



STATUTORY INSTRUMENTS.

S.I. No. 577 of 2009



VALUE-ADDED TAX (AMENDMENT) (NO. 2) REGULATIONS 2009

(Prn. A9/1920)

VALUE-ADDED TAX (AMENDMENT) (NO. 2) REGULATIONS 2009

The Revenue Commissioners, in exercise of the powers conferred on them by sections 10(3), 13(3) and 32 of the Value-Added Tax Act 1972 (No. 22 of 1972) make the following regulations:

1. (1) These Regulations may be cited as the Value-Added Tax (Amendment) (No. 2) 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—

(a) in Regulation 14—

(i) in paragraph (1)—

(I) by inserting the following definitions after the definition of “correction statement”:

“ ‘intra-Community supplies of goods’ has the meaning assigned to it by section 19A(1);

‘intra-Community supplies of services’ has the meaning assigned to it by section 19AA(1);”,

(II) by deleting the definition of “intra-Community supplies”,

(III) by substituting the following definition for the definition of “statement”:

“ ‘statement’ means a statement of intra-Community supplies of goods required to be furnished to the Revenue Commissioners by a taxable person in accordance with section 19A of the Act and intra-Community supplies of services required to be furnished to the Revenue Commissioners by a taxable person in accordance with section 19AA of the Act;”,

(ii) in paragraph (2)(a) by substituting “section 19A or 19AA of the Act to furnish a statement of intra-Community supplies of goods or intra-Community supplies of services” for “section 19A of the Act to furnish a statement of intra-Community supplies”,

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(iii) in paragraph (4) by inserting “of goods and intra-Community supplies of services” after “intra-Community supplies” in both places where it occurs,

(iv) by substituting the following paragraph for paragraph (7):

“(7) (a) An accountable person may, on written application to the Revenue Commissioners, be authorised by them to submit an annual statement in accordance with section 19A(4) of the Act where—

(i) his or her supplies of goods and services do not exceed or are not likely to exceed €85,000 in a calendar year, and

(ii) his or her intra-Community supplies of goods do not exceed or are not likely to exceed €15,000 in that calendar year,

but only if such intra-Community supplies of goods do not include the supply of new means of transport.

(b) An accountable person authorised to submit a return in accordance with section 19(3)(aa) of the Act may, on written application to the Revenue Commissioners, be authorised by them to submit an annual statement in accordance with section 19A(4) of the Act where—

(i) his or her supplies of goods and services do not exceed or are not likely to exceed €200,000 in a calendar year, and

(ii) his or her intra-Community supplies of goods do not exceed or are not likely to exceed €15,000 in that calendar year,

but only if such intra-Community supplies of goods do not include the supply of new means of transport.”,

(v) in paragraph (8) by substituting “19A(4)” for “19A(2) or 19A(3)”,

(b) in Regulation 16A(3)(d) by inserting “at any time in the period from the date the supply giving rise to the debt is made to the date on which the debt is written off in the financial accounts of the accountable person” after “the person from whom the debt is due is not connected with that accountable person”,

(c) by substituting the following Regulation for Regulation 23—

“23. (1) A person not established in the territory of the Community to whom section 13(3) of the Act applies is entitled, under the terms of Council Directive No. 86/560/EEC of 17 November 1986¹, to be repaid tax borne by that person on the purchase of goods or services supplied to that person in the State or in respect of goods imported into the State by that person if he or she fulfils to the satisfaction of the Revenue Commissioners the following conditions:

- (a) provides proof, in the form of a written document from the relevant official department of the country in which that person has an establishment, that he or she is engaged in carrying on an economic activity,
- (b) claims a refund, within 6 months of the end of the calendar year in which the tax became chargeable, by completing and lodging the appropriate claim form, provided for that purpose by the Revenue Commissioners, together with the appropriate documentation as specified in subparagraph (c),
- (c) establishes the amount of tax borne by the production of the invoice issued by the supplier or the relevant import documents,
- (d) establishes that he or she is not entitled to repayment of the tax under any other provision of the Act or Regulations, or any other instrument made under statute that is administered by the Revenue Commissioners.

(2) A claim for a refund under this Regulation shall relate to invoiced purchases of goods and services or to imports made during a period, within a calendar year, of not less than 3 months or a period of not more than one calendar year, but where that claim relates to the last quarter of a calendar year a claim for a refund may relate to a period of less than 3 months.

(3) A person is not entitled to make a claim under this Regulation for an amount less than—

- (a) €400 if the claim is for a period of less than 1 calendar year and not less than 3 months,
- (b) €50 if the claim is for a period that represents a full calendar year or the last quarter of a calendar year.

(4) The written document mentioned in paragraph (1)(a), shall be taken as evidence of the matters contained therein for the purposes of this Regulation only for a period of one year from the date such document was issued by the official authorities in the State in which that person is established.”,

¹OJ No. L 326 of 21 November 1986, p. 40.

(d) in Regulation 31—

- (i) in paragraph (4) by inserting “and, in the case of a purchase or acquisition on or after 1 January 2010, subject to the condition that such dealer is in possession of an invoice issued by that person in accordance with subsections (5) and (12)(c) of section 12B and section 17(1) of the Act” after “of the Act” (where that phrase last occurs), and
- (ii) in paragraph (6) by inserting “However, this endorsement shall not be entered on an invoice issued on or after 1 January 2010, but such invoice shall comply with the provisions of paragraph (c), (d) or (e) of section 12B(12) as appropriate.” after “to that effect.”.

GIVEN under my hand,

23 December 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 amend the Value-Added Tax Regulations 2006 (S.I. No. 548 of 2006):

- to update Regulation 14 in relation to the VIES statements, consequential to the European Communities (Value-Added Tax) Regulations 2009 enacted in December 2009, which transposed Council Directive 2008/117/EC;
- to update Regulation 23 in relation to the refund system for foreign traders under Council Directive No. 86/560/EEC; this is consequential to the European Communities (Value-Added Tax) Regulations 2009 enacted in December 2009, which transposed Council Directive 2008/9/EC in relation to the new electronic refund system for foreign traders;
- to amend Regulation 16A in relation to bad debt relief to clarify the time period during which the rule regarding connected parties applies;
- to amend Regulation 31 in relation to invoices issued in the period 1 January 2010 and 30 June 2010 (the transitional period) in respect of second hand means of transport.

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