Research services carried out by third level educational bodies

This document should be read in conjunction with paragraph 4(3) of Schedule 1 to the VAT Consolidation Act 2010 (VATCA 2010).

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

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Introduction

This guidance sets out the VAT treatment of research carried out by third level educational bodies.

Academic research is carried out in educational establishments by lecturers and students to enhance or expand learning and is, in many cases, an integral part of education. The supply of research services by educational bodies is subject to VAT only in certain circumstances.

If an educational body has any doubt in relation to the taxable status of any research activity, they should contact Revenue for advice.

1. VAT treatment of research services

When considering the taxable status of research services, the starting point is to exclude general academic research and research for consideration that is outside the scope of VAT where there is no direct link between the consideration and the supply or there is no reciprocal performance.

In general, a taxable supply of research services takes place where the consideration or funding for the research entitles the funder to:

- conditional or privileged or exclusive access to results, or
- to any patents or copyrights arising from the research, or
- where the research provides promotional/advertising exposure to the funder, or
- any similar contractual obligation.

However, the following stipulations in a contract do not of themselves constitute a taxable supply:

- Early access to results, which would subsequently be published universally, provided that the publication was within a reasonable period (normally six months).
- Control over exploitation of intellectual property rights, in default of the educational body exploiting such rights, provided that this control does not extend to beneficial ownership.

Where a third level educational body carries out a research activity which is not subject to VAT, it is required to consider the VAT treatment of all subsequent commercial exploitation which would be regarded as a separate taxable activity.

2. Information to help determine the VAT status of research carried out by educational institutions

The following questions may assist third level educational bodies in deciding whether a research activity constitutes a supply for consideration:

- Is there a direct link between the service provided and the consideration received? An indicator of a direct link could be the use of a contract rather than grant of a subsidy, a donation or a letter of agreement for funding.

- Is there a legal relationship between the supplier and recipient pursuant to which reciprocal performance and consideration passes from the funder to the researcher? Such a relationship is a strong indicator that a supply for consideration has taken place.

- What type of research is being carried out? If the research is applied research as opposed to basic research carried out for the general purpose of creating, improving or enhancing knowledge, then its results are more likely to have a commercial value to the person who commissions and funds the research. Applied research is more likely than basic research to be a supply for consideration. Applied research that is taxable may result from the exploitation of previous research which was not a supply for consideration.

- Is the objective of the educational body carrying out the research to improve its standing in the research world or improve knowledge in a particular field? The research results of the latter are more likely to be delivered to the funder.

- Is the objective of the funder the production of specific results or deliverables, which could be commercially exploited, or the generation of knowledge in a general area of study or in the public interest?

- Who holds ownership rights of the research outputs? If they remain with the third level educational body which carried out the research, there is no supply to the funder.

3. VAT treatment of funding from the European Commission under their framework programmes

(i) Horizon 2020 - the recently concluded Framework Programme

Horizon 2020 provided a single research and innovation funding programme. It was operational from 1 January 2014 until 31 December 2020. Grant funding was awarded to recipients in EU Member States for a wide range of research activities.

Under this funding programme, results are owned by the participant generating them. Funding was outside the scope of VAT and the recipient had no right to deductibility in respect of VAT incurred on purchases where the research activities were wholly funded under this programme.

(ii) Horizon Europe – the current Framework Programme

Horizon Europe succeeds Horizon 2020. It will run from 2021 to 2027. The conditions under which grants are awarded are similar to those set out under Horizon 2020.

Similar to Horizon 2020, recipients of grant funding under Horizon Europe own the results they generate, and grant funding is outside the scope of VAT. The recipient has no right to deductibility in respect of VAT incurred on purchases where the research activities are wholly funded under this programme.

4. Further examples of taxable activities

The following activities are considered to be taxable activities where they are carried out for consideration by an educational body:

- management and IT consultancy and business process advice
- collection, recording, collation, analysis, and interpretation of statistics
- market research and opinion polling
- writing computer software
- testing and analysis of materials, components and processes.

5. Deductibility

Subject to the normal rules, educational bodies are entitled to deductibility in respect of VAT incurred on purchases where they are linked to a taxable economic activity. However, as many purchases such as capital equipment, premises, and information technology are used for both their taxable supplies and exempt educational activities, deductibility must be apportioned.