

Auctioneers and Auction /Sales

This document should be read in conjunction with section 89 of the VAT Consolidation Act 2010 (VATCA 2010)

Document last updated May 2017

Table of Contents

1. Introduction	2
2. Sales of movable goods.....	2
3. Sales of immovable goods.....	2
4. Special scheme for Auctioneers	2
4.1 Auction Scheme	2
4.2 Auction Scheme goods.....	2
4.3 Auctioneer's margin.....	3
4.4 Taxable amount	3
4.5 VAT rates	4
4.6 Time of supply	4
4.7 Invoices	4
4.8 Supply of goods to other EU Member States.....	4
4.9 Onward supply of Auction Scheme Goods.....	5
4.10 Droit de Suite	5
5. Agricultural produce (including fish).....	5
5.1 Live cattle, sheep, goats, pigs and deer.....	5
5.2 Unregistered Farmers	5
5.3 Registered farmers.....	6
5.4 Foreign buyers.....	6
5.5 Vegetables, fruit, eggs and dead poultry	6
5.6 Fish.....	7
5.7 Live Poultry and Live Ostriches.....	7
5.8 Flowers	7
5.9 Taxable consideration	7
6. Bloodstock, i.e. live horses.....	7
6.1 Horses imported for sale by auction.....	7
6.2 Horses sold by Approved Auctioneers to foreign (non-established) Purchasers	8
7. Motor vehicles.....	8
8. Property (immovable goods).....	8

1. Introduction

This document deals with the VAT treatment of sales made under the special scheme for auctioneers as well as other Auction and Agency sales. Please read Revenue's information on 'Margin Scheme Second-hand Goods' which deals with the supply of works of art, collectors' items, antiques and second-hand goods by accountable dealers in conjunction with this document.

2. Sales of movable goods

Auctioneers selling movable goods are regarded for VAT purposes as buying and selling the goods simultaneously and are, therefore, principals in their own right. Accordingly, all auctioneers of movable goods are governed by the normal VAT rules i.e. the auctioneer is obliged to register if the annual turnover from sales of taxable goods exceeds or is likely to exceed €75,000 and the usual rules relating to the issue of invoices/settlement vouchers apply.

3. Sales of immovable goods

Auctioneers engaged in connection with the selling of immovable goods are regarded as supplying a service and are liable for VAT on the commissions they receive at the standard rate of VAT.

4. Special scheme for Auctioneers

4.1 Auction Scheme

4.1 Section 89(1) of the VAT Consolidation Act 2010 provides for the application of a scheme to certain works of art, collectors' items, antiques or movable second-hand goods which are sold by an auctioneer at a public auction. This scheme provides that where those goods are sold by an auctioneer, the auctioneer is liable for VAT on the profit margin. The arrangement is referred to as the "auction scheme" and the goods concerned are referred to as "auction scheme goods".

4.2 Auction Scheme goods

The auction scheme applies to works of art, collectors' items, antiques or movable secondhand goods passed to an auctioneer for sale by public auction by a person who is:-

- a private individual, an exempt person or a person who is otherwise not entitled to input credit on the acquisition of the goods, or
- a person who is an insurance company which took possession of the goods in connection with the settlement of a claim under a policy of insurance from a person who was not entitled to input credit in respect of the goods, or

- an accountable dealer who has already applied the margin scheme to his or her supply of the goods (as described in Revenue's information on the 'Margin Scheme').

Effectively, this means that neither the person who passed the goods to the auctioneer nor the auctioneer him/herself was entitled to claim a VAT input credit on the transaction. The auctioneer should take reasonable precautions to ensure that the goods qualify as auction scheme goods, as set out in the bullet points above.

4.3 Auctioneer's margin

The auctioneer's margin is the difference between what the auctioneer receives from the purchaser and what he/she pays to the person who passed the goods to him/her for sale, and it is tax inclusive at the standard rate of VAT.

For example, the auctioneer receives €525 from the purchaser on sale of the goods and passes €500 to the seller. The auctioneer's margin in this instance is €25 tax inclusive.

4.4 Taxable amount

The taxable amount is the auctioneer's margin less the amount of VAT included in that margin. The following examples illustrate the position, assuming that

'A' is the seller of the goods,

'B' is the auctioneer, and

'C' is the purchaser of the goods from the auctioneer.

Example (a) here reflects normal practice

Sale proceeds (gross) from C to B =	€525
less commission charged to seller A =	€25
Seller A's net proceeds =	€500
Auctioneer's margin including tax at 23% =	€25
Tax included in the margin (at 23%) =	$\frac{€25 \times 23}{123} = €4.67$
Taxable Amount = €25 less €4.67 =	€20.33

However, there may be situations where an auctioneer charges commission to both the seller and the purchaser. Where this occurs, the auctioneer's margin and the taxable amount are calculated as follows (example b):-

Example (b)

Sale proceeds (gross) from C to B =		€550
less commission charged to seller A =		<u>€25</u>
Total		€525
less commission charged to buyer C=	<u>€25</u>	
Seller A's net proceeds =		€500
Margin, including tax at 23% =		€50
Tax included in the margin (at 23%) =	$\frac{€50 \times 23}{100}$	
	12.3	= €9.35
Taxable Amount = €50 less €9.35 =		€40.65

4.5 VAT rates

Generally, the normal VAT rules apply. The rate applicable is the rate applying to a sale of goods as new but there are some exceptions under the auction scheme. The exceptions are works of art and antiques, which are normally liable at the reduced rate but which become liable at the standard rate when sold under the auction/margin scheme. For technical reasons to do with the wording of the VAT Act 'concrete, ready to pour' and 'concrete blocks' also fall into this category and would become liable at the standard rate in the unlikely event of an auction sale of these products. For further information see Revenue's information on VAT Rates.

4.6 Time of supply

For VAT accounting purposes, where the goods are passed to an auctioneer for sale, the time of supply to the auctioneer is regarded as having taken place when the auctioneer **sells** the goods to a purchaser at a public auction. The auctioneer is obliged to issue both to the purchaser and the vendor written details of the transaction.

4.7 Invoices

An auctioneer should not show on the invoice issued by him/her to the purchaser, the amount of VAT for which s/he is accountable in respect of auction scheme goods. Any such invoice should be clearly endorsed – '**Auction Scheme - this invoice does not give the right to an input credit of VAT**'.

If the principal is required under normal VAT rules to issue an invoice, the invoice issued by the auctioneer to the purchaser will fulfill this requirement.

4.8 Supply of goods to other EU Member States

Where an auctioneer supplies auction scheme goods to a VAT registered person in another EU Member State, the supply cannot be zero-rated as an intra-Community supply. Irish VAT included in the margin must be accounted for as if it was an auction scheme sale within the State.

In this connection, the Member State of dispatch is deemed to be the legal place of supply. The foreign purchaser is not entitled to a repayment of such VAT.

4.9 Onward supply of Auction Scheme Goods

Auction scheme goods purchased from an auctioneer by an accountable person in connection with his or her business activities are treated in the same way as the other assets of his or her business and are fully liable to VAT on disposal.

4.10 Droit de Suite

Royalty payments due by the seller to artists under the European Communities (Artist's Resale Right) Regulations 2006, known as Droit de Suite/Artists re-sale rights, do not effect the liability of the auctioneer who remains taxable on his/her margin.

5. Agricultural produce (including fish)

These are not generally margin scheme or auction scheme goods.

5.1 Live cattle, sheep, goats, pigs and deer

These animals are generally sold through livestock marts, or by auctioneers or livestock dealers. Sales by marts, auctioneers or dealers are liable to VAT at the livestock rate and is chargeable on the final accepted VAT exclusive bid or selling price plus such commissions or fees, if any, as are charged to the purchaser. Marts, auctioneers or dealers are obliged to register for VAT if their annual turnover exceeds or is likely to exceed €75,000.

5.2 Unregistered Farmers

If a farmer is not registered for VAT, the auctioneer must pay him or her an amount called a flat-rate addition. The flat-rate addition is calculated on the price paid for the livestock. The auctioneer is entitled to set off this addition against his or her liability of VAT on the sale of the animals.

Example:

VAT exclusive sale price to purchaser	€10,000
VAT @ (5%)	<u>€500</u>
Total paid by purchaser	€10,500
Commission on fees charged by auctioneer to farmer	€1,000
Net price paid to farmer	€9,000
Flat-rate addition of 5%	<u>€450</u>
Total paid to farmer	€9,450

VAT payable by auctioneer	€500
Less flat-rate addition	<u>€450</u>
Net VAT paid by auctioneer	€50

In order to qualify for the flat-rate addition, the farmer must sign a once-off declaration to the effect that s/he is a farmer not registered for VAT. The declaration must be retained by the auctioneer. If the farmer does not sign the declaration, he or she will be required instead to sign a settlement voucher or invoice made out by the auctioneer in respect of each separate sale, before the flat-rate addition can be paid. To reclaim the flat rate addition amount, the auctioneer must be in possession of that invoice, which must show details of the transaction and separately show the purchase price and the flat-rate addition.

5.3 Registered farmers

In the case of livestock sold on behalf of registered farmers the auctioneer is entitled to reclaim the VAT amount invoiced to him/her by such farmers against the tax payable by him/her on the sale. Livestock is liable to VAT at the Livestock Rate.

5.4 Foreign buyers

Livestock sold within the State to export companies is taxable in the same way as livestock sold to other buyers. Sales of livestock to persons registered for VAT in other EU Member States and which are dispatched or transported from this State are zero rated provided that the essential conditions for zero-rating are met.

Livestock purchased within the State by non-EU buyers, including non-EU farmers, from a VAT-registered person, for example, a VAT-registered mart or export company, is taxable but the tax is refundable to the foreign buyer, subject to conditions. Claims for repayment should be made to

**VAT Unregistered Repayments,
Sarsfield House,
Francis Street,
Limerick.**

Telephone Lo-call 1890 252449 or from outside the Republic of Ireland **00353 61 488060**,
Fax: **00353 61 488095**,
email: unregvat@revenue.ie

5.5 Vegetables, fruit, eggs and dead poultry

These goods qualify for the zero rate of VAT and the auctioneer has a VAT liability on his or her commission or other charges albeit at the zero rate. He or she is entitled to claim the 4.8% VAT input credit in respect of sales made on behalf of unregistered farmers, as outlined at paragraph 5.2 above.

5.6 Fish

Dead fish are liable at the zero rate of VAT and the auctioneer has a VAT liability on his or her commission or other charges at the zero rate. The rules outlined at paragraph 5.1 above apply, also, to sales of fish sold on behalf of unregistered fish farmers and unregistered fresh water fisherman.

5.7 Live Poultry and Live Ostriches

Live poultry and live ostriches are liable at 13.5 per cent. The rules outlined at paragraph 5.2 above apply, also, to sales of poultry and ostriches sold on behalf of farmers.

5.8 Flowers

Flowers are liable at 13.5 per cent and the auctioneer is liable to account for VAT at this rate on the final accepted bid plus any commission or fees charged to the purchaser. The rules outlined at paragraph 5.2 above apply, also, to sales of flowers sold on behalf of farmers.

5.9 Taxable consideration

Auctioneers selling agricultural produce are generally obliged to register for VAT if their annual turnover exceeds or is likely to exceed €75,000. VAT is chargeable on 'the total consideration which the person supplying the goods or services becomes entitled to receive in respect of or in relation to such supply of goods or services, including all taxes, commissions, costs and charges whatsoever, but not including value-added tax chargeable in respect of the supply'.

6. Bloodstock, i.e. live horses

Horses are treated similarly to other livestock in so far as the sale by auctioneers and the flat-rate addition are concerned. However other special rules apply, as follows:-

6.1 Horses imported for sale by auction

Where horses are imported from outside of the EU for sale by auction, VAT-registered auctioneers may avail of the deferred payment scheme and undertake such importation without payment of VAT at the time of importation using deferred payment facilities. The auctioneer, by special arrangement with Revenue, undertakes liability for the VAT payable at importation. This however may in due course be disregarded provided the auctioneer accounts for VAT at 4.8 per cent on the ultimate sale of the horse, unless of course, the horse is sold for export or to a VAT registered person in another Member State of the EU and the horse is in fact dispatched or transported from the State.

If the horse is not sold at auction the auctioneer must account for VAT at 4.8 per cent on the import value unless, again, the horse is re-exported.

6.2 Horses sold by Approved Auctioneers to foreign (non-established) Purchasers

Under a special arrangement for the bloodstock industry, a sale to a foreign (non-established) purchaser can be zero-rated even though the horse may not immediately be exported or dispatched to a registered person in another Member State. The arrangement may be operated by auctioneers who have been approved by the Revenue Commissioners for that purpose and who have undertaken responsibility for its administration. Under the arrangement a horse sold with an export undertaking or under a similar intra-Community arrangement may be zero-rated provided the horse is exported or dispatched from the State within 24 months of the date of supply or, in the case of yearlings purchased after 1 September of any year, is exported within 28 months of purchase. If the horse is subsequently sold in the State or not exported or dispatched from the State within the required time limits, VAT will have to be accounted for by the original vendor (i.e. the auctioneer). Auctioneers wishing to participate in the scheme should apply to their local Revenue District and must be prepared to abide by the conditions set down by the Revenue Commissioners.

7. Motor vehicles

A special scheme applies to auction sales of motor vehicles. This is detailed in Revenue's Information on 'VAT & VRT on motor vehicles'.

8. Property (immovable goods)

Auctioneers dealing with immovable goods continue to be regarded as supplying a service, and are liable for VAT on their commissions plus charges at the standard rate. The auctioneer who charges a commission or fee, exclusive of VAT, of say, €5,000 in respect of the sale of a house is liable for VAT on this amount at the standard rate. If in addition, he or she is entitled to recover an amount to cover expenses e.g. subsistence, travel, telephone, this amount forms part of the taxable consideration and is taxable at the same rate.