



STATUTORY INSTRUMENTS.

S.I. No. 340 of 2014



EUROPEAN UNION (VALUE-ADDED TAX) REGULATIONS 2014

EUROPEAN UNION (VALUE-ADDED TAX) REGULATIONS 2014

I, MICHAEL NOONAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Article 5 of Council Directive 2008/8/EC of 12 February 2008¹ hereby make the following regulations:

1. These Regulations may be cited as the European Union (Value-Added Tax) Regulations 2014.

2. (1) Subject to paragraph (2), these Regulations come into operation on 1 January 2015.

(2) Regulation 3(i), insofar as it amends the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010) by the insertion of sections 91A, 91B(1) to (5) and 91D(1) to (5), comes into operation on 1 October 2014.

3. The Value-Added Tax Consolidation Act 2010 is amended—

(a) in section 33—

(i) in subsection (2) by deleting “and” at the end of paragraph (b) and inserting the following paragraph:

“(ba) the supply of telecommunications services, radio or television broadcasting services or electronically supplied services, together with the provision of accommodation of the kind specified in paragraph (b), where the supply is by the provider of that accommodation acting in his or her own name, and”,

and

(ii) in subsection (5)(j) by substituting “or” for “and”,

(b) in section 34—

(i) in paragraph (g) by inserting “(including the supply of tickets granting access to such an event)” after “exhibition”,

(ii) in paragraph (ga) by inserting “or the supply of tickets granting access to such an activity” after “such an activity”,

¹OJ No. L44, 20.2.2008, p.11

(iii) by inserting the following paragraph after paragraph (*kb*):

“(*kc*) if the supply of services consists of the provision of—

- (i) telecommunications services,
- (ii) radio or television broadcasting services, or
- (iii) electronically supplied services,

(other than the provision of those services to which paragraph (*c*) relates) to a non-taxable person, the place where that person is established, has a permanent address or usually resides;”,

and

- (iv) by deleting paragraph (*l*),
- (c) in section 37(4) by substituting “Subject to sections 91C(5) and 91E(5), in relation to” for “In relation to”,
- (d) in section 76(1) by inserting “and sections 91C(3) and 91E(3)” after “Subject to subsection (2)”,
- (e) in section 79(5)—
 - (i) by substituting “where section 91, 91C or 91E” for “where section 91”, and
 - (ii) by substituting “payable at the time specified in section 91(6), 91C(4) or 91E(4), as the case may be” for “payable at the time the VAT return is required to be submitted in accordance with section 91(6)”,
- (f) in section 84(3) by substituting “subsection (4) and sections 91C(7) and 91E(7)” for “subsection (4)”,
- (g) in Part 10 by inserting the following before section 86:

“Chapter 1

Special Schemes — Miscellaneous”,

- (h) in section 91 by inserting the following subsection after subsection (15):

“(16) This section shall not apply to electronic services supplied on or after 1 January 2015.”,
- (i) by inserting the following Chapter after section 91:

“Chapter 2

Special Schemes for Telecommunications Services, Broadcasting Services and Electronically Supplied Services

Definitions

91A. In this Chapter—

‘broadcasting services’ means either or both radio and television broadcasting services;

‘EU value-added tax’ means value-added tax referred to in the VAT Directive and includes tax within the meaning of section 2;

‘identified person’ has the meaning assigned to it by section 91B(4) or 91D(4), as the case may be;

‘Implementing Regulation’ means Council Implementing Regulation (EU) No 282/2011 of 15 March 2011² (as amended by Council Regulation (EU) No 967/2012 of 9 October 2012³);

‘Member State of consumption’ means the Member State in which the supply of scheme services takes place according to Article 58 of the VAT Directive;

‘Member State of identification’ means—

- (a) in the case of the non-Union scheme, the Member State in which the taxable person applies to be identified for the purposes of that scheme;
- (b) in the case of the Union scheme, the Member State in which the taxable person has established his or her business or, if the taxable person has not established his or her business in the Community, the Member State in which he or she has a fixed establishment and in which he or she chooses to be identified for the purposes of that scheme;

‘national tax number’ means a number (whether consisting of either or both numbers and letters) assigned to a taxable person who has not established his or her place of business in the Community by the person’s own national taxation authority;

‘non-Union scheme’ means the scheme for telecommunications services, broadcasting services or electronically supplied services supplied by a taxable person whose business is not established

²OJ No. L77, 23.3.2011, p.1

³OJ No. L290, 20.10.2012, p.1

in the Community, who has no fixed establishment in the Community and is not otherwise required to be registered for value-added tax in any Member State;

‘scheme services’ means telecommunications services, broadcasting services or electronically supplied services supplied to non-taxable persons referred to in Article 58 of the VAT Directive;

‘Union scheme’ means the scheme for telecommunications services, broadcasting services or electronically supplied services supplied by a taxable person whose business is established in the Community or who has a fixed establishment in the Community but whose business is not established in, and who has no fixed establishment in, the Member State of consumption;

‘VAT return’ means the statement containing the information necessary to establish the amount of EU value-added tax that has become chargeable in each Member State in respect of supplies of scheme services made during a calendar quarter.

Non-Union scheme (where the State is Member State of identification)

91B. (1) (a) A taxable person may opt to apply the non-Union scheme to his or her supplies of scheme services within the Community, provided that the taxable person—

- (i) makes or intends to make supplies of scheme services in the course or furtherance of business, and
- (ii) has not established his or her business in the Community, has no fixed establishment in the Community and is not otherwise required to be identified for value-added tax purposes in the Community.

(b) A taxable person may not be registered in the State for the purposes of the non-Union scheme if he or she—

- (i) is already identified in another Member State for the purposes of the non-Union scheme or the Union scheme, or
- (ii) is excluded from applying the non-Union scheme by Article 363 of the VAT Directive or Article 58 of the Implementing Regulation.

(2) The Revenue Commissioners shall establish and maintain a register (in this section referred to as the ‘identification register’) of persons who are identified in the State for the purposes of the non-Union scheme.

(3) A person who opts to be identified in the State for the purposes of the non-Union scheme shall notify the Revenue Commissioners by electronic means using such form as is made available by the Commissioners for that purpose, and shall, at the same time, provide them by electronic means with the following details:

- (a) the person’s name and postal address;
 - (b) his or her electronic addresses, including website addresses;
 - (c) his or her national tax number (if any);
 - (d) the date when his or her supplies of scheme services shall commence or have commenced;
 - (e) any previous registrations in any other Member State under the provisions of the non-Union scheme in that Member State, and
 - (f) a statement that the person is not a person registered, or otherwise identified, for value-added tax purposes within the Community.
- (4) (a) Where a person has provided the details required under subsection (3) and the Revenue Commissioners are satisfied that the requirements for registration for the purposes of the non-Union scheme are met they shall—
- (i) register that person in the identification register,
 - (ii) allocate to that person an identification number, and
 - (iii) notify that person by electronic means of the identification number and the date from which the registration takes effect.
- (b) For the purposes of this section, a person to whom such an identification number has been allocated under paragraph (a)(ii) shall be referred to as an ‘identified person’.

- (5) An identified person shall notify the Revenue Commissioners by electronic means of the following:
- (a) any changes in the details provided under subsection (3);
 - (b) if his or her taxable activity ceases or changes to the extent that he or she no longer satisfies the conditions specified in subsection (1)(a);
 - (c) if he or she wishes to de-register from the non-Union scheme.
- (6) The Revenue Commissioners shall remove an identified person from the identification register if—
- (a) they have reasonable grounds to believe that the identified person's taxable activities have ceased,
 - (b) the identified person has, in accordance with Article 58b of the Implementing Regulation, persistently failed to comply with the rules relating to the non-Union scheme, or
 - (c) the identified person notifies the Commissioners under subsection (5)(b) or (c).
- (7) (a) Subject to paragraph (b), an identified person shall within 20 days immediately following the end of each calendar quarter—
- (i) furnish to the Revenue Commissioners a VAT return, by electronic means using such form as is made available by the Commissioners for the purposes of the non-Union scheme and prepared in accordance with, and containing such particulars as are specified in, subsection (8), in respect of supplies of scheme services made in the Community in that quarter, and
 - (ii) remit to the Revenue Commissioners, at the same time as furnishing such VAT return, into a bank account designated by them and denominated in euro, the amount of EU value-added tax, if any, payable by that person in respect of that quarter in relation to—
 - (I) supplies of scheme services made in the State in accordance with section 34(kc), and

(II) supplies of scheme services made in other Member States in accordance with the provisions implementing Article 58 of the VAT Directive.

(b) Where an identified person has not made any such supplies of scheme services during a calendar quarter, he or she shall furnish a nil VAT return in respect of that quarter.

(8) The VAT return referred to in subsection (7) shall be made in euro and shall contain—

(a) the person's identification number,

(b) for each Member State where EU value-added tax has become due in respect of supplies of scheme services—

(i) the total value, exclusive of EU value-added tax, of supplies of scheme services made during the calendar quarter,

(ii) the amount of such value liable to EU value-added tax at the applicable rate or rates, and

(iii) the amount of EU value-added tax corresponding to such value at the applicable rate or rates,

and

(c) the total EU value-added tax due, if any.

(9) Where supplies have been made using a currency other than the euro, the exchange rate to be used for the purpose of expressing the corresponding amount in euro on the VAT return shall be that published by the European Central Bank for the last day of the calendar quarter to which the VAT return relates or, if there is no publication on that date, on the next date of publication.

(10) An identified person shall not make any deduction of tax in the VAT return, or make any adjustment to the amounts therein, in relation to any value-added tax incurred by him or her in the Community.

(11) Without prejudice to the provisions of section 99, corrections to a VAT return may be made by the identified person by electronic means within 3 years from the date the return concerned was due to be submitted.

(12) Where, on the 10th day following the due date for submission of the VAT return in accordance with subsection (7)(a), the return has not been submitted, the Revenue Commissioners shall issue a reminder by electronic means to the identified person.

(13) Where a VAT return has been submitted but no payment or only partial payment has been made, the Revenue Commissioners shall issue a reminder by electronic means to the identified person on the 10th day following the due date for payment of the EU value-added tax in accordance with subsection (7)(a).

(14) An identified person shall—

- (a) keep records of all transactions covered by the non-Union scheme and those records shall be sufficiently detailed, in accordance with Article 63c of the Implementing Regulation, to enable the Member State of consumption to verify that the VAT return is correct,
- (b) make such records available, by electronic means and on request, to the Revenue Commissioners,
- (c) make such records available, by electronic means and on request, to the relevant Member State of consumption, and
- (d) notwithstanding section 84, retain such records for each transaction until the expiry of a period of 10 years from 31 December of the year during which the transaction was carried out.

Non-Union scheme (where the State is Member State of consumption)

91C. (1) A person who—

- (a) is an identified person within the meaning of section 91B, or
- (b) applies the non-Union scheme under the provisions implementing the scheme in another Member State, where that other Member State is the Member State of identification,

shall be an accountable person for the purposes of this Act in relation to scheme services only insofar as those services are supplied in the State in accordance with section 34(kc) and, in relation to those supplies, for the purposes of this section shall be referred to as a ‘scheme participant’.

(2) A scheme participant shall be regarded as having fulfilled his or her obligations as an accountable person under subsection (3) of section 65 and shall not otherwise be obliged or entitled to be registered under that section.

(3) A scheme participant shall furnish the VAT return required for a calendar quarter under the provisions of the non-Union scheme to the tax authorities of the Member State of identification on or before the 20th day of the month immediately following the end of the relevant calendar quarter and, for the purposes of this Act, to the extent that the VAT return relates to scheme services taxable in the State, the VAT return shall be—

- (a) treated, with any necessary modifications, as if it were a return required to be furnished in accordance with section 76, and
- (b) deemed to have been received by the Collector-General on the date it was received by the tax authorities of the Member State of identification,

and this Act shall apply to the scheme participant and have effect as if in section 76(1)—

- (i) ‘on or before the 20th day’ were substituted for ‘within 9 days immediately after the 10th day’,
- (ii) ‘a calendar quarter’ were substituted for ‘a taxable period’, and
- (iii) in paragraphs (a)(i) and (b) ‘that calendar quarter’ were substituted for ‘that taxable period’ in each place.

(4) A scheme participant shall remit the tax payable in relation to a calendar quarter under the provisions of the non-Union scheme to the tax authorities of the Member State of identification on or before the 20th day of the month immediately following the end of the relevant calendar quarter and, for the purposes of this Act, to the extent that the tax payable relates to scheme services taxable in the State, the tax payable shall be—

- (a) treated as if it were tax payable in accordance with section 76, and
- (b) deemed to have been paid to the Collector-General on the date it was received by the tax authorities of the Member State of identification,

and this Act shall apply to the scheme participant and have effect as if in section 76(1)—

- (i) ‘on or before the 20th day’ were substituted for ‘within 9 days immediately after the 10th day’,
- (ii) ‘a calendar quarter’ were substituted for ‘a taxable period’, and
- (iii) in paragraphs (a)(i) and (b) ‘that calendar quarter’ were substituted for ‘that taxable period’ in each place.

(5) Where supplies have been made using a currency other than the euro, the exchange rate to be used for the purpose of expressing the corresponding amount in euro in the VAT return shall be that published by the European Central Bank for the last day of the calendar quarter to which the VAT return relates or, if there is no publication on that date, on the next date of publication.

(6) Notwithstanding Chapter 1 of Part 8, a scheme participant—

- (a) shall not, in computing the amount of tax payable by him or her in respect of scheme supplies, be entitled to deduct any tax borne or paid in relation to those supplies, but
- (b) shall be entitled to claim a refund of such tax in accordance with, and using the rules applicable to, Council Directive No. 86/560/EEC of 17 November 1986⁴, notwithstanding Articles 2(2) and (3) and 4(2) of that Directive.

(7) Notwithstanding section 84, a scheme participant who supplies scheme services which, in accordance with section 34(kc), are supplied in the State shall be bound by the requirements of section 91B(14)(a), (b) and (d) in relation to such supplies and retain such records until the expiry of a period of 10 years from 31 December of the year during which the transaction was carried out.

Union scheme (where the State is Member State of identification)

- 91D. (1) (a) A taxable person may opt to apply the Union scheme to his or her qualifying supplies of scheme services within the Community, provided that the taxable person—

⁴OJ No. L326, 21.11.1986, p.40

- (i) makes or intends to make qualifying supplies of scheme services in the course or furtherance of business,
 - (ii) has established his or her business in the State or, if he or she has not established his or her business in the Community, the taxable person has a fixed establishment in the State, and
 - (iii) has been assigned a registration number under section 65(2).
- (b) For the purposes of this section, subject to paragraph (c), a supply of a scheme service is a qualifying supply of a scheme service where—
- (i) the service is supplied to a non-taxable person in a Member State other than the State, and
 - (ii) the taxable person does not have a fixed establishment in that other Member State.
- (c) A taxable person may not be registered in the State for the purposes of the Union scheme if he or she—
- (i) is already identified in another Member State for the purposes of the non-Union scheme or the Union scheme, or
 - (ii) is excluded from applying the Union scheme by any provision of the Implementing Regulation.

(2) The Revenue Commissioners shall establish and maintain a register (in this section referred to as the ‘identification register’) of persons who are identified in the State for the purposes of the Union scheme.

(3) A person who opts to be identified in the State for the purposes of the Union scheme shall notify the Revenue Commissioners by electronic means using such form as is made available by the Commissioners for that purpose, and shall, at the same time, provide them by electronic means with the following details (unless that information has already been provided):

- (a) the person’s name and postal address;
- (b) his or her electronic addresses, including website addresses;
- (c) the registration number assigned to the person under section 65(2);

- (d) the date when his or her supplies of qualifying scheme services shall commence or have commenced;
 - (e) the date from which the person wishes to be identified in the State;
 - (f) any fixed establishments of that person in the Community (other than fixed establishments belonging to a group within the meaning of section 15);
 - (g) any previous registrations in any other Member State under the provisions of the Union scheme in that Member State, and
 - (h) such other information, necessary for the purpose of identification for the scheme, as may be specified in the form.
- (4) (a) Where a person has provided the details required under subsection (3) and the Revenue Commissioners are satisfied that the requirements for registration for the purposes of the Union scheme are met they shall—
- (i) register that person in the identification register, and
 - (ii) notify that person by electronic means of the date from which the registration takes effect.
- (b) For the purposes of this section, a person who has been registered under paragraph (a) shall be referred to as an ‘identified person’.
- (5) An identified person shall notify the Revenue Commissioners by electronic means of the following:
- (a) any changes in the details provided under subsection (3);
 - (b) if his or her taxable activity ceases or changes to the extent that he or she no longer satisfies the conditions specified in subsection (1)(a);
 - (c) if he or she wishes to de-register from the Union scheme.
- (6) The Revenue Commissioners shall remove an identified person from the identification register if—

- (a) they have reasonable grounds to believe that the identified person's taxable activities have ceased,
 - (b) the identified person has, in accordance with Article 58b of the Implementing Regulation, persistently failed to comply with the rules relating to the Union scheme, or
 - (c) the identified person notifies the Commissioners under subsection (5)(b) or (c).
- (7) (a) Subject to paragraph (b), an identified person shall, within 20 days immediately following the end of each calendar quarter—
- (i) furnish to the Revenue Commissioners a VAT return, by electronic means using such form as is made available by the Commissioners for the purposes of the Union scheme and prepared in accordance with, and containing such particulars as are specified in, subsection (8), in respect of qualifying supplies of scheme services made in the Community in that quarter, and
 - (ii) remit to the Revenue Commissioners, at the same time as furnishing such VAT return, into a bank account designated by them and denominated in euro, the amount of EU value-added tax, if any, payable by that person in respect of that quarter in relation to qualifying supplies of scheme services.
- (b) Where an identified person has not made any such qualifying supplies of scheme services during a calendar quarter, he or she shall furnish a nil VAT return in respect of that quarter.
- (8) The VAT return referred to in subsection (7) shall be made in euro and shall contain—
- (a) the person's identification number,
 - (b) for each Member State where EU value-added tax has become due in respect of qualifying scheme services—
 - (i) the total value, exclusive of EU value-added tax, of supplies of scheme services made during the calendar quarter,

- (ii) the amount of such value liable to EU value-added tax at the applicable rate or rates, and
 - (iii) the amount of EU value-added tax corresponding to such value at the applicable rate or rates,
- and

(c) the total EU value-added tax due, if any.

(9) Where supplies have been made using a currency other than the euro, the exchange rate to be used for the purpose of expressing the corresponding amount in euro on the VAT return shall be that published by the European Central Bank for the last day of the calendar quarter to which the VAT return relates or, if there is no publication on that date, on the next date of publication.

(10) An identified person shall not make any deduction of tax in the VAT return, or make any adjustment to the amounts therein, in relation to value-added tax deductible pursuant to Article 168 of the VAT Directive.

(11) Without prejudice to the provisions of section 99, corrections to a VAT return may be made by the identified person by electronic means within 3 years from the date the return concerned was due to be submitted.

(12) Where, on the 10th day following the due date for submission of the VAT return in accordance with subsection (7)(a), the return has not been submitted, the Revenue Commissioners shall issue a reminder by electronic means to the identified person.

(13) Where the VAT return has been submitted but no payment or only partial payment has been made, the Revenue Commissioners shall issue a reminder by electronic means to the identified person on the 10th day following the due date for payment of the EU value-added tax in accordance with subsection (7)(a).

(14) An identified person shall—

- (a) keep records of all transactions covered by the Union scheme and those records shall be sufficiently detailed, in accordance with Article 63c of the Implementing Regulation, to enable the Member State of consumption to verify that the VAT return is correct,
- (b) make such records available, by electronic means and on request, to the Revenue Commissioners,

- (c) make such records available, by electronic means and on request, to the relevant Member State of consumption, and
- (d) notwithstanding section 84, retain such records for each transaction until the expiry of a period of 10 years from 31 December of the year during which the transaction was carried out.

Union scheme (where the State is Member State of consumption)

91E. (1) A person who applies the Union scheme under the provisions implementing the scheme in another Member State, where that other Member State is the Member State of identification, and who supplies scheme services which are taxable in the State shall, in relation to those supplies, be an accountable person for the purposes of this Act and for the purposes of this section shall be referred to as a ‘scheme participant’.

(2) Notwithstanding subsection (3) of section 65, a scheme participant shall, in relation to supplies of scheme services, be regarded as having fulfilled his or her obligations as an accountable person under that subsection and shall not be obliged or entitled to be registered under that section unless he or she is an accountable person other than in relation to the supply of scheme services.

(3) A scheme participant shall furnish the VAT return required for a calendar quarter under the provisions of the Union scheme to the tax authorities of the Member State of identification on or before the 20th day of the month immediately following the end of the relevant calendar quarter and, for the purposes of this Act, to the extent that the VAT return relates to scheme services taxable in the State, the VAT return shall be—

- (a) treated, with any necessary modifications, as if it were a return required to be furnished in accordance with section 76, and
- (b) deemed to have been received by the Collector-General on the date it was received by the tax authorities of the Member State of identification,

and this Act shall apply to a scheme participant and have effect as if in section 76(1)—

- (i) ‘on or before the 20th day’ were substituted for ‘within 9 days immediately after the 10th day’,

- (ii) ‘a calendar quarter’ were substituted for ‘a taxable period’, and
- (iii) in paragraphs (a)(i) and (b) ‘that calendar quarter’ were substituted for ‘that taxable period’ in each place.

(4) A scheme participant shall remit the tax payable in relation to a calendar quarter under the provisions of the Union scheme to the tax authorities of the Member State of identification on or before the 20th day of the month immediately following the end of the relevant calendar quarter and, for the purposes of this Act, to the extent that that tax payable relates to scheme services taxable in the State, the tax payable shall be—

- (a) treated as if it were tax payable in accordance with section 76, and
- (b) deemed to have been paid to the Collector-General on the date it was received by the tax authorities of the Member State of identification,

and this Act shall apply to a scheme participant and have effect as if in section 76(1)—

- (i) ‘on or before the 20th day’ were substituted for ‘within 9 days immediately after the 10th day’,
- (ii) ‘a calendar quarter’ were substituted for ‘a taxable period’, and
- (iii) in paragraphs (a)(i) and (b) ‘that calendar quarter’ were substituted for ‘that taxable period’ in each place.

(5) Where supplies have been made using a currency other than the euro, the exchange rate to be used for the purpose of expressing the corresponding amount in euro in the VAT return shall be that published by the European Central Bank for the last day of the calendar quarter to which the VAT return relates or, if there is no publication on that date, on the next date of publication.

(6) A scheme participant—

- (a) shall not, in computing the amount of tax payable by him or her in respect of supplies of scheme services, be entitled to deduct any tax borne or paid in relation to those supplies in the VAT return, but

(b) shall—

- (i) be entitled to claim a refund of such tax in accordance with, and using the rules applicable to, section 101, notwithstanding subsection (14) of that section, or
- (ii) where that participant is an accountable person other than in relation to supplies of scheme services, subject to Chapter 1 of Part 8, be entitled to deduct the tax borne or paid in the return which he or she is obliged to submit in accordance with Chapter 3 of Part 9.

(7) Notwithstanding section 84, a scheme participant who supplies scheme services which are taxable in the State shall be bound by the requirements of section 91D(14)(a), (b) and (d) in relation to such supplies and shall retain such records until the expiry of a period of 10 years from 31 December of the year during which the transaction was carried out.

Regulations: special schemes for telecommunications services, broadcasting services and electronically supplied services

91F. The Revenue Commissioners may make regulations as necessary for the purposes of giving effect to the non-Union scheme or the Union scheme, as the case may be.”,

(j) by inserting the following before section 92:

“Chapter 3

Suspension arrangements for alcohol products”,

(k) in section 101(14) by substituting the following for paragraph (a):

“(a) goods or services in respect of which the place of supply is the Member State of refund, other than—

- (i) goods or services for which the person who receives them is liable, or
- (ii) services, the supply of which is taxable in accordance with section 34(kc), to which the Union scheme (within the meaning of section 91A) applies,

or”,

(l) in section 102(3) by substituting the following for paragraph (b):

“(b) supplies no goods or services in the State other than—

- (i) services for which, in accordance with section 10, 12, 16(3)(b) or 17(1), the person to whom they are supplied is solely liable for the tax that is chargeable, or
 - (ii) services, the supply of which is taxable in accordance with section 34(kc), to which the non-Union scheme (within the meaning of section 91A) applies.”
- (m) in section 114(1) by substituting “section 76, 77, 91C(4) or 91E(4)” for “section 76 or 77”,
- (n) in section 115(1) by inserting “91C(3) or (4), 91E(3) or (4),” after “86(1),” and
- (o) in section 120(10)—
- (i) in paragraph (h) by substituting “operate,” for “operate.”, and
 - (ii) by inserting the following paragraph after paragraph (h):
 - “(i) the manner in which the non-Union scheme or Union scheme (both within the meaning of section 91A) shall operate.”.



GIVEN under my Official Seal
17 July 2014.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of these Regulations and does not purport to be a legal interpretation.)

These Regulations transpose into Irish law Article 5 of Council Directive 2008/8/EC. Council Directive 2008/8/EC amends Council Directive 2006/112/EC on the common system of value-added tax as regards the rules on the place of supply of telecommunications, broadcasting and electronically supplied services to non-taxable persons and the related special schemes for businesses making such supplies. Transposition is effected by way of amendment of the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010). The amendments will come into force from 1 January 2015, however, Regulation 3(i) insofar as it inserts section 91A, section 91B(1) to (5) and section 91D(1) to (5) will come into operation on 1 October 2014 to facilitate registration in the State for the purpose of the special schemes to which those sections refer.

An explanation of the Regulations is set out below.

Regulation 1 gives the title of the Regulations.

Regulation 2 gives the dates of coming into effect of the Regulations.

Regulation 3 (in paragraphs (a) to (o) as follows) amends sections 33, 34 and 91 and inserts a new chapter in Part 10 to give effect to the Directive. It also amends sections 37, 76, 79, 84, 101, 102, 114, 115 and 120 to deal with consequential and cross-referencing.

Paragraph (a) amends section 33(2) of the VAT Consolidation Act 2010 to insert a new paragraph (ba). Paragraph (ba) provides that the supply of telecommunications services, broadcasting services or electronically supplied services when supplied together with hotel or similar accommodation, where the supply is by the provider of that accommodation acting in his/her own name, is a supply of services connected with immovable goods.

Paragraph (b) amends section 34, which deals with the place of supply of services. Subparagraphs (b)(i) and (ii) amend paragraphs (g) and (ga) respectively to clarify that the place of supply of tickets in relation to a cultural, artistic, sporting, scientific, educational, entertainment event or activity is where the event or activity takes place. Subparagraph (b)(iii) inserts a new paragraph (kc) to provide that the place of supply of telecommunications services, radio or television broadcasting services or electronically supplied services made to non-taxable persons is the place where that person is established, has a permanent address or usually resides. Subparagraph (b)(iv) deletes paragraph (l) which deals with the place of supply of electronically supplied services but which is no longer required as a result of the insertion of the new paragraph (kc).

Paragraphs (c), (d), (e) and (f) amend sections 37, 76, 79 and 84 respectively to provide for necessary cross-referencing to the new Chapter 2 in Part 10 inserted by paragraph (i).

Paragraph (g) amends Part 10, which deals with special schemes, to provide for a new Chapter 1 as a consequence of the division of that part into three separate chapters. The new schemes being introduced are contained in Chapter 2.

Paragraph (h) amends section 91, which deals with the current VAT on electronic services scheme. The amendment inserts a new subsection (16) which disapplies that scheme in relation to supplies made on or after 1 January 2015 when the new scheme inserted by paragraph (i) will take effect.

Paragraph (i) inserts a new “Chapter 2 Special Schemes for Telecommunications Services, Broadcasting Services and Electronically Supplied Services” into Part 10. The new Chapter contains six new sections 91A, 91B, 91C, 91D, 91E and 91F. These sections set out the details of the optional EU schemes for businesses who supply telecommunications, broadcasting or electronically supplied services to non-taxable persons. There are two schemes, one for businesses established outside the EU (the non-Union scheme) and one for businesses established within the EU (the Union scheme). These EU schemes allow businesses who make such supplies, which are taxable where the customer resides, to file and pay the VAT due to each Member State through a web portal in one Member State. Chapter 2 gives effect to those schemes in Irish legislation.

Section 91A is a definitions section which is applicable to the special schemes for telecommunications services, broadcasting services and electronically supplied services.

Section 91B deals with the non-Union scheme and the rules applicable to taxable persons who choose to register in the State for the purposes of that scheme.

Subsections (1) to (5) deal with registration for the purposes of the non-Union scheme. Subsection (6) deals with cessation of registration. Subsections (7) to (14) deal with obligations under the scheme in relation to returns, payments and records.

Section 91C deals with the non-Union scheme as it applies to taxable persons who supply telecommunications, broadcasting or electronically supplied services to non-taxable persons within the State and who are therefore accountable persons in the State.

Subsection (1) clarifies that a person who makes taxable supplies in the State and who opts to use the non-Union scheme is an accountable person for the purposes of the VAT Consolidation Act 2010.

Subsections (2), (3) and (4) provide that a person who applies the non-Union scheme (whether in the State or another Member State) and who files a return and pays the tax due in the State, in accordance with the provisions of that scheme, will be regarded as having fulfilled his or her obligations in relation to registration, returns and payments under the VAT Consolidation Act 2010. The returns and payments made under the provisions of the scheme will be regarded

as if they were returns and payments which were required to be made under the normal return and payments provisions of that Act.

Subsection (5) deals with the exchange rate to be applied when completing the VAT return under the provisions of the non-Union scheme. Subsection (6) deals with the recovery of input credits for taxable persons using the non-Union scheme. Subsection (7) deals with record keeping requirements.

Section 91D deals with the Union scheme and the rules applicable to a taxable person who chooses to register in the State for the purposes of that scheme.

Subsections (1) to (5) deal with registration for the purposes of the Union scheme. Subsection (6) deals with cessation of registration. Subsections (7) to (14) deal with obligations under the scheme in relation to returns, payments and records.

Section 91E deals with the Union scheme as it applies to taxable persons who are registered for the purposes of the Union scheme in another Member State but who are accountable persons in respect of their supplies of telecommunications, broadcasting or electronically supplied services to non-taxable persons within the State.

Subsection (1) clarifies that a person who makes taxable supplies in the State and who opts to use the Union scheme in another Member State is an accountable person for the purposes of the VAT Consolidation Act 2010.

Subsections (2), (3) and (4) provide that a person who applies the Union scheme in another Member State and who, in accordance with the provisions of the scheme in that other Member State, files a return and pays the tax due in the State, will be regarded as having fulfilled his or her obligations in relation to registration, returns and payments under the VAT Consolidation Act 2010. The returns and payments made under the provisions of the scheme will be regarded as if they were returns and payments which were required to be made under the normal return and payments provisions of the Act.

Subsection (5) deals with the exchange rate to be applied when completing the VAT return under the Union scheme. Subsection (6) deals with the recovery of input credits for taxable persons using the Union scheme. Subsection (7) deals with record keeping requirements.

Section 91F provides that the Revenue Commissioners may make Regulations for the purposes of giving effect to the special schemes.

Paragraph (j) amends Part 10, which deals with special schemes, to provide a new Chapter 3 as a consequence of the division of that part into three separate chapters.

Paragraph (k) amends section 101, which deals with intra-Community refunds of tax, to allow taxable persons who use the Union scheme to avail of the electronic VAT refund system to recover input credits.

Paragraph (l) amends section 102, which deals with refunds to taxable persons established outside the State, to allow taxable persons who use the non-Union scheme to recover input credits under the provisions of that section.

Paragraphs (m) and (n) provide for necessary cross-referencing in sections 114 and 115, which deal with interest and penalties respectively, to ensure that the provisions of those sections will apply to accountable persons using the non-Union scheme or the Union scheme to fulfil their obligations under the VAT Consolidation Act 2010.

Paragraph (o) amends section 120, which deals with regulations, to provide for the making of regulations in relation to the operation of the non-Union scheme or the Union scheme.

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