

Adjustment of VAT deductible regarding unpaid consideration

This document should be read in conjunction with section 62A of the VAT Consolidation Act 2010 (VATCA 2010)

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Introduction

This guidance sets out the rules on the adjustment required for VAT deducted where the consideration for the supply has not been paid.

1. Adjustment the VAT input credit

A VAT registered person (accountable person) is required to adjust the amount of VAT input credit claimed where they have:

- taken a deduction of VAT in a taxable period, and
- not paid the supplier for the related goods or services within 6 months of the end of that taxable period.

In cases where a genuine dispute or issue arises in relation to a supply, the matter will normally be rectified by way of issue of a credit note and, where relevant, adjustment in the VAT returns of both parties.

However, there may be exceptional circumstances where a customer will not pay the full consideration for a supply and where the right to deductibility should not be withdrawn (see paragraph 2). These will be considered by Revenue on a case-by-case basis. The steps to be taken by the accountable person and by Revenue Branches are set out below.

2. Possible reasonable grounds for non-adjustment

Where there are genuine commercial reasons why a business should retain its right to deductibility, not having paid the consideration, and Revenue is satisfied with these reasons, no adjustment is required.

The accountable person should satisfy Revenue, on or before the due date for submission of the return in which the adjustment would be required, that no adjustment is being made because of genuine commercial reasons. In this regard, the full facts and circumstances of each case will be looked at by the Revenue Branch involved to determine whether the reasons claimed by the accountable person are acceptable.

For example, reasonable grounds could include:

- In respect of an arm's length transaction, credit terms agreed between the parties for genuine commercial reasons exceed 6 months.
- In exceptional circumstances, refusal to pay due to a dispute - in general, where an accountable person has not paid the consideration or part of the consideration for a supply of goods or services because of a dispute, there is no economic or financial justification for retaining deductibility. In such

circumstances the supplier may not have returned VAT on the supply (if accounting on a cash receipts basis) or may have claimed bad debt relief. However, there may be circumstances or grounds for retaining deductibility and the accountable person concerned in such cases should provide their Revenue Branch with a comprehensive submission including details of the nature of the dispute and evidence that a process to resolve the dispute is being actively pursued.

Any application citing “Inability to pay” as reasonable grounds for non-adjustment will not be accepted for section 62A purposes.

3. Bad debt adjustment

The adjustment for unpaid consideration does not impact on the existing bad debt adjustment rules relating to the supplier. A supplier who is on the cash receipts basis of accounting is not required to account for the VAT until he or she has been paid by the customer. Therefore, the issue of a bad debt adjustment does not arise.

For suppliers on the invoice basis of accounting, the current rules in relation to bad debt adjustments continue to apply. In general, an accountable person who has accounted for VAT on a supply may claim relief for the VAT attributable to the supply where s/he is in a position to demonstrate that:

- s/he has taken all reasonable steps to recover the bad debt,
- the bad debt is allowable as a deduction in arriving at the tax-adjusted profits for Income Tax or Corporation Tax, and
- the bad debt has been written off in the financial accounts of the accountable person and the obligation to keep relevant records in relation to the debt have been fulfilled, and the person from whom the debt is due is not connected to the accountable person.

4. Making the adjustment/re-adjustment

The VAT input credit adjustment, as provided for in section 62A VATCA 2010, for consideration unpaid for goods/services will be made by the accountable person(s) in the third taxable period following the period in which the tax was deducted.

The formula for calculating the adjustment in relation to unpaid consideration is as follows:

(A-B) x C
A = the total consideration (exclusive of value-added tax)
B = the consideration or part thereof (exclusive of value-added tax) that has been paid
C = the percentage rate of tax chargeable in relation to the supply of the goods or services

5. Circumstances where an adjustment is made and consideration is subsequently paid

Where an accountable person makes an adjustment in relation to consideration unpaid and the consideration is subsequently paid in full or in part, a corresponding re-adjustment is permitted in the period in which the full or partial consideration was paid using the following formula:

D x C
D = the consideration or part thereof (exclusive of value-added tax) paid during that period
C = the percentage rate of tax chargeable in relation to the supply of the goods or services

Where the accountable person is not entitled to full deductibility, the amount of the VAT for adjustment should be based on the proportion of the VAT deductible.

6. Reduced frequency filers

Where an accountable person is authorised to file returns for an accounting period other than for a taxable period i.e. 4 monthly, 6 monthly or annual return, the adjustment or re-adjustment, as appropriate, should be made in the return for the accounting period which covers the taxable period in which the obligation to adjust, or entitlement to re-adjust, occurred.

7. Action to be taken by Revenue Branches

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