

INFORMATION - Ireland

Use and Enjoyment - VAT Directive 2006/112/EC - Article 59a

In Ireland, there are use and enjoyment rules applicable to the supply of telecommunications services, radio or television broadcasting services to non-VAT taxable persons. Accordingly:

Where the place of supply is outside the EU but the service is used and enjoyed in Ireland, these services will be subject to Irish VAT.

Reference to the above may be found in Section 35(3) of the Irish VAT Consolidation Act 2010.

In addition, there are use and enjoyment rules applicable to the provision of telecommunications services by a taxable person established in Ireland to a non-VAT taxable person. Accordingly:

Where the place of supply is outside the EU but the service is used and enjoyed in Ireland, these services will be subject to Irish VAT.

Reference to the above may be found in Section 35(4) of the VAT Consolidation Act 2010.

Time of supply / chargeability - Deferment and Cash Accounting Scheme - VAT Directive 2006/112/EC - Article 66

In Ireland, the general rule is that services become taxable upon payment being made for the services or when the service is supplied, whichever of the events takes place first. (Section 74(1)(d) of the VAT Consolidation Act 2010). A cash accounting scheme is available in Ireland according to which suppliers can account for VAT on the basis of the moneys received if 90% of the provider's turnover is derived from taxable supplies to customers who are not VAT registered, or alternatively if the supplier's annual turnover is less than EUR 2 million. This applies regardless of whether the VAT registered person is Irish established or a non-established trader.

Reference to the above may be found in Section 80 of the Irish VAT Consolidation Act 2010. In the case of advance payments, the tax becomes due when payment is made (Section 74(2) of the VAT Consolidation Act 2010 refers).

Time of supply / chargeability - Continuous supplies - VAT Directive 2006/112/EC - Article 64(2)

In Ireland, there is a special rule in relation to a continuous supply of telecommunications services supplied to non-VAT taxable persons. In such circumstances the tax becomes due at time of issue of a statement of account, which must be issued at least once every three months.

Reference to the above may be found in the Sections 74 1(c) of the VAT Consolidation Act 2010.

Re-valuation of services at open market value - VAT Directive 2006/112/EC - Article 80

The Revenue Commissioners may determine that the consideration for a supply is deemed to be the open market value where:

- the consideration is lower than the open market value where the recipient is not entitled to any deduction, or is not entitled to full deductibility on that supply, or is a flat-rate farmer; or
 - the consideration is higher than the market value where the supplier engages in non-deductible supplies or activities, or is a flat-rate farmer
- and the supplier and the recipient of the supply are connected persons.

Reference to the above may be found in the Section 38 of the VAT Consolidation Act 2010.

Bad Debt relief - VAT Directive 2006/112/EC - Article 90

Bad debt relief is available in Ireland provided that all efforts to recover the debt have been made, the debt is written off in the statutory accounts and the person from whom the bad debt is due is not connected to the supplier.

Reference to the above may be found in the Section 39 (2) and (3) of the VAT Consolidation Act 2010, and Regulation 10 of the Irish VAT Regulations, 2010.

Application of reduced VAT rates - VAT Directive 2006/112/EC - Article 98

In Ireland, no reduced VAT rates apply with respect to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Standard VAT Rate - VAT Directive 2006/112/EC - Article 96-97

In Ireland the standard VAT rate is 23%.

Release from payment of insignificant amounts of VAT - VAT Directive 2006/112/EC - Article 212

Ireland has not implemented rules under its domestic legislation whereby taxable persons are released from the payment of the VAT where the amount due is insignificant.

Invoicing Obligations - Obligation to issue an invoice - VAT Directive 2006/112/EC - Articles 217-249

In Ireland, there is no obligation to issue a VAT invoice with respect to the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Content of an invoice - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Time limit for issuing an invoice - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Summary Invoices - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Electronic invoices - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Batch of electronic invoices - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Additional obligations deemed necessary for collecting VAT and preventing evasion (anti-avoidance measures) - VAT Directive 2006/112/EC - Article 273

Ireland has not implemented any specific rules or anti-avoidance measures that directly impact telecommunications, broadcasting and electronic services provided to non-VAT taxable persons. However, the general anti-avoidance provisions under Section 811 of the Taxes Consolidation Act 1997 do apply.

Stand-still scheme - Derogations for States which were members of the Community on 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391

There are no provisions which are applicable under a Stand-still Scheme in the VAT legislation or subject to common practice in Ireland that may be relevant for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Stand-still scheme - Derogations for States which acceded to the Community after 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391

N/A

VAT Treatment of vouchers

In Ireland, vouchers are generally taxable on redemption on the redeemable value. However, where the consideration paid exceeds the redeemable value of the voucher, VAT is payable on the excess consideration over the redeemable value upon sale of the voucher. The general rule will still apply to the consideration which represents the redeemable value. A further exception arises where vouchers are purchased and sold within a supply chain in the State. In that case, VAT applies on each supply and does not arise upon redemption of the voucher. Voucher is not defined in legislation but the legislation refers to a "coupon, stamp, telephone card, token or voucher which has a redeemable value". Telephone cards are treated in the same manner as vouchers. Reference to the above may be found in Section 43 of the VAT Consolidation Act 2010.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (E-learning activities)

Educational services including vocational training or retraining are VAT exempt without input deduction in Ireland when provided by a "Recognised Body". Reference to the above may be found in Schedule 1, part 1, para 4(3) of the VAT Consolidation Act 2010 as amended by section 54(b) of Finance Act 2015 which can be accessed here (<http://www.irishstatutebook.ie/eli/2015/act/52/section/54/enacted/en/html#sec54>). Where eLearning activities fulfil the relevant criteria they can qualify for the exemption and are regarded as electronic services where the service provided is automated with little or no human intervention.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (Gambling activities)

Betting is an exempt activity where the outcome of an event (horse race, dog race, football match and national lottery numbers) is unknown with the odds being set by a bookmaker.

Reference to the above may be found in Schedule 1, part 2, para 10 of the Irish VAT Consolidation Act 2010. This exemption extends to online betting.

Gaming is taxable at the standard rate. "Gaming" means playing a game, whether of skill or chance or partly of skills and partly of chance, for stakes hazarded by the players (e.g. roulette, bingo, blackjack etc.) which contrasts with bets on the outcome of sports events. The supply of such games of chance delivered over a network or an electronic interface ("eGaming") is taxable in Ireland at the standard rate of VAT. The net revenue actually received by the eGaming operator is taxable. Bonuses, free plays and other promotional discounts as part of eGaming activities are excluded from any calculation of the consideration on which VAT is due.

Further information on eGaming may be found in Revenue eBrief 104/14

(<http://www.revenue.ie/en/practitioner/ebrief/archive/2014/no-1042014.html>)

and eBrief 18/15 (<http://www.revenue.ie/en/practitioner/ebrief/archive/2015/no-182015.html>).

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (General)

There are no further exemptions in the Irish VAT legislation under which the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons may fall.

VAT Registration Process

Revenue's VAT MOSS system is available for online registration. EU businesses may submit their registration details via the My Services section of their ROS account. Non-EU businesses may apply via the following link <https://www.ros.ie/vatmoss-web/vatmoss.html>. Any business wishing to register for MOSS in Ireland may contact the VAT MOSS helpdesk for further information using the following details:

Email: mossnsd@revenue.ie

Outside of Ireland: +353 42 9353 315 / +353 42 9353 347

Further information may also be found on the Irish Revenue website at

<http://www.revenue.ie/en/tax/vat/moss/index.html>

Access to web-portal and contact details of the local VAT Authorities

The Irish MOSS and 2015 POS Place Of Supply webpages (www.revenue.ie) have been up and running since April 2014 and are constantly updated. Registration for MOSS has been open for local and non-established businesses since 1 October 2014.

General Contact:

Dermot Donegan

Office of the Revenue Commissioners

VAT Policy and Legislation

New Stamping Building

Dublin Castle

Dublin 2

Ireland

e-mail: ddonegan@revenue.ie

tel: 00353 1 7024168

Appointment of a VAT Agent

The Irish legislation does not require the appointment of a VAT agent by non-established businesses.

Penalties for non-compliance (Failure to register and late registration)

In Ireland, the fixed penalty for non-registration or for late registration is EUR 4,000. The application of a penalty is not automatic and is subject to the Care and Management Provisions. Tax geared penalties for deliberate default can also be applied, where appropriate.

Reference to the above may be found in Section 115 and 116 of the VAT Consolidation Act 2010.

Penalties for non-compliance (Non-payment and late payment of VAT)

In Ireland, for failure to charge and pay VAT to the Irish Revenue, the fixed penalty is EUR 4,000. The application of a penalty is not automatic and is subject to the Care and Management Provisions and the discretion of the Revenue official dealing with the case.

Reference to the above may be found in Section 115 of the Irish VAT Consolidation Act 2010.

Failure to comply with MOSS rules in relation to payment dates can result in exclusion from MOSS resulting in a requirement to register in each Member State in which traders have customers.

Penalties for non-compliance (Non-submission and late submission of VAT returns)

In Ireland, the fixed penalty for late or non-submission of VAT returns is EUR 4,000. The application of a penalty is not automatic and is subject to Irish Care and Management Provisions and the discretion of the Revenue official dealing with the case.

Reference to the above may be found in Section 115 of the Irish VAT Consolidation Act 2010. Failure to comply with MOSS rules in relation to return filing dates can result in exclusion from MOSS resulting in a requirement to register in each Member State in which traders have customers.

Penalties for non-compliance (Incomplete and incorrect VAT returns)

In Ireland, the fixed penalty for incomplete or incorrect VAT returns is EUR 4,000. The application of a penalty is not automatic and is subject to Irish Care and Management Provisions and the discretion of the Revenue official dealing with the case. The penalty can be significantly higher in a formal audit or investigation context.

Reference to the above may be found in Section 115 and 116 of the Irish VAT Consolidation Act 2010.

Penalties for non-compliance (Non-compliance with invoicing and accounting obligations)

In Ireland, the fixed penalty for non-compliance with invoicing and accounting obligations is EUR 4,000. The application of a penalty is not automatic and is subject to Irish Care and Management Provisions and the discretion of the Revenue official dealing with the case. Note that an accountable person is not obliged to issue a VAT invoice with respect to the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

The penalty can be significantly higher in a formal audit or investigation context.

Reference to the above may be found in Section 115 and 116 of the Irish VAT Consolidation Act 2010.