

Guidelines for the application of Section 108D VAT Consolidation Act 2010

“Cancellation of a VAT Registration Number – special provisions for notification and publication”

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1 Introduction

VAT registration numbers are regularly cancelled by the Revenue Commissioners when a registration is no longer required e.g. where a business has ceased trading or did not commence trading so did not become an accountable person.

Most VAT cancellations are carried out following a request from a taxpayer, but in certain circumstances cancellations may be initiated by the Revenue Commissioners. This happens, for example, where an individual has ceased trading and can no longer be traced.

It may also be established that a VAT registration number is being used solely for fraudulent purposes and that no legitimate trade is being carried on e.g. where a VAT registration number is acquired for the purposes of engaging in missing-trader or carousel fraud. However, cancellation of the number may not have immediate impact.

Suppliers are obliged to ensure that a customer is VAT-registered before a zero-rated intra-community supply is made, but a supplier who has an ongoing trading relationship with a customer might not validate the VAT registration number prior to each sale. A customer may also neglect to advise their foreign suppliers of the cancellation and could continue to receive goods VAT free post-cancellation. Depending on the level of due-diligence carried out, it may be several months or even years before the supplier becomes aware of the cancellation of the VAT registration number.

The VAT Consolidation Act 2010 (VATCA) was amended by Finance Act 2015 to include a new section, section 108D. This section provides that where a VAT registration number has been cancelled, the Revenue Commissioners may, where it appears necessary to do so for the protection of the Exchequer, advise the suppliers to the business of the cancellation of the VAT registration. They may also publish certain particulars of the cancelled registration number in *Iris Oifigiúil* and in other publications or media.

Section 108D is an anti-fraud measure and will enable the Revenue Commissioners to protect VAT receipts by ensuring that suppliers are aware of the cancellation of particular VAT registration numbers and will charge VAT on future supplies whenever appropriate.

2 Use of the legislation

2.1 Why use the powers provided by this legislation?

The Revenue Commissioners will have encountered or may have become aware of instances of abuse of VAT registration numbers to obtain intra-community acquisitions (ICAs) without payment of VAT as part of an acquisitions fraud, missing-trader or carousel fraud structure.

In some cases, the supplier may be a legitimate trader who is unwittingly involved in the supply chain and who may not have checked the status of the VAT registration number of their customer since they first began making supplies to that customer. The power provided to the Revenue Commissioners under Section 108D to advise suppliers that a number has been cancelled should alert those suppliers that they must consider whether VAT should be charged on supplies made to that customer.

These notification powers are supplemented by a further power to publish details of the business which has been de-registered, and may also help to address those circumstances where it has not been possible to obtain information regarding the suppliers to particular taxpayers.

Use of the power should help prevent further zero-rated supplies to the taxpayer whose VAT registration has been cancelled and should ensure that VAT is charged to them where appropriate.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

2.4 What the Legislation Entitles the Revenue Commissioners to Do

The legislation provides that where a VAT registration number has been cancelled, the Revenue Commissioners may, where it appears necessary to do so for the protection of the Exchequer:

- advise the suppliers (foreign and domestic)¹ to the business to whom the cancelled number relates, that the number has been cancelled; and/or
- publish this information in *Iris Oifigiúil* and in other publications or media.

¹ If a decision is made to notify suppliers, this should be in the format set out in Appendix 1 for foreign suppliers and Appendix 2 for domestic suppliers.

2.5 Options Available

When clearance has been obtained to use the legislation, the options available under the legislation enable the Revenue Commissioners to:

- (i) notify the suppliers **only**; or
- (ii) publish the information **only**; or
- (iii) notify the suppliers first and publish the information later on; or
- (iv) publish the information immediately and follow up later with supplier notification; or
- (v) publish and notify simultaneously.

The option chosen will depend on the individual circumstances and on issues such as access to supplier information. Where a decision is made to notify the suppliers, the notifications provided in Appendices 1 or 2 should be issued.

2.6 The Information to be Notified and/or Published

The information which may be notified and/or published is specified in Section 108D, and comprises:

- the cancelled registration number;
- the date from which the number has been cancelled; and
- the name and address of the business to which the cancelled number relates.

2.7 Publication of Information

If the information is to be published it **must** be published in [Iris Oifigiúil](#). It does not have to be published anywhere else, but where it is decided to do so, publication in Iris Oifigiúil is firstly required. Publication other than in the Iris Oifigiúil may be in **‘any manner, form, format or media’**, for example, on the Revenue Commissioner’s website.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

4 Conclusion

This is an anti-fraud measure, the purpose of which is to combat VAT evasion. It should assist businesses which operate legitimately, as they will know that this legislation is only invoked where the Revenue Commissioners are concerned about protecting the Exchequer. Awareness of the cancellation of a customer VAT registration number should alert them to the necessity of applying VAT correctly to supplies to that business.

It should thus assist businesses to compete on a level playing field, as they would otherwise face unfair competition from other businesses which engage in VAT fraud.

Appendix 1 – Foreign Suppliers

Dear Sir/Madam,

Please be advised that the Revenue Commissioners have cancelled the VAT registration number (VAT REGISTRATION NUMBER) of (NAME, ADDRESS) with effect from

I am writing under Section 108D of the VAT Consolidation Act 2010, to advise you of this cancellation. A copy of the relevant legislation is attached.

Where you have supplied goods or services to the person named in this correspondence and you intend to do so in the future, you are advised to consider the implications of making supplies to a person in another Member State who no longer has a valid VAT identification number.

Yours faithfully,

Appendix 2 – Domestic Suppliers

Dear Sir/Madam,

Please be advised that the Revenue Commissioners have cancelled the VAT registration number (VAT REGISTRATION NUMBER) of (NAME, ADDRESS) with effect from

I am writing under Section 108D of the VAT Consolidation Act 2010, to advise you of this cancellation. A copy of the relevant legislation is attached.

Yours faithfully,