

## VAT on Trade with EU

### Overview

VAT is an EU wide tax. For the most part, the VAT rules encountered in Ireland correspond to the VAT rules in the rest of the EU. Therefore the VAT rules which apply to importing and exporting will generally apply in reverse from the perspective of a business in another EU country.

### Imports into Ireland from EU

Where a VAT registered business imports goods from another EU member state the following rules apply. The supplier of the goods charges VAT in his State at zero rate. This means that the supplier can recover VAT on the purchases relating to the goods supplied. The supplier will have to file a declaration in respect of all such supplies in his own State and may have to file a statistical return.

The business which acquires the goods from the other EU member State must ~~self~~ account for the VAT on the acquisition in his VAT returns in the State of import. This reverses the normal rule by which the supplier normally accounts for and pays the VAT.

Assuming the importer charges VAT on all of his sales and is accordingly entitled to recover VAT on all the corresponding purchases, there would be no actual cash flow charge. The purchaser self accounts for VAT by simultaneously charging the VAT and taking a corresponding credit. If the business did not have full VAT recovery some VAT liability may arise.

The above rules do not apply to motor vehicles, vessels and aircraft which are subject to special rules.

## **Export to a Business in another EU State**

Where an Irish registered business supplies goods to a person registered for VAT in another EU state (e.g. exporting to a business in the UK) a so called **intra-Community supply** arises. This is the reverse of the above import rules. The customer's VAT number must be obtained and the supplier must obtain proof of dispatch to the other member state. The customer's VAT record must be fully quoted in the invoice.

The place of supply of an intra Community supply is where the transport begins i.e. in the exporter's State. Provided the above conditions are met, the supply to another European Union member state will be zero rated. This enables the exporter to recover VAT on his corresponding purchases.

It is necessary to obtain proof of transport. Delivery dockets or bills of lading will be acceptable and should be available to the supplier. Proof of removal from the state is essential. Revenue may require to see transport documents, copies of warehouse receipts, delivery documents etc. If there is any doubt involved, the supplier should charge Irish VAT and will be entitled to recover. It is essential to verify the customer's EU VAT number. The Revenue Commissioners have a facility to confirm whether a particular VAT number is correct. It is not required to verify every number. A common sense approach is required.

The movement of goods from an Irish company to its European Union branch can be a supply of goods for the purpose of the VAT rules. The supply will be zero rated in Ireland and the goods will be subject to corresponding rules in the member state of arrival. There is relief available whereby no supply is deemed to have taken place and no VAT is payable.

## **Supply of Services**

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 situated.

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.

Where an Irish recipient is self accounting the Fourth Schedule services will only apply where it is received for business purpose. Therefore 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.

## **Returns**

Any person who supplies goods to a VAT registered business in another EU state will have to file a VAT information exchange system statement (VIES). This will include branch transfers but would not include sales to private individuals where the distance selling threshold has not been exceeded. .

The VIES returns must be made quarterly (they may be made monthly or annually depending on circumstances).

Where a company's trade is over certain thresholds, an intrastat return is required. An Intrastat return is the statistical return. The return will generally be required with the

normal bi-monthly VAT returns. The Intrastat return contains details of all community goods and related services supplied by the Irish trader to another member state on which VAT became chargeable. It would also include details of all intra community acquisitions of goods and related services by an Irish trader. Intrastat returns are required monthly.

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*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.*

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