

Section 56 zero-rating of goods and services

This document should be read in conjunction with section 56 of the VAT Consolidation Act 2010 (VATCA 2010)

Document last reviewed August 2024

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Introduction

Section 56 of the Value-Added Tax Consolidation Act 2010 provides for a supplier to zero rate the supply of qualifying goods and services to certain authorised persons. It also provides that those authorised persons can apply the zero rate of tax to the acquisition of goods and services received from other Member states, where obliged to account for VAT on the receipt of those supplies, and on the importation of goods from outside the European Union.

In general, the accountable persons who qualify are those primarily engaged in making zero-rated intra-Community supplies of goods, in making zero rated exports of goods outside the European Union (referred to as 'exports' in this document) and in making supplies of certain contract work, so that the VAT on those supplies, if any, would be payable outside the State. Such persons would not normally be in a VAT payable position in the State in any given VAT period.

1. Qualifying persons

1.1 A qualifying person is an accountable person whose turnover from zero-rated intra-Community supplies of goods, export of goods outside the EU and supplies of certain contract work amounts to 75% or more of their total annual turnover for the 12 months preceding the making of an application for authorisation under these provisions.

For renewals of existing valid authorisations, the turnover from audited financial statements for an accounting year-end that falls within the 12 months preceding the application may be used.

Revenue will accept that where an accountable person in a start-up situation does not meet the 12-month trading requirement, that person may, in the circumstances outlined below, apply to Revenue for authorisation for the zero-rating facility on an interim basis until such time as the 12-month requirement has been met. Such applications will only be considered where that person can demonstrate, to the satisfaction of the relevant Revenue Division, that:

1. the accountable person's turnover from zero-rated intra-Community supplies of goods, exports and certain supplies of contract work will exceed 75% of the person's total turnover in the first year of trading;
2. the accountable person satisfies all other requirements and criteria as set out under Section 56; and
3. the accountable person is a subsidiary of, or is otherwise connected to (within the meaning of section 10 of the Taxes Consolidation Act 1997), a company that is in possession of a current Section 56 authorisation.

1.2 Contract work, for the purposes of paragraph 1.1, is where -

- a person provides a service consisting of the making of or assembly of a good from other goods provided to it by another person and the return of the goods so made or assembled to that other person, and
- the supply of that service takes place outside the State for VAT purposes.

1.3 Total annual turnover comprises turnover from the supply of all goods and services, including exempt supplies. However, the following can be excluded from total turnover for the purposes of these provisions:

- (i) turnover from sales which involve the subsequent lease-back of the goods sold
- (ii) receipts from the supply of specific services (see [Appendix I](#)) the place of supply of which, in accordance with section 33(5) of the VAT Consolidation Act 2010, is outside the State so that VAT is not accountable within the State on those services, and
- (iii) sales of goods by the applicant which are not supplies in this State for VAT purposes and on the supply of which the applicant would not be required to account for VAT in the State, (e.g. a supply of goods which is dispatched from Greece to a customer in Germany can be excluded from total turnover).

2. Group registrations

A VAT-registered group (i.e. where a number of companies are treated as a single taxable person for VAT purposes) may only be a qualifying person, where at least 75% of the group's total annual turnover is derived from zero-rated intra-Community supplies of goods or exports and certain supplies of contract work. Sales between individual group members are ignored for this purpose. The VAT group's turnover is calculated based on turnover from sales to persons outside the group and is calculated in accordance with paragraph 1.3 above. Each member of the VAT group will, individually, require authorisation under these arrangements, however the individual members of VAT groups may not obtain authorisations unless the group, as a single taxable person, is a qualifying person.

3. Qualifying goods and services

Qualifying goods and services, for the purposes of these provisions, are all goods and services other than the following:

- (i) The supply or hire of any passenger motor vehicle.
- (ii) The supply of petrol.
- (iii) The provision of food, drink, accommodation (other than qualifying accommodation in connection with attendance at a qualifying conference), entertainment or other personal services.

4. Authorisation procedure

4.1 Applications for authorisation should be made on Form VAT 56A, which is available from the Revenue District responsible for the applicant's tax affairs or may be downloaded from the [Revenue website](#). If the application is successful, a VAT 56B Authorisation Form will be issued to the applicant. The VAT 56B will show an authorisation number.

4.2 The Revenue District responsible for the applicant's tax affairs will issue an authorisation where it is satisfied that:

- the applicant is a "qualifying person"
- the issue of the authorisation would not give rise to a risk to Revenue, and
- the applicant completes the application process in full, including the provision of any additional information requested by Revenue in support of the application.

Certain specific particulars, as set out in regulation 34A of the VAT Regulations 2010, are required as part of the application process. These particulars are set out in [Appendix II](#).

4.3 Where an authorisation is issued, it will normally take effect two weeks after the date of its issue and will indicate the period during which it will have effect. This is to allow the authorised person enough time to forward copies of the authorisation to their suppliers.

4.4 Where an application for authorisation is refused by Revenue, the applicant will be notified in writing and given the reasons why the application is being refused. The refusal of an application for authorisation is a matter which can be appealed to the Tax Appeal Commission. The appeal must be submitted within thirty days of the notice of the decision that an application has been refused.

5. Zero-rating of purchases within the State

5.1 On receipt of the authorisation, the rate of VAT applying to goods and services supplied to that authorised person, apart from the exceptions mentioned in the [Qualifying goods and services](#) section above, is the zero rate. It is therefore essential that a copy of the authorisation is given to each supplier in a timely manner, as failure to do so may result in VAT being incorrectly charged. Where VAT is incorrectly charged by a supplier in such circumstances, an authorised person will be unable to reclaim the VAT from Revenue and will instead have to rectify the matter directly with that supplier. This will require the issue of a credit note by the supplier cancelling the original invoice and the issue of a new invoice applying the zero rate of VAT.

The authorisation should also be used, as appropriate, when an authorised person is required to account for VAT in this State in respect of goods and services received from outside the State or where VAT is due at the point of entry to the State of imported goods. This allows the authorised person to apply the zero-rate of VAT when accounting for VAT on those supplies.

5.2 It is recognised that it may be administratively burdensome to operate the VAT zero-rating facility in relation to low value purchases. Accordingly, an exception may be made to the position outlined in paragraph 5.1 above, where the VAT on an invoice issued is less than €40. This exception allows for VAT, where borne on such purchases, to be reclaimed in the authorised persons' VAT return, subject to normal deductibility rules.

5.3 Suppliers, once they have received a copy of an authorisation from an authorised person, must apply the zero-rate of VAT to all qualifying supplies to the authorised person from the effective date of the authorisation and must quote the authorisation number on VAT invoices issued in respect of such supplies. If there is any doubt in relation to an authorisation, the Revenue Division which issued the authorisation should be contacted to confirm its validity. When making zero-rated supplies under the scheme, the supplier should ensure that the supply is being made to the person named on the authorisation. Particular attention should also be paid to the period during which the authorisation has effect, as zero-rating applies only during the period of validity of the authorisation.

5.4 The supplier of non-qualifying goods and services to an authorised person cannot apply the zero-rate of VAT to those supplies, in accordance with the provisions of section 56, and therefore must charge VAT at the rate normally applicable to such supplies. However, where an authorised person bears VAT in respect of such supplies, any such VAT borne can be reclaimed in that person's VAT return, subject to normal deductibility rules.

The €40 limit mentioned at paragraph 5.2 above does not apply in these circumstances.

6. Intra-Community Acquisitions

Where authorised persons make intra-Community acquisitions of goods, they must provide their VAT registration number to the supplier to ensure that VAT is not charged in the other Member State. Where the goods acquired are qualifying goods, the VAT rate applying to the acquisition of those goods by the authorised person is the zero rate.

7. Imports

7.1 Where qualifying goods are imported from outside the EU by authorised persons, the authorised person should declare on the relevant customs declaration (SAD) that they are an authorised person under Section 56 of the Value Added Tax Consolidation Act 2010 and quote their authorisation number. When requested by a Revenue officer, a copy of the authorisation should be produced in support of the declaration.

7.2 A person authorised under Section 56 of the VAT Consolidation Act 2010 should use such authorisation to import qualifying goods at the zero rate of VAT. [Postponed accounting](#) arrangements should never be used by a person authorised under Section 56.

8. Alcohol products

The zero rate of VAT also applies to the importation and Intra Community Acquisition of alcohol products by an authorised person. The authorised person must make a declaration on the relevant excise form confirming that they are authorised in accordance with Section 56 and quoting their authorisation number. When requested by a Revenue official, a copy of the authorisation should be produced in support of the declaration.

9. Self-supplies or exempt use

Where an authorised person applies qualifying goods or services, which have been obtained at the zero-rate of VAT, to an exempt or non-business use, the normal “self-supply rules will apply”. See [Goods diverted to a private or exempt use \(self-supply\)](#) on Revenue’s website.

10. Post authorisation obligations

10.1 Where a person receives authorisation under section 56, that authorisation shall be conditional on the authorised person continuing to comply with their statutory obligations in relation to taxes and duties in the State, including the retention of relevant records.

10.2 Where the particulars which a person has provided to Revenue in accordance with Regulation 34A, as part of the application process for authorisation, change, any such changes should be immediately notified by that person to Revenue in writing.

11. Cancellation of authorisation

11.1 When an authorisation is issued to a qualifying person, it remains valid for the term specified on the authorisation unless it is cancelled by Revenue.

Where Revenue has doubts or concerns about a Section 56 application or about an accountable person's continued entitlement to avail of zero-rating under this section, Revenue may, at its discretion, request any or all of the documentation or proofs as outlined in Regulation 34A ([Appendix II](#)).

Where Revenue is not satisfied that there is a continuing entitlement to authorisation, Revenue will cancel the authorisation, by notice in writing, where:

- (i) the person authorised is no longer a qualifying person
- (ii) the information provided, or the declarations made when applying for the authorisation were, in a material way, false, incorrect, or misleading
- (iii) the authorised person fails to comply with the "Post authorisation obligations" as outlined in paragraph [10.1](#).

In cases where an authorisation is cancelled, a formal notice to this effect will issue to the accountable person setting out the grounds for cancellation.

The cancellation of a person's authorisation is a matter which can be appealed to the Tax Appeal Commission, within thirty days of the date of the written notice of cancellation.

11.2 Where authorisation is cancelled by Revenue, the cancellation will have effect from:

- a) the date the notice of cancellation is given, where no appeal is lodged in respect of the cancellation of the authorisation, or
- b) the date the appeal is finally determined or withdrawn, where an appeal is lodged in respect of the cancellation.

11.3 From the date a notice of cancellation takes effect, a previously authorised person should advise its suppliers that it is no longer an authorised person, so that the correct rate of VAT may be applied to goods and services supplied.

12. Post cancellation provisions

When the cancellation of an authorisation issued to a person under this provision takes effect, Revenue may inform that person's suppliers of its cancellation.

Revenue may also publish in *Iris Oifigiúil*, and thereafter make otherwise publicly available a notice regarding the cancellation of the authorisation.

Appendix I Services specified in section 33(5) VAT Consolidation Act 2010

The following services are those specified in section 33(5) VAT Consolidation Act 2010:

- (a) services that consist of transferring or assigning copyrights, patents, licences, trademarks and similar rights;
- (b) advertising services;
- (c) the services of consultants, engineers, consultancy firms, lawyers, accountants and other similar services, as well as data processing and the provision of information;
- (d) services that consist of obligations to refrain from pursuing or exercising, wholly or partly, a business activity or a right referred to in this subsection;
- (e) services that consist of financial transactions (including banking transactions and financial fund management transactions but excluding the provision of safe deposit facilities) or insurance transactions (including reinsurance transactions);
- (f) services that consist of supplying staff;
- (g) services that consist of hiring out movable tangible property (other than a means of transport);
- (h) services that consist of the provision of access to a natural gas distribution system situated within the territory of the Community or to any network connected to such a system, to the electricity system or to the heating or cooling networks, or the transmission or distribution through these systems or networks, and the provision of other services directly linked to those systems;
- (i) telecommunications services;
- (j) radio or television broadcasting services;
- (k) electronically supplied services.

Appendix II Particulars as set out in Regulation 34A of the VAT Regulations 2010

Particulars required in accordance with Regulation 34A:

(a) a declaration stating that the person making the application under section 56(2)

of the Act (in this Regulation referred to as 'the applicant') keeps full and true records in accordance with section 84 of the Act,

(b) a declaration stating that the applicant is complying with the provisions of -

(i) the Act,

(ii) the Tax Acts (within the meaning of section 1 of the Taxes

Consolidation Act 1997 (No. 39 of 1997)),

(iii) the Capital Gains Tax Acts (within the meaning of section 1 of the Taxes Consolidation Act 1997 (No. 39 of 1997)),

(iv) the statutes relating to the duties of excise and to the management of those duties,

(v) the Customs Act 2015 (No. 18 of 2015), and

(vi) any instrument made under any of the enactments referred to in clauses (i) to (v)

(c) a declaration stating that the applicant has not been convicted of any offence

under any of the provisions of –

(i) the Act,

(ii) the Tax Acts (within the meaning of section 1 of the Taxes

Consolidation Act 1997 (No. 39 of 1997)),

(iii) the Capital Gains Tax Acts (within the meaning of section 1 of the Taxes Consolidation Act 1997 (No. 39 of 1997)),

- (iv) the statutes relating to the duties of excise and to the management of those duties,
 - (v) the Customs Act 2015 (No. 18 of 2015), and
 - (vi) any instrument made under any of the enactments referred to in clauses (i) to (v)
- (d) the amount of the applicant's turnover from supplying goods and services in respect of the period of 12 months immediately preceding the making of the application under section 56(2) of the Act,
- (e) the amount of the applicant's turnover from goods supplied to an accountable person that are subsequently leased back from that person in respect of the period of 12 months immediately preceding the making of the application under section 56(2) of the Act,
- (f) the amount of the applicant's turnover from -
- (i) supplies of goods made in accordance with paragraph 1(1) or 3(1) or (3) of Schedule 2 to the Act,
 - (ii) supplies of contract work where the place of supply is deemed to be a Member State other than the State, and
 - (iii) supplies of contract work made in accordance with paragraph 3(4) of Schedule 2 to the Act,
- in respect of the period of 12 months immediately preceding the making of the application under section 56(2) of the Act,
- (g) a statement by a statutory auditor (within the meaning of section 2 of the Companies Act 2014 (No. 38 of 2014)) certifying that, in his or her opinion, the information provided under subparagraphs (d), (e) and (f) is correct,

(h) a list of directors, if applicable,

(i) a list of shareholders, if applicable,

(j) a list of partners, if applicable, and

(k) a tax clearance certificate (within the meaning of section 1095 of the Taxes Consolidation Act 1997 (No. 39 of 1997)) for the immediately preceding year.