

**FINANCE (No 2) ACT 2013**

**VALUE-ADDED TAX**

**NOTES FOR GUIDANCE**

*Issued by VAT Policy and Legislation Branch, 18 December 2013*

## **57. Interpretation (Part 3)**

This section defines the Principal Act as the Value-Added Tax Consolidation Act 2010 for the purposes of Part 3 of the Act. This is a conventional provision in Finance Acts. It allows abbreviated terms to be used for references to previous legislation and thus facilitates drafting and subsequent reading of the legislation. For example, the term “Principal Act” used in Part 3 of this Act refers to the Value-Added Tax Consolidation Act 2010.

## **58. Amendment of section 46 of the VAT Consolidation Act (rates of tax)**

### **Summary**

This section amends section 46 of the VAT Consolidation Act, which deals with rates of tax. The amendment provides for the continued application of the 9 per cent rate of VAT to tourism related services, as announced in the Budget.

### **Details**

The amendment provides for the retention of the 9 per cent reduced VAT rate on tourism related services, which was due to expire on 31 December 2013.

### **Goods & Services to which the 9 per cent VAT rate applies**

The 9% rate applies mainly to restaurant and catering services, and hotel and holiday accommodation. Catering services include supplies from vending machines and take-away food, but excludes alcohol and soft drinks sold as part of a meal, which are liable to VAT at the 23% standard rate. Hotel accommodation includes guesthouses, caravan parks, camping sites, etc.

The 9% rate also applies to various entertainment services such as admissions to cinemas, theatres, certain musical performances, museums, art gallery exhibitions, fairgrounds/amusement parks, open farms and historical houses. The use of sporting facilities, including green fees charged for golf and subscriptions charged by non-member-owned golf clubs, also attract the 9% rate.

Hairdressing services are also subject to the 9% rate, as is printed matter such as brochures, maps, programmes, leaflets, catalogues and newspapers. Books are not included as they already are subject to VAT at 0%.

### **Commencement**

This section has effect from 1 January 2014.

## **59. Amendment of section 59 of the VAT Consolidation Act (deduction for tax borne or paid)**

### **Summary**

This section amends section 59 of the VAT Consolidation Act, which deals with deduction for tax borne or paid. It clarifies the scope of deductibility in respect of VAT incurred on services relating to the transfer of a business.

### **Details**

Although the transfer of a business is deemed not to be a taxable supply, section 59(2) of the VAT Consolidation Act provides for deductibility in relation to VAT incurred on services, such as legal fees, relating to the transfer of a business. The

amendment clarifies this provision to ensure deductibility is not allowable in respect of services relating to exempt supplies in the course of transfer of a business.

*Paragraph (a)* deletes paragraph (m) from subsection (2) as a consequence of the new subsection (2A) inserted by *paragraph (b)*.

*Paragraph (b)* inserts a new subsection (2A) which ensures that deductibility is allowable only in respect of the VAT on services directly related to the transfer of ownership of goods that would be taxable but for the application of the transfer of business provisions.

### **Commencement**

This section has effect from the date of passing of the Finance Act (18 December 2013).

## **60. Insertion of a new section 62A into the VAT Consolidation Act (adjustment of tax deductible in relation to unpaid consideration)**

### **Summary**

This section inserts a new section 62A into the VAT Consolidation Act, which deals with adjustment of tax deductible in relation to unpaid consideration.

The new section provides that where a person deducts VAT in a taxable period but has not, within 6 months of the end of that taxable period, paid the supplier for the goods or services, then the amount of VAT deductible will be reduced by the amount of VAT relating to the unpaid consideration i.e. the VAT deducted relating to the unpaid consideration must be repaid to Revenue. A re-adjustment is provided for in the event of subsequent payment or part payment for the goods or services.

This provision relates to VAT deducted in taxable periods commencing on or after 1 January 2014.

### **Details**

*Subsection (1)* inserts a new section 62A into Part 8 of the VAT Consolidation Act which makes the following provisions:-

- Subsection (1) provides that where an accountable person deducts VAT charged to him or her in a taxable period referred to as the “initial period” and consideration for the related supplies of goods or services remains unpaid or partially unpaid after 3 taxable periods (i.e. 6 months) of the initial period, an adjustment of the amount of tax deducted is required.
- Subsection (2) provides that the adjustment must be made in the third taxable period following the period in which tax was deducted and includes the formula for calculation of the adjustment.
- Subsection (3) provides that, where an adjustment is made and the person subsequently pays the full consideration or part thereof, a corresponding re-adjustment should be made in the period in which the full or partial consideration was paid.
- Subsection (4) provides that where there are reasonable grounds for not having paid the full consideration or part thereof, an adjustment will not be required.
- Subsection (5) allows for the making of regulations, if necessary, in relation to the operation of the section.

*Subsection (2)* provides that the new section 62A has effect in relation to initial periods beginning on or after 1 January 2014.

### **Commencement**

This section has effect from the date of passing of the Finance Act (18 December 2013).

## **61. Amendment of section 120 of the VAT Consolidation Act (regulations)**

### **Summary**

This section amends section 120 of the VAT Consolidation Act, which deals with regulations.

The amendment provides for the making of regulations, if necessary, in relation to the operation of the new section 62A of the VAT Consolidation Act (inserted by *section 60 of this Act*) which deals with adjustment of deductibility in relation to unpaid consideration.

### **Details**

*Paragraph (a)* is a technical amendment.

*Paragraph (b)* inserts a new paragraph (h) into section 120(8) of the VAT Consolidation Act to allow the Revenue Commissioners to make regulations relating to adjustment of deductibility in relation to unpaid consideration.

### **Commencement**

This section has effect from the date of passing of the Finance Act (18 December 2013).

## **62. Amendment of section 64 of the VAT Consolidation Act (capital goods scheme)**

### **Summary**

This section amends section 64 of the VAT Consolidation Act, which deals with the capital goods scheme.

Finance Act 2013 introduced a provision which transferred the obligations and entitlements of the capital goods owner to a receiver or mortgagee for the duration of the receivership or possession. That provision applies to receivers appointed, or mortgagees who took possession, on or after the enactment of that Act (27 March 2013). These amendments to subsection (12A) extend those provisions to receivers who were appointed, and to mortgagees who took possession, before the enactment of Finance Act 2013.

The obligations and entitlements will apply to those receivers and mortgagees from 1 May 2014.

### **Details**

The capital goods scheme (CGS) is a mechanism for regulating deductibility over the VAT-life of a property. The scheme operates by ensuring that deductibility for a

property reflects the use to which the property is put over its VAT-life. The obligations of the capital good owner include creating and maintaining a CGS record, calculating (in accordance with various formulae) any deductibility adjustment required and payment of any amount due as if it were tax due. The scheme also provides an entitlement to an increase in deductibility, where relevant.

Finance Act 2013 introduced a provision which transferred the obligations and entitlements of the capital goods owner to a receiver or mortgagee for the duration of the receivership or possession. That provision applied to receivers appointed and to mortgagees taking possession on or after the passing of that Act (27 March 2013).

These amendments to subsection (12A) provide that where the receiver was appointed or the mortgagee took possession prior to 27 March 2013, the capital goods owner will be required to pass the capital goods record to the receiver or mortgagee within 60 days of the passing of Finance (No. 2) Act 2013. The obligations and entitlements of the capital goods owner under the capital goods scheme will apply to such receivers and mortgagees from 1 May 2014. Apportionment will apply to any adjustment required in a capital goods interval which commences before 1 May 2014 and ends on or after that date.

*Paragraph (a)* amends the definition of “start date” to apply the new measures from 1 May 2014.

*Paragraph (b)* amends paragraph (b) to clarify that it applies to receivers appointed and mortgagees who took possession after 27 March 2013.

*Paragraph (c)* inserts a new paragraph (ba) dealing with receivers appointed and mortgagees who took possession prior to 27 March 2013. It obliges a capital goods owner to furnish the capital goods record to the receiver or mortgagee within 60 days of the passing of the Act and applies the provisions of the capital goods scheme to the receiver or the mortgagee with effect from 1 May 2014

### **Commencement**

This section has effect from the date of passing of the Finance Act (18 December 2013).

## **63. Amendment of section 80 of the VAT Consolidation Act (tax due on moneys received basis)**

### **Summary**

This section amends section 80 of the VAT Consolidation Act, which deals with tax due on the moneys received basis. It confirms the Budget increase in the annual turnover threshold for taxable persons who may be authorised to use the moneys received basis of accounting from €1,250,000 to €2,000,000.

### **Details**

Section 80(1)(b) allows a taxable person with a turnover of not more than €1,250,000 in any continuous period of twelve months to use the moneys received basis of accounting for VAT. The amendment increases that turnover figure to €2,000,000.

VAT-registered traders whose annual turnover does not exceed or is not likely to exceed €2,000,000 may opt to account for VAT on the moneys received basis rather than on the invoice basis. This means that the trader is not required to pay VAT until payment for the supply is actually received.

### **Commencement**

This section has effect from 1 May 2014.

## **64. Amendment of section 86 of the VAT Consolidation Act (special provisions for tax invoiced by flat-rate farmers)**

### **Summary**

This section amends section 86 of the VAT Consolidation Act which provides for special provisions for tax invoiced by flat-rate farmers. It confirms the Budget increase in the farmers' flat-rate addition from 4.8 per cent to 5.0 per cent.

### **Details**

The flat-rate scheme is a simplified and practical method of applying value-added tax to farming. It compensates unregistered farmers, on an overall basis, for the VAT charged to them on their purchases of goods and services. The scheme in general reduces administrative burdens, as it provides that small farmers can remain outside the normal VAT system thereby avoiding the obligations in respect of registration and returns.

#### ***How does the Farmers Flat-rate Scheme work?***

The flat-rate scheme sets out a percentage amount, known as the flat-rate addition, which unregistered farmers apply to their prices when selling to VAT-registered businesses (co-ops, meat factories, etc.). The VAT-registered business treats the flat-rate amount as a normal business input in its periodic VAT return.

From 1 January 2014 the flat-rate compensation to unregistered farmers is increased to 5.0 per cent.

#### ***Example***

- An unregistered farmer sells agricultural goods worth €100 to a meat factory on 1 January 2014;
- The flat-rate addition of 5.0% means the farmer receives €105.00 from the meat factory and this is reflected in either the invoice or settlement voucher;
- The factory claims back the €5.00 flat-rate addition as a credit in its normal VAT return.

#### ***Livestock rate***

The livestock rate, which is the VAT rate charged by VAT-registered farmers and other businesses on the supply of livestock remains unchanged at 4.8 per cent. However, the amendments being made by *section 66 of this Act* should also be consulted in this regard.

### **Commencement**

This section has effect from 1 January 2014.

## **65. Insertion of a new section 108A into the VAT Consolidation Act (notice of requirement to furnish certain information, etc.) and**

### **Amendment of section 115 of the VAT Consolidation Act (penalties generally)**

#### **Summary**

This section inserts a new section 108A into the VAT Consolidation Act which deals with a notice of requirement to furnish certain information. It also amends section 115 to provide for a related penalty.

The new section 108A provides for the service of a notice by the Revenue Commissioners on an accountable person requiring him or her to provide additional information or explanations in respect of his or her taxable supplies during a specified period.

The amendment to section 115 provides for a penalty where an accountable person to whom a notice under section 108A is served fails to comply with that notice.

### **Details**

*Paragraph (a)* inserts a new section 108A into Chapter 1 of Part 13 which makes provision for the following:-

- Subsection (1) provides for the service of a notice by the Revenue Commissioners on an accountable person requiring him or her to provide additional information or explanations in respect of his or her taxable supplies.
- Subsection (2)(a) provides that certain particulars must be included in the notice e.g. the type of information required, the period for which the notice shall have effect, the period within which the information should be provided to the Revenue Commissioners and the format in which it should be provided. The requirement to provide additional information will apply in respect of supplies made by the accountable person during a period of no more than 2 months.
- Subsection (2)(b) requires that the notice shall contain information that the accountable person is liable to the penalty under section 115(8A) for failure to comply with the notice.

This information is in addition to the documentation which is currently required from an accountable person pursuant to section 84 (Duty to keep records) and section 108 (Inspection and removal of records) of the VAT Consolidation Act.

*Paragraph (b)* inserts a new subsection (8A) into section 115 which provides for a penalty of €4,000 for failure by an accountable person to comply with the notice to furnish certain information, issued under the new section 108A.

### **Commencement**

This section has effect from the date of passing of the Finance Act (18 December 2013).

## **66. Tax treatment of horses and greyhounds**

### **Summary**

This section amends sections 2 and 46 of, and Schedule 3 to, the VAT Consolidation Act in relation to the tax treatment of horses and greyhounds.

The amendments provide for an increase from 4.8% to 9% in the VAT rate applying to the:

- supply of live horses, other than those normally intended for use as foodstuffs or for use in agricultural production,

- supply of greyhounds, and
- hire of horses.

However, the 4.8% rate continues to apply to livestock in general, including horses that are normally intended for use as foodstuffs or for use in agricultural production.

The amendments also provide for an increase in the VAT rate on 'no foal, no fee' insemination services from 4.8% to the 13.5% reduced rate so that the same 13.5% rate applies to all insemination services, for all animals, including livestock, horses and greyhounds. The 13.5% rate also applies to the supply of livestock semen and horse semen.

### **Details**

*Subsection (1)(a)* amends the definition of livestock in section 2(1) to include horses normally intended for use in the preparation of foodstuffs or in agricultural production, as well as cattle, sheep, goats, pigs and deer.

*Subsection (1)(b)* makes two amendments to section 46(1).

The first amendment applies a reduced VAT rate of 9 per cent to:-

- the supply of live horses not normally intended for use in the preparation of foodstuffs or in agricultural production
- the hire of horses
- the supply of live greyhounds.

The second amendment provides that the super-reduced rate of VAT, currently 4.8 per cent no longer applies to the supply of live greyhounds or to the hire of horses. It applies only to livestock.

*Subsection (1)(c)* makes two amendments to Schedule 3.

The first amendment to paragraph 10(2) is for clarification purposes and is consequential to the second amendment.

The second amendment inserts a new Part 2B incorporating a new paragraph 13B dealing with horses and greyhounds to which reduced rates apply. All animal insemination services are subject to the 13.5% reduced rate.

*Subsection (2)* provides that *subsection (1)* will take effect by way of a Commencement Order.

### **Summary of changes**

The 9% rate applies to supplies of:

- horses not intended for use in the preparation of foodstuffs or in agricultural production
- live greyhounds and
- the hire of horses.

While most insemination services and semen supplies are already subject to the 13.5% rate, this rate of 13.5% rate will now apply to supplies of:

- insemination services for greyhounds
- insemination services for horses
- all other animal insemination services

- livestock semen and
- horse semen.

Greyhound semen remains liable to VAT at 23%.

### **Commencement**

This section has effect by way of a Commencement Order.

## **67. Amendment of Schedule 1 to the VAT Consolidation Act (Exempt Activities)**

### **Summary**

Irish Water will become the legal supplier of water in the State on 1 January 2014. This section amends Schedule 1 to the VAT Consolidation Act, which deals with exempt activities, to provide for exemption from VAT in respect of supplies of water by 'Irish Water'.

### **Details**

The amendment provides that the current VAT exemption in paragraph 14(2) for supplies of water by local authorities also applies to supplies of water by Irish Water.

### **Commencement**

This section has effect from 1 January 2014.