

FINANCE (No. 2) Act 2023

VALUE-ADDED TAX

NOTES FOR GUIDANCE

Issued by VAT Policy and Legislation Branch, 19 December 2023.

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.

58. Amendment of section 2 of the Value-Added Tax Consolidation Act 2010 (Interpretation General)

Summary

This section amends section 2 of the Value-Added Tax Consolidation Act 2010 to provide that the turnover thresholds beyond which suppliers are obliged to register for VAT will rise. Suppliers whose turnover is below the threshold amount may opt to register for VAT.

Details

Paragraph (a) amends section 2 of the Value-Added Tax Consolidation Act 2010 by increasing the registration threshold for goods to €80,000 from €75,000.

Paragraph (b) amends section 2 by increasing the registration threshold for services to €40,000 from €37,500.

Commencement

This section has effect from 1 January 2024.

59. Amendment of Section 46 of the Value-Added Tax Consolidation Act 2010 (Rates of Tax)

Summary

This section amends section 46 of the Value-Added Tax Consolidation Act 2010 extends until 31 October 2024 the temporary period for which the VAT rate of 9% (the second reduced rate) continues to apply to supplies of gas and electricity.

Details

Under the provisions of the Finance (Covid-19 and Miscellaneous Provisions) Act 2022, the 9% rate of VAT was applied to supplies of gas and electricity from 1 May 2022 up to 31 October 2022. The Finance Act 2022 extended the period during which this reduced rate applied to gas and electricity up to 28 February 2023. The Finance Act 2023 further extended the period during which this reduced rate applied to gas and electricity up to 31 October 2023. This rate of 9% has been again extended to apply up to 31 October 2024.

Commencement

This section has effect from 11 October 2023.

60. Amendment of section 51 of the Value-Added Tax Consolidation Act 2010 (Determinations on Rates and Exemptions)

Summary

This section repeals section 51 of the Value-Added Tax Consolidation Act 2010 concerning Revenue determinations of VAT rates and exemptions and provides for the deletion of section 120(6)(d) as a consequence of this repeal.

Details

Subsection (1) provides for the repeal of section 51 of the Value-Added Tax Consolidation Act 2010. This provision regarding determinations made by Revenue on rates of VAT and exemptions from VAT is no longer necessary

Subsection (2) provides for amendments to section 120(6)(c) and (d) relating to Revenue's regulation-making powers.

Paragraph (2)(a) is a technical amendment to section 120(6)(c).

Paragraph (2)(b) deletes section 120(6)(d) arising from the repeal of section 51.

The purpose of section 51 was to clarify areas of genuine doubt on the appropriate treatment of a particular transaction as regards rates of VAT or exemptions from VAT.

Revenue has developed more effective channels which taxpayers and agents may now use to seek clarity about the appropriate VAT treatment of transactions. This range of information and enquiry facilities, alongside the right to a tax appeal under section 119 and section 949I of the TCA 1997, means that section 51 provision is no longer necessary and has been repealed.

Commencement

This section has effect from the date of passing of the Finance Act (18 December 2023).

61. Deposit Return Scheme

Summary

The Deposit Return Scheme (DRS) is an initiative introduced under Environment legislation to reduce waste and encourage recycling. The DRS requires that a refundable deposit is placed on single-use drinks containers – plastic bottles and aluminium/steel drinks cans – and the deposit is refunded when the empty containers are returned for recycling or reuse.

This section inserts a new section 92A into Part 10 of the Value-Added Tax Consolidation Act 2010 to provide for the taxation of in-scope bottles and containers, on which a deposit has been charged, when they have not been returned to a collection point. A new

Regulation will set out how to calculate the tax due and payable on these unredeemed deposits.

Details

Paragraph (a) amends the Value-Added Tax Act in Part 10 by inserting a new Chapter 4 after section 92 of the Value-Added Tax Consolidation Act 2010. The new Chapter 4 contains a new section: 92A.

Subsection (1) of section 92A contains definitions of various terms used in the section, most of which take their meaning from the Separate Collection (Deposit Return Scheme) Regulations 2021 S.I. No. 599 of 2021.

Subsection (2) of section 92A requires that, for the purposes of giving effect to Article 92 of the VAT Directive, where (a) a supply of an in-scope product has been made and (b) a deposit has been charged, the taxable amount of a deposit is deemed to be reduced to nil.

Subsection (3) of Section 92A provides that, notwithstanding subsection (2), and for the purposes of giving effect to Article 92 of the VAT Directive and where (a) a supply of an in-scope product has been made and (b) a deposit has been charged but (c) the in-scope bottle or container has not been returned, in accordance with the Deposit Return Scheme Regulations, then the taxable amount referable to the deposit is the amount of that deposit and the approved operator of the scheme is deemed to be the accountable person liable to lodge returns and remit the tax arising.

Paragraph (b) amends section 120(10) and provides for the making of regulations by introducing a new paragraph (1).

Paragraph (b)(i) is a technical amendment.

Paragraph (b)(ii) inserts a new paragraph (1) which provides for the making of regulations including how to account for the tax due and payable and the method used to calculate that tax.

The DRS is expected to go into operation on 1 February 2024.

Commencement

This section has effect from the date of passing of the Finance Act (18 December 2023).

62. Amendment of section 86 of the Value-Added Tax Consolidation Act 2010 (Provision for Tax Invoiced by Flat-Rate Farmers)

Summary

This section amends section 86 of the Value-Added Tax Consolidation Act 2010 to confirm the decrease in the farmers' flat-rate addition from 5 per cent to 4.8 per cent as announced in the Budget.

Details

The flat-rate scheme is a simplified and practical method of applying VAT to farming. It compensates unregistered farmers, on an overall basis, for the VAT charged to them on their purchases of goods and services. 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 businesses treat the flat-rate amount as normal business inputs in their periodic VAT returns. The Scheme is reviewed annually to ensure the rate is at the appropriate level to achieve full compensation.

The new rate of 4.8 per cent for 2024 will achieve full compensation under the scheme.

Commencement

This section has effect from 1 January 2024.

63. Amendment of paragraph 6(1) of Schedule 1 to the Value-Added Tax Consolidation Act 2010 (Financial Services)

Summary

This section amends paragraph 6(1)(a) of Schedule 1 to the Value-Added Tax Consolidation Act 2010. The amendment deletes the word “issuing” as the issuing of shares is already outside the scope of VAT and therefore it is incorrect to regard the issuing of shares as exempt.

Details

Section 63 amends paragraph 6(1)(a) of Schedule 1 to the VAT Consolidation Act 2010 to ensure that VAT legislation correctly reflects the VAT Directive and CJEU case law. The issuing of shares is outside the scope of VAT. For clarity it should be noted that the term ‘issuing of shares’ refers to the first issue of shares.

Commencement

This section has effect from the date of passing of the Finance Act (18 December 2023).

64. Amendment of paragraph 11 of Schedule 1 to the Value-Added Tax Consolidation Act 2010 (Letting of Immovable Goods)

Summary

This section amends paragraph 11(1) of Part 2 of Schedule 1 by explicitly providing for the VAT exemption on the provision of emergency accommodation.

Details

Paragraph (a) amends paragraph 11(1) of Schedule 1 to the Value-Added Tax Consolidation Act 2010 by specifying that the letting of immovable goods, including a letting of emergency accommodation, is exempt from VAT.

Paragraph (b) provides that supplies coming within the ambit of paragraph 11 of Schedule 3 to the Value-Added Tax Consolidation Act 2010 do not include such supplies where they are used or are to be used as emergency accommodation.

Commencement

This section has effect from the date of passing of the Finance Act (18 December 2023).

65. Amendment of Schedule 2 and Schedule 3 to the Value-Added Tax Consolidation Act 2010 (zero-rated goods and services)

Summary

This section amends Schedules 2 and 3 of the Value-Added Tax Consolidation Act 2010. The amendments to Schedule 2 provide for the zero-rating of audio books supplied on a physical means of support and the electronic supply of books, excluding the supply of any such material wholly or predominantly devoted to advertising or consisting wholly or predominantly of audible music or video content.

The amendment to Schedule 3 is required for drafting reasons following the move of electronic books to the zero-rate. It clarifies the application of the 9% rate to certain electronic matter and will not lead to a change in the current application of the 9% rate – apart from the move of e-books to the zero rate.

Details

Paragraph (a)(i) amends paragraph 9 of Part 2 of Schedule 2 by providing for a zero rate to apply to audiobooks supplied on a physical means of support.

Paragraph (a)(ii) amends paragraph 9A of Part 2 of Schedule 2 to apply the zero rate to electronically supplied books, newspapers and audiobooks, provided that these are not wholly or predominantly devoted to advertising or consist wholly or predominantly of video content or audible content, and which are not the electronic supply of items mentioned in subparagraphs (b) to (e) of paragraph 9, or in subparagraphs (a) to (f) of paragraph 7A of Schedule 3.

Paragraph (b) amends paragraph 7A of Schedule 3 to clarify the application of the 9% rate to the electronic supply of periodicals, brochures, leaflets and programmes,

catalogues, including directories and similar printed matter, maps, hydrographic and similar charts, children's picture, drawing or colouring books, or music printed or in manuscript form, but excluding the supply of any such material which is wholly or predominantly devoted to advertising or consists wholly or predominantly of audible music or video content. This clarification does not lead to a change in the current application of the 9% rate.

Commencement

This section has effect from 1 January 2024.

66. Amendment of Schedule 2 to the Value Added Tax Consolidation Act 2010 (Zero Rated Goods and Services)

Summary

This section amends Schedule 2 of the Value-Added Tax Consolidation Act 2010 to provide for the zero-rating of the supply and installation of solar panels on or adjacent to buildings used wholly or predominantly for the provision of primary or post-primary education by recognised schools within the meaning of the Education Act 1998.

Details

This section amends paragraph 14 of Part 2 of Schedule 2 by extending its scope to buildings used wholly or mainly for the provision of primary or post-primary education. The zero rate will now apply to the supply and installation of solar panels on or adjacent to such buildings.

The zero rate also applies to ancillary equipment supplied and installed with the solar panels as part of the same supply and install contract for the solar panels such as wiring, the controller, the combiner box, the batteries etc.

Commencement

This section has effect from the date of passing of the Finance Act (18 December 2023).