



STATUTORY INSTRUMENTS.

S.I. No. 289 of 2009



VALUE-ADDED TAX (AMENDMENT) REGULATIONS 2009

(Prn. A9/1043)

VALUE-ADDED TAX (AMENDMENT) REGULATIONS 2009

The Revenue Commissioners, in exercise of the powers conferred on them by sections 10C and 32 of the Value-Added Tax Act 1972 (No. 22 of 1972), hereby make the following regulations:

1. (1) These Regulations may be cited as the Value-Added Tax (Amendment) Regulations 2009.

(2) These Regulations come into effect on 1 January 2010.

2. The Value-Added Tax Regulations 2006 (S.I. No. 548 of 2006) are amended by inserting after Regulation 33 the following:

“Operation of the travel agent’s margin scheme.

33A. (1) A travel agent who supplies margin scheme services shall calculate the amount of tax that is included in that travel agent’s margin in accordance with the following formula:

$$M \times \frac{R}{100 + R}$$

where—

M is the travel agent’s margin as calculated in accordance with this Regulation, and

R is the percentage rate of tax specified in section 11(1)(a) of the Act.

(2) A travel agent who is obliged to account for the tax due on his or her travel agent’s margin in respect of each transaction in accordance with section 10C of the Act may opt to fulfil that obligation by using the simplified accounting arrangements as provided for in this Regulation in respect of the totality of those transactions, and where a travel agent so opts he or she shall—

- (a) choose either the option provided for in paragraph (3) (referred to in this Regulation as ‘simplified accounting option 1’) or in paragraph (5) (referred to in this Regulation as ‘simplified accounting option 2’) and apply the chosen option as the method of accounting for all his or her supplies of margin scheme services,
- (b) obtain the prior consent of the Revenue Commissioners if he or she wishes to change that option, which change shall take effect only at the start of that travel agent’s accounting year, and

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 31st July, 2009.

- (c) create and maintain a record (referred to in this Regulation as a ‘margin scheme record’) containing details of the option chosen by the travel agent and the estimates and the adjustments made by the travel agent for the purposes of applying those simplified accounting arrangements.

(3) A travel agent who opts for simplified accounting option 1 in respect of his or her margin scheme services shall—

- (a) at the start of the accounting year estimate in accordance with paragraph (4) that travel agent’s percentage margin for each journey beginning during that accounting year,
- (b) apply the percentage so calculated to the consideration received in each taxable period of that accounting year in order to calculate the travel agent’s margin in respect of margin scheme services supplied in that taxable period and the amount of the tax that is included in that travel agent’s margin, and
- (c) include that tax in the return which the travel agent is required to furnish in accordance with section 19(3) of the Act for the taxable period in which the consideration is received.

- (4) (a) The estimate of the percentage margin referred to in paragraph (3)(a) for each journey beginning during an accounting year shall be calculated by the travel agent in accordance with the following formula:

$$\frac{(EA - EB)}{EA} \times 100$$

where—

EA is the total consideration which the travel agent estimates that he or she is entitled to receive in respect of or in relation to the supply of margin scheme services for all journeys beginning during that accounting year including all taxes, commissions, costs and charges whatsoever and value-added tax payable in respect of that supply, and

EB is the amount which the travel agent estimates is payable to that travel agent’s suppliers in respect of the bought-in services included in the supply of the margin scheme services referred to in EA, but any bought-in services purchased by the travel agent prior to 1 January 2010 in respect of which that travel agent claims deductibility in accordance with section 12 shall be disregarded.

- (b) In order to arrive at the total percentage margin, a travel agent may opt to subdivide the estimate of his or her percentage margin at the start of the accounting year on the basis of a regional,

seasonal or other identifiable category and in that case the estimates referred to in subparagraph (a) for the consideration and the amounts payable to the travel agent's suppliers should be apportioned accordingly for the purposes of the calculation in subparagraph (a).

- (c) The estimate of the percentage margin shall be based on the travel agent's actual and projected bookings for journeys beginning in the accounting year in question, or on any other basis which may be agreed with the Revenue Commissioners.
- (d) The percentage calculated in accordance with the formula in subparagraph (a), the basis for arriving at that percentage and the particulars of the estimate as provided for in subparagraphs (b) and (c) shall be recorded in the margin scheme record of the travel agent at the start of the accounting year.

(5) A travel agent who opts for simplified accounting option 2 in respect of his or her margin scheme supplies shall—

- (a) estimate in accordance with paragraph (6) that travel agent's margin in respect of margin scheme services supplied in a taxable period for each journey that begins in that taxable period on the basis of his or her best estimate,
- (b) calculate in accordance with paragraph (1) the amount of tax that is included in that travel agent's margin, and
- (c) include that tax in the return which that travel agent is required to furnish in accordance with section 19(3) of the Act in respect of that taxable period.

(6) The estimate of the travel agent's margin referred to in paragraph (5) for a taxable period shall be calculated by the travel agent in accordance with the following formula:

$$A - EB$$

where—

A is the total consideration which the travel agent becomes entitled to receive in respect of or in relation to the supply of margin scheme services for each journey that begins in that taxable period including all taxes, commissions, costs and charges whatsoever and value-added tax payable in respect of that supply, and

EB is the amount which the travel agent estimates is payable to that travel agent's suppliers in respect of the bought-in services included in the supply of the margin scheme services referred to in A, but any bought-in services purchased by the travel agent prior to 1

January 2010 in respect of which that travel agent claims deductibility in accordance with section 12 shall be disregarded.

(7) A travel agent who opts for simplified accounting option 1 or 2 is obliged at the end of the accounting year to carry out an annual review and make the necessary adjustments in accordance with paragraphs (8) to (10).

(8) For the purposes of carrying out the annual review and adjustments referred to in paragraph (7) for an accounting year a travel agent shall—

- (a) calculate his or her travel agent's margin in relation to the supply of margin scheme services for each journey which began in that accounting year in accordance with the following formula:

$$(Y - Z)$$

where—

Y is the total consideration which the travel agent became entitled to receive in respect of or in relation to a supply of margin scheme services in respect of each journey which began in that accounting year including all taxes, commissions, costs and charges whatsoever and value-added tax payable in respect of that supply, and

Z is the amount payable by the travel agent to all suppliers for bought-in services included in the supply of the margin scheme services referred to in A, but any bought-in services purchased by the travel agent prior to 1 January 2010 in respect of which that travel agent claims deductibility in accordance with section 12 shall be disregarded,

and

- (b) calculate in accordance with paragraph (1) the amount of tax that is included in the travel agent's margin as calculated in subparagraph (a).

(9) In order to determine whether the amount of tax calculated in accordance with paragraph (8)(b) for an accounting year differs from the tax accounted for in respect of the supply of margin scheme services for journeys which began in that accounting year, the travel agent shall calculate the amount of the difference in accordance with the following formula:

$$D - E$$

where—

D is the amount of tax calculated in accordance with paragraph (8)(b), and

E is the amount of tax actually accounted for by the travel agent in respect of the supply of margin scheme services for journeys that began in that accounting year,

and

- (a) where that D is greater than that E, the travel agent shall be liable for an amount of tax equal to the amount of the difference so calculated and that tax shall be payable as if it were tax due in accordance with section 19 of the Act, and
- (b) where that E is greater than that D the travel agent is entitled to increase the amount of tax deductible for the purposes of section 12 of the Act by an amount of tax equal to the amount of the difference so calculated.

(10) The tax payable or the increase in the amount of tax deductible calculated in accordance with paragraph (9) is to be included by the travel agent in the tax return required to be furnished in accordance with section 19(3) of the Act in—

- (a) the taxable period immediately following the end of the travel agent's accounting year, or
- (b) such later period which is agreed between the travel agent and the Revenue Commissioners.

(11) Where a travel agent supplies margin scheme services together with other goods and services to a traveller for a total consideration then, in order to establish the value of those services that are subject to the travel agent's margin scheme, the travel agent shall reduce that total consideration by an amount equal to the open market value of those other goods and services increased by the value-added tax applicable thereto.

(12) Where a travel agent makes a supply of margin scheme services to a traveller that includes bought-in services performed inside the Community and bought-in services performed outside the Community, then that agent shall apportion his or her travel agent's margin in accordance with the following formula:

$$F \times \frac{G}{H}$$

where—

F is the total travel agent's margin in respect of the margin scheme supply,

G is the cost to the travel agent of the goods and services used in that margin scheme supply that are bought-in services performed outside the Community, and

H is the total cost to the travel agent of all the bought-in services used in making that margin scheme supply.

(13) As regards the calendar year 2010, where the end date of the accounting year of the travel agent is other than 31 December, all references to accounting year for the purpose of applying this Regulation are to be taken as a reference to the period from 1 January 2010 to that end date.

(14) Nothing in this Regulation has the effect of including in the travel agent's margin scheme—

- (a) in respect of a travel agent that opts for the simplified accounting option 1, any consideration received by a travel agent before 1 January 2010 in respect of journeys beginning on or after that date, or
- (b) in respect of a travel agent that opts for the simplified accounting option 2, the travel agent's margin in respect of any journey which begins on or after 1 January 2010 for which full consideration was received prior to that date.”.

GIVEN under my hand,
28 July 2009.

MICHAEL O'GRADY,
Revenue Commissioner.

EXPLANATORY NOTE

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

These Regulations insert a new Regulation 33A into the Value-Added Tax Regulations 2006 (S.I. No. 548 of 2006) in relation to the travel agent's margin scheme. The scheme provides for the taxation, from 1 January 2010, of margin scheme services supplied by tour operators and travel agents, acting as principals (referred to in the VAT Directive as "travel agents"). The Regulations in particular cater for—

- simplified accounting arrangements,
- supplies to a traveller of margin scheme services together with goods and services provided from the travel agent's own resources,
- margin scheme services where the bought-in services are performed both inside and outside the Community, and finally
- transitional arrangements.

The Regulations come into effect on 1 January 2010.

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