

Distortion of competition, deemed taxable supplies, etc. VATA s. 8(3C), (3E) and (7)

18.—(1)(a) Notwithstanding sections 5 (1) and 52 (1) but subject to section 6 (1), where a person (in this subsection referred to as the “relevant person”) supplies services which are exempt in accordance with section 52 and paragraph 3(4) of Schedule 1, then an authorised officer (being an officer of the Revenue Commissioners authorised by them in writing for the purposes of this subsection) shall—

(i) if the officer is satisfied that that supply of those services has created or is likely to create a distortion of competition such as to place at a disadvantage a commercial enterprise which is an accountable person supplying similar-type services, or

(ii) if the officer is satisfied that that supply of those services is managed or administered by or on behalf of another person who has a direct or indirect beneficial interest (either directly or through an intermediary) in the supply of those services,

make a determination in relation to some or all of such supplies as specified in that determination deeming—

(I) the relevant person to be supplying such supplies as specified in that determination in the course or furtherance of business,

(II) the relevant person to be an accountable person in relation to the provision of such supplies as specified in that determination, and

(III) such supplies as specified in that determination to be taxable supplies to which the rate specified in section 46 (1)(c) refers.

(b) Subject to paragraph (c), where a determination is made under paragraph (a), the Revenue Commissioners shall, as soon as may be after the making of the determination, issue a notice in writing of that determination to the relevant person, and such determination shall have effect from such date as may be specified in the notice of that determination.

(c) A determination referred to in paragraph (b) shall have effect no sooner than the start of the next taxable period following that in which the notice referred to in that paragraph was issued in respect of that determination.

(d) Where an authorised officer is satisfied that the conditions that gave rise to the making of a determination under paragraph (a) no longer apply, the officer shall cancel that determination by notice in writing to the relevant person, and that cancellation shall have effect from the start of the next taxable period following that in which the notice issued.

(2) Where any goods or services are provided by a club or other similar organisation in respect of a payment of money by any of its members, then, for the purposes of this Act—

(a) the provision of the goods or services shall be deemed to be a supply by the club or other organisation of the goods or services, as the case may be, in the course or furtherance of business carried on by it, and

(b) the money shall be deemed to be consideration for the supply.

(3)(a) In paragraph (b) "licensee" means—

(i) where the licence is held by the nominee of a body corporate, the body corporate,

(ii) in any other case, the holder of the licence.

(b) The licensee of any premises (being premises in respect of which a licence for the sale of intoxicating liquor on or off those premises was granted)—

(i) shall be deemed to be the promoter of any dance held, during the subsistence of that licence, on those premises, and

(ii) shall be deemed to have received the total money (excluding tax) paid by those admitted to that dance together with any other consideration received or receivable in connection with the dance.