



# VAT Matters

## October 2009

Welcome to the  
October 2009 edition  
of VAT Matters.

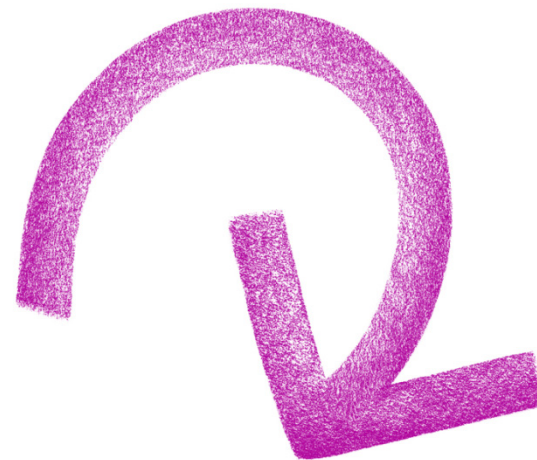
**The 'VAT package 2010' - What you need to know**

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# The 'VAT package 2010' - What you need to know

## 1. Place of supply of services

From 1 January 2010 the range of services that will be deemed to be supplied where the recipient is established, will be extended. The changes will impact on both business to business supplies and business to consumer supplies. The changes therefore have the potential to affect all businesses.

### A) Business to business supplies

The general rule for the supply of business to business services will switch from the place the supplier is established to the place where the recipient of the service is established. If the recipient has several establishments then the place of supply will be the location of the establishment to which the service is provided.

There are exceptions to this general rule e.g. services connected with immovable property and transport services.

### B) Business to consumer supplies

For business to consumer supplies of services, the general rule (being that the place of supply is where the supplier is established), will continue to apply. There are of course exceptions to this general rule including 'use and enjoyment provisions'.

## 2. Electronic refunds of VAT

At present, refunds of VAT incurred in another EU member state by Irish businesses must be made directly to the Revenue authorities in that member state and are currently paper-based.

This paper-based system is slow, cumbersome and costly. With effect from 1 January 2010, a new fully electronic procedure will be introduced.

Irish businesses will submit their refund claims directly to the Irish Revenue Commissioners who in turn will submit them to the member state where the expenditure was incurred. A welcome feature is that the relevant member state will be liable to pay interest if a refund is not paid within the specified time limits.

## 3. Statistical reporting requirements

Suppliers of business to business reverse-charge services across community borders must, with effect from 1 January

2010, file a VIES return for those services. This is a statistical form. A VIES return is currently necessary only for intra-community supplies of goods. These new rules will impact on service providers such as accountants, solicitors, consultants etc. who have clients based outside of Ireland, regardless of the level of activity. IT systems and accounting packages may need to be updated to ensure that the necessary information is available to complete the relevant forms.

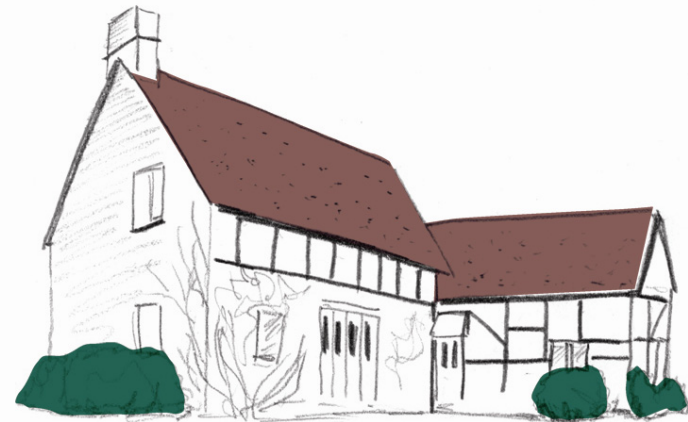


# Property developers and ‘rent-to-buy’ schemes

The economic downturn has resulted in a number of property developers seeking to attract potential customers by agreeing to rent a residential property while granting the tenant an option to purchase the property at a future date. These are generally known as “rent-to-buy” schemes. In response, the Revenue Commissioners have issued some guidance on their interpretation of the VAT implications of these arrangements.

The VAT treatment will depend on the exact circumstances of each case. However, Revenue’s view is that the following generally applies:

1. The VAT treatment attaching to a payment received for an option to purchase a property follows the treatment which would apply if the property was sold itself. Therefore, monies received for granting an option to purchase a residential property would be subject to VAT at 13.5%. If the tenant pays monthly rent in excess of market value rent, then the excess is also likely to be considered as part of the monies paid for the option (and subject to VAT accordingly).
2. As residential lettings are exempt from VAT, the lessor will likely be required to make an adjustment to the VAT recovered on acquisition/development of the property.
3. The final payment to purchase the property is subject to VAT.



# New margin schemes

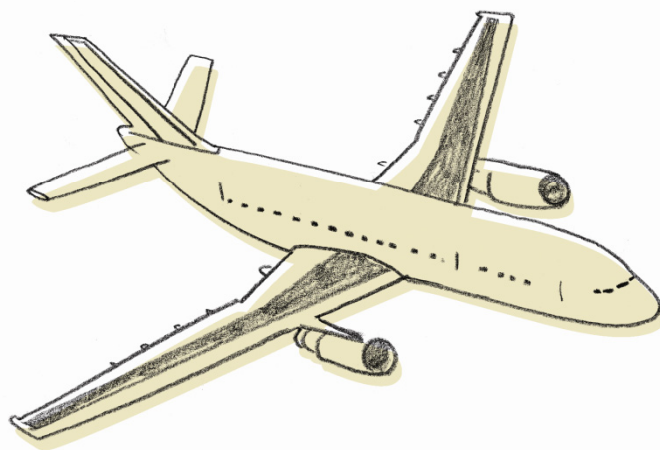
## Travel agent's margin scheme (TAMS)

Revenue have recently published guidance notes on the VAT treatment which will apply to travel agents /tour operators as well as intermediaries from 1 January 2010. These guidance notes follow the introduction of a new 'travel agent's margin scheme' (TAMS), the legislation for which was included in the last Finance Act. Regulations have also been issued in relation to specific parts of the new system.

These changes are hugely significant for those in the trade. There are implications for those acting as principals as well as those who act as agents/intermediaries. Apart from the economic impact, many administrative issues arise. For example, traders accounting systems may need to be updated to cope with the new rules.

## Motor dealer's margin scheme

The Department of Finance have announced the introduction of a new margin scheme for second-hand cars. This will be introduced from 1 January 2010 and will replace the current 'special scheme' which has been in existence since the mid-nineties. The details of the scheme will be included in the next Finance Act. Transitional arrangements will allow for the change from the old scheme to the new scheme.



# Other matters

## On-line filing of VAT returns

Traders are reminded of the extension to the VAT filing date for those that pay and file their returns electronically. The filing date has been extended to the 23rd day of the relevant month (i.e. a 4-day extension).

## New penalty regime

Finance Act (No. 2) 2008 introduced several new flat-rate penalty amounts for a range of offences relating to VAT compliance. Typically, these penalties are for amounts in the region of €4,000 - €5,000 whereas previously the amounts would have been approximately €950 - €1,250. It is possible that this increase may signal an intention for Revenue to impose these penalties more regularly.

Businesses are therefore advised to ensure returns (even nil returns) are completed and submitted in a timely manner.

## Local authorities and VAT

The European Court of Justice (ECJ) recently ruled that Ireland was not compliant with EU VAT law regarding its treatment of local authorities and public bodies. Currently, where a local authority, government department or public body provides a range of services (including car parking, waste collection, leisure facilities etc) these are not subject to VAT.

However, as there are often private operators competing in these areas who are obliged to charge VAT, the ECJ has concluded that VAT should

apply to these services when supplied by the relevant authorities also (to prevent a distortion of competition). While Revenue are currently considering the implications of the judgement, it is expected that the relevant changes to the legislation will be made in the next Finance Act. Businesses affected by these changes should consider their position now.

## VAT and passenger cars

Businesses are entitled to recover some of the VAT incurred on the purchase or lease of new passenger vehicles which are used at least 60% for business purposes. This provision only applies to vehicles registered on or after 1 January 2009 and where the vehicle meets certain criteria in respect of CO2 emissions. A

maximum of 20% of the VAT incurred can be reclaimed. If VAT is reclaimed on a vehicle purchased under this provision, some or all of the VAT must be repaid to Revenue if the vehicle is disposed of within two years. Businesses can continue to recover VAT on the costs of maintaining such vehicles.

## TAX arrears

Revenue have published some material regarding those having difficulty meeting their tax obligations (including VAT). Revenue recognises that certain businesses may in particular be experiencing difficulties in relation to cash-flow. They have indicated that they are willing to discuss instalment arrangements in respect of tax due where certain conditions are satisfied.



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