

Cancellation of election. VATA s. 8(5) and (5A)

8.—(1) Provision may be made by regulations for the cancellation, at the request of a person, of an election made by the person under this Part and for the payment by him or her to the Revenue Commissioners of such a sum as a condition of cancellation as when added to the net total amount of tax (if any) paid by that person in accordance with Chapter 3 of Part 9 in relation to the supply of goods or services) by the person in the period for which the election had effect is equal to the sum of the amount of tax repaid to him or her during that period in respect of tax borne or paid in relation to the supply of goods and services) and the tax deductible under Chapter 1 of Part 8 in respect of intra-Community acquisitions made by that person during that period.

(2)(a) Notwithstanding subsection (1), provision may be made by regulations for the cancellation, at the request of a person who supplies services of a kind referred to in paragraph 11 of Schedule 3, of an election made by the person under this Part and for the payment by him or her to the Revenue Commissioners, in addition to any amount payable in accordance with subsection (1), of such an amount (in this subsection referred to as the “cancellation amount”), as shall be determined in accordance with paragraph (b), as a condition of cancellation and the cancellation amount shall be payable as if it were tax due in accordance with Chapter 3 of Part 9 for the taxable period in which the cancellation comes into effect.

(b)(i) Where the person referred to in paragraph (a)—

(I) was entitled to deduct tax in accordance with Chapter 1 of Part 8 in respect of the acquisition, purchase or development of immovable goods used by that person in the course of a supply of services of a kind referred to in paragraph 11 of Schedule 3, or

(II) would be entitled to deduct tax in accordance with Chapter 1 of Part 8 in respect of the acquisition, as a result of a transfer to that person, of immovable goods used by him or her in the course of a supply of services of a kind referred to in paragraph 11 of Schedule 3, if that tax had been chargeable but for the application of section 20 (2)(c) on that transfer,

then, in respect of each such acquisition, purchase or development, an amount (referred to in this subsection as the “adjustment amount”) shall be calculated in accordance with subparagraph (ii) and the cancellation amount shall be the sum of the adjustment amounts so calculated or, if there is only one such adjustment amount, that amount: but if there is no adjustment amount, the cancellation amount is nil.

(ii) The adjustment amount shall be determined by the formula—

$$A \times (10 - B)$$

10

where—

A is—

(I) the amount of tax deductible in respect of such acquisition, purchase or development of such immovable goods, or

(II) the amount of tax that would be deductible in respect of such acquisition of such immovable goods if section 20 (2)(c) had not applied to the transfer of such immovable goods,

and

B is the number of full years for which such immovable goods were used by the person in the course of the supply of services of a kind referred to in paragraph 11 of Schedule 3: but if such number of full years is in excess of 10, such adjustment amount shall be deemed to be nil.

(c) For the purposes of paragraph (b), a full year shall be any continuous period of 12 months.

(d) This subsection does not apply to immovable goods acquired or developed on or after 1 July 2008.