, including entitlement to a preferential green fee rate
- Green fees (including competition fees and other pay-as-you play income).

A member-owned club is required to self-account for Irish VAT on taxable services it receives from outside the State, and may also have a requirement to self-account for VAT on receipt of goods from other Member States. A club should consult Revenue information on VAT registration, acquisitions from other Member States and place of supply for Services for further guidance. Some examples tailored to golf-clubs are included below for illustrative purposes.

#### **Election to Register**

A member-owned golf club may elect to register for VAT in respect of its taxable income where the turnover is below the VAT registration thresholds. An application for such an election should be submitted to the clubs' local Revenue District.

### **3. Clubs receiving services from abroad and related deductibility**

A club in the State, which receives taxable services from outside the State (both intra-Community or from outside the Community) is required to account for Irish VAT regardless of the value of the services.

If not already registered, the club is required to register and account for Irish VAT on the supply. The club must furnish its Irish VAT number to the non-Irish supplier.

#### **Accounting for VAT on received services**

The extent of the VAT liability will depend on the club's entitlement to input credits. A full deduction of VAT arises if the received services are wholly attributable to the club's taxable activities (*Example A*). No deduction of VAT arises if the services relate to the club's exempt supplies (*Example B*).

#### **Example A: A club obtains consultancy services from a UK company in respect of the potential expansion of its pro-shop.**

A UK company invoices the club for €2,000 in respect of the services provided, but does not charge UK VAT. The club must self-account for Irish VAT of €460 (i.e. €460 being €2,000 @ 23%) on such services in Box T1 of their periodic VAT return. As the consultancy services are acquired for the purposes of making taxable supplies, a deduction of input VAT of €460 may be made in Box T2 of the periodic VAT return.

#### **Example B: A club is in receipt of online booking and tee time management software from a company located in the United Kingdom.**

A club is in receipt of online booking software from a company based in London. The company invoices the club for €3,000, but does not charge UK VAT. The club must self-account for Irish VAT of €690 (i.e. €690 being €3,000 @ 23%) on such services in Box T1 of their periodic VAT return. As the booking system relates solely to VAT exempt supplies, a deduction of input VAT may not be made.

## **4. Intra-Community Acquisition of Goods**

Intra-Community Acquisitions ("ICAs") relate to goods supplied by a business in one EU Member State to a business in another EU Member State where the goods have been dispatched or transported from the territory of one Member State to another as a result of such supply. Such goods may include for example marking cards, golf equipment, bar stock etc.

#### **Unregistered Golf Clubs**

Golf clubs that make ICAs of goods such as marking cards and golf equipment, that are not registered for VAT in the State because their taxable turnover is below the services threshold and have no received services do not have to self-account for their ICAs if the value is below €41,000 in any twelve month period. In these circumstances, the VAT is charged by the supplier in the Member State of purchase at the VAT rate applicable in that other Member State.

## Registered Golf Clubs

Where a golf club registered for VAT in the State makes an ICA from a supplier in another Member State, the club must self-account for VAT on the goods at the rate applicable to the goods in Ireland. The extent of deductibility is determined by the club's entitlement to input credits. If the goods are used for both taxable and exempt supplies i.e. dual-use inputs, the tax should be deducted in accordance with the club's apportionment arrangements.

## 5. Rules of Deductibility

A club is entitled (with some exceptions – see VAT deductibility information) to deduct VAT payable on its inputs when those inputs are directly attributable to its taxable supply of goods or services and is not entitled to deduct VAT payable on inputs that relate to its exempt activities. For example, a club has no entitlement to deduct VAT payable on repairs to tractors or mowers used for the maintenance of exempt golf facilities. A club is entitled to deduct a portion of the VAT payable on inputs when VAT is incurred on inputs that relate to both taxable and exempt activities.

### Apportionment of Input Credits – Dual-use Inputs

Dual-use inputs are inputs that not directly attributable to club's taxable supply of goods or services or its exempt supply of goods or services, that is, a portion of the dual-use inputs relates to each. The VAT on dual-use inputs must be apportioned between taxable and exempt use. There are a number of methods for calculating the deductible proportion of dual-use inputs. The two most commonly used methods are the turnover method and the floor area method, both of which are outlined below. When calculating the deductible proportion of dual-use inputs, there are two specific conditions which must be met in all cases:

1. The proportion must correctly reflect the use to which the dual-use inputs are used, and
2. Have due regard to the range of the club's total supplies and activities.

Any method which meets these conditions may be used by a club to calculate the proportion of tax deductible. The calculation of the deductible proportion in relation to dual-use inputs for a taxable period and the review and subsequent adjustment is subject to audit and examination by Revenue.

### **Example C: A club is registered for VAT in respect of its taxable supplies, but the ICAs are to be used for both taxable and exempt supplies.**

During the period March/April 2015, the club has the following transactions:

1. It acquired a computer and associated hardware from a Spanish manufacturer to the value of €5,000 – the computer and hardware will be used for both its golf and non-golf activities
2. The club was in receipt of exempt membership fees of €225,000, and taxable bar sales of €25,000 plus VAT @ 23% (€5,750)
3. The club also has other purchases of €8,695 in respect of its taxable supplies plus VAT of €2,000
4. The club has 10% deductibility for dual-use goods, and can demonstrate to Revenue that this calculation is reasonable.

The club is required to account for output VAT for a total of €6,900 in Box T1. This figure is made up of VAT on bar sales of €5,750 plus VAT of €1,150 which the club must self-account for on its ICAs.

The club can only claim input credit of €2,115 in Box T2 of its VAT return. This figure is made up of VAT on purchases of €2,000 that is fully deductible plus input credit of €115 being 10% of the remaining input VAT of €1,150 that the club self-accounted for on dual-use goods or services.

As set out above, the two most commonly used apportionment methods are the turnover and floor area methods.

#### Method 1: Turnover

The turnover method is based on the ratio of turnover from taxable activities to total turnover. The following example illustrates the concept where the non-taxable turnover comes from exempt membership and visitor fees.

A club's turnover is as follows:

Taxable Supplies - Bar	€90,000
Exempt activities – Membership & visitor fees	<u>€210,000</u>
Total Turnover	€300,000

Turnover relating to taxable supplies is	$\frac{90,000}{300,000} \times 100 = 30\%$
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Under the turnover method the club is entitled to deduct 30% of the VAT incurred on its purchase, acquisition or importation of dual-use inputs such as software and accountancy fees.

#### Method 2: Floor area

The ratio of floor area used for taxable activities to the total floor area is generally used where the input tax relates primarily to buildings, such as electricity and building insurance.

In the following example the club house is used for both taxable and exempt activities.

The total floor area of the club house is 210 sq. metres. 140 sq. metres of the club house are used for the taxable activities of running the bar and restaurant.

Total sq metres relating to taxable supplies is  $\frac{140 \text{ sq. metres}}{210 \text{ sq. metres}} \times 100 = 67\%$

Under the floor area method the club is entitled to deduct 67% of the VAT incurred on its purchase, acquisition or importation of dual-use inputs that relates primarily to buildings such as electricity, heating, painting, repairs etc.

### **Annual review of apportionment**

The proportion of tax deductible for a taxable period must be reviewed on an annual basis. The purpose of the review is to ensure that the proportion of tax deductible for the review period correctly reflects the extent to which the dual-use inputs were used for the purposes of the club's deductible supplies and has due regard to the range of the club's total activities for the review period. The club must review the proportion of tax deductible in relation to dual-use inputs for the 12 months in the review period and adjust its input tax if the apportionment applied during the 12 months is greater than the actual apportionment that should have been applied.

Revenue recognises that a review of the proportion of tax deductible may be time-consuming and for that reason accepts that the adjustment arising from the review, if any, may be included in any of the three bi-monthly taxable periods immediately following the end of the review period.

## **6. Capital Goods Scheme - Regulating deductibility of a capital good**

The VAT incurred on the acquisition or development of a property is deductible in accordance with the normal rules relating to deductibility. A club engaged in fully taxable activities is entitled to deduct all the VAT charged on the acquisition or development of a property to be used in the business. A club engaged in partly taxable and partly exempt activities is only entitled to deduct the percentage of VAT charged that corresponds to the percentage of taxable use.

Member-owned clubs whose green fees, competition, short-term and corporate membership fees are exempt with effect from 1 March 2015 will generally no longer have the same entitlement to a credit for VAT incurred, and accordingly a capital goods scheme adjustment may be required.

Where clubs submit retrospective claims there is a possibility that a Capital Goods Scheme adjustment will arise if recent development work has taken place. For example, adjustments may be required to be made in respect of recently constructed or renovated club houses or green-keeper sheds.

Please refer to the Capital Goods Scheme information for further information.

## **7. VIES and INTRASTAT**

VAT registered clubs involved in intra-Community acquisitions and intra-Community supplies have responsibilities in both the VAT Information Exchange System (VIES) and INTRASTAT regime. For further guidance, please see VIES and INTRASTAT information.

## **8. Records**

A VAT registered club should retain full and true records of all transactions which affect or may affect the club's liability to VAT or their entitlement to deduct input VAT. Records are required to be held for six years. However, records relating to property should be held for the duration that the club holds a taxable interest in the property plus a further six years.