

Irish VAT on the Supply of Services

Rules on place service is taxed

The rules in relation to the supply of services between European Union member states is distinct from that relating to goods. Under EU VAT law, the definition of a service is very widely drawn and will cover virtually anything, other than a sale of goods, for which a fee is charged. This is a common trap with VAT, where say a one off transaction, can create a VAT liability.

VAT is charged in the place where the supply takes place or is deemed to have taken place. The basic rule with the supply of services is that services are deemed to be supplied where the supplier's business is established (located). Where the business is established in a number of locations, the relevant establishment is the one most closely connected with the service concerned. .

The term establishment is similar to the term permanent establishment which is relevant to Corporation Tax. An establishment must contain a permanent presence of human and technical resources necessary to supply the service. The existence of stock at one place will not necessarily create an establishment since the human and technical resource to supply the service will also be required.

In the case of supplies connected with a property, the supply is always deemed to take place where the property is situated. For example, conveyancing, architectural fees etc. will always be deemed to take place in the country where the property is situate.

Certain services are deemed to be supplied where they are physically performed. These include cultural, artistic, supporting scientific educational and similar services.

Fourth Schedule Services

Certain services are deemed to be supplied where they are received. The recipient must account for VAT on the value of the service in its EU state of establishment. These are so called Fourth Schedule services. The Fourth Schedule to the VAT Act lists Fourth Schedule services. The Fourth Schedule covers many professional services supplied to VAT registered recipients.

The supply of a Fourth Schedule service by an Irish supplier to a person overseas will not be subject to Irish VAT, provided that the recipient is VAT registered and receives the service for a vatable purpose.

Where an Irish taxable person receives a Fourth Schedule service from overseas, he must account for Irish VAT at the appropriate rate on the value of the services received. The rate of tax would be the Irish rate. Financial services, legal services, insurance services are examples of Fourth Schedule services. A Fourth Schedule services will only arise, where the service is received for business purposes.

When financial, legal or insurance services are provided by an Irish company to a company in London no Irish VAT will arise because the supply is deemed to be in the UK and the English company would be obliged to self account for VAT on the receipts.

VAT on Distance Selling

Distance selling is the supply of goods to unregistered persons in other EU states. They will typically be end user consumers or very small businesses operating below VAT registration thresholds. This may arise by way of e-commerce, exports etc.

Below the thresholds below, VAT applies in the state of export. Where the turnover thresholds are exceeded, then VAT will arise in the state of import.

The basic rule is that goods supplied under a distance selling arrangement are deemed to be supplied (and accordingly subject to VAT) in the country in which they are received. Apart from goods subject to excise e.g. tobacco, alcohol etc., this is only deemed to be the case if the supplier exceeds the turnover threshold in the member state of export or the supplier elects to register in that member state. The distance sales threshold for the UK is £70,000 p/a at present.

If an Irish business sells goods and services into the UK and the turnover thresholds are not exceeded, Irish VAT will be charged to the customer. The Irish business may elect to register for UK VAT. In this event, UK VAT (which may be at a lower rate) will apply.

Once the sales to non registered persons in the UK exceeds the registration threshold, then the distance selling rules apply. In this case registration in the country of receipt (in this case UK) is mandatory.

The above rules do not apply to excisable products. Any sales of excisable products (e.g. alcohol or tobacco) supplied to individuals require registration for VAT (and accounting for VAT) in that state irrespective of whether the threshold is exceeded.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances. This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.