

Interpretation — general. VATA s. 1 (in part) and s. 3(1B) and FA 2010 s. 165(4)

2.—(1) In this Act—

“accountable person” has the same meaning as it has in Part 2;

“accounting year” means a period of 12 months ending on 31 December, but if a taxable person customarily makes up accounts for periods of 12 months ending on another fixed date, then, for such a person, a period of 12 months ending on that fixed date;

“agricultural produce” has the meaning assigned to it by section 4 (1);

“agricultural service” has the meaning assigned to it by section 4 (1);

“ancillary supply” means a supply, forming part of a composite supply, which is not physically and economically dissociable from a principal supply and is capable of being supplied only in the context of the better enjoyment of that principal supply;

“antiques” has the meaning assigned to it by section 87 (1);

“Appeal Commissioners” means persons appointed, in accordance with section 850 of the Taxes Consolidation Act 1997 , to be Appeal Commissioners for the purposes of the Income Tax Acts;

“assignment”, in relation to an interest in immovable goods, means the assignment by a person of that interest in those goods or any part of those goods to another person, except that, if that other person at the time of the assignment retains the reversion on that interest in those goods, that assignment shall be a surrender;

“auction scheme” has the meaning assigned to it by section 89 (1);

“body of persons” means any body politic, corporate or collegiate, and any company, partnership, fraternity, fellowship and society of persons, whether corporate or not corporate;

“building”, in the definition of “development”, includes, in relation to a transaction, any prefabricated or like structure in respect of which the following conditions are satisfied:

(a) the structure—

(i) has a rigid roof and one or more rigid walls and (other than in the case of a structure used for the cultivation of plants) a floor,

(ii) is designed so as to provide for human access to, and free movement in, its interior,

(iii) is for a purpose that does not require that it be mobile or portable, and

(iv) does not have or contain any aids to mobility or portability;

and

(b)(i) neither the agreement in respect of the transaction nor any other agreement between the parties to that agreement contains a provision relating to the rendering of the structure mobile or portable or the movement or re-location of the structure after its erection, and

(ii) the person (in this subparagraph referred to as the “relevant person”) for whom the structure is constructed, extended, altered or reconstructed signs and delivers, at the time of the transaction, to the person who constructed, extended, altered or reconstructed the structure, a declaration of the relevant person’s intention to retain it on the site on which it is at that time located;

“business” means an economic activity, whatever the purpose or results of that activity, and includes any activity of producers, traders or persons supplying services, including mining and agricultural activities and activities of the professions, and the exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis;

“calendar quarter” means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October;

“capital goods” means developed immovable goods and includes refurbishment within the meaning of section 63 (1), and a reference to a capital good includes a reference to any part thereof and the term “capital good” shall be construed accordingly;

“clothing” does not include footwear;

“Collector-General” means the Collector-General appointed under section 851 of the Taxes Consolidation Act 1997 ;

“collectors’ items” has the meaning assigned to it by section 87 (1);

“Community” has the same meaning as it has in Articles 5 to 8 of the VAT Directive, and cognate references shall be construed accordingly;

“completed”, in respect of immovable goods, has the meaning assigned to it by section 94 (1);

“composite supply” means a supply made by a taxable person to a customer comprising 2 or more supplies of goods or services or any combination of those, supplied in conjunction with each other, one of which is a principal supply;

“contractor”, in relation to contract work, means a person who makes or assembles movable goods;

“contract work” means the service of handing over by a contractor to another person of movable goods

made or assembled by the contractor from goods entrusted to the contractor by that other person, whether or not the contractor has provided any part of the goods used;

“customs-free airport” means the land which, under the Customs-free Airport Act 1947 , for the time being constitutes the Customs-free airport;

“development”, in relation to any land, means—

(a) the construction, demolition, extension, alteration or reconstruction of any building on the land,
or

(b) the carrying out of any engineering or other operation in, on, over or under the land to adapt it for materially altered use;

“electronically supplied services” includes—

(a) website supply, web-hosting, distance maintenance of programmes and equipment,

(b) supply of software and updating of it,

(c) supply of images, text and information, and making databases available,

(d) supply of music, films and games (including games of chance and gambling games) and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events, and

(e) supply of distance teaching,

and “electronic service” shall be construed accordingly, but where the supplier of a service and his or her customer communicate by means of electronic mail, this shall not of itself mean that the service performed is an electronic service;

“enactment” means an Act or statutory instrument or any part of an Act or statutory instrument;

“excisable products” means the products referred to in section 97 of the Finance Act 2001 ;

“exempted activity” means—

(a) a supply of immovable goods in respect of which, pursuant to sections 94 (2) and 95 (3) and (7)(b), tax is not chargeable, and

(b) a supply of any goods or services of a kind specified in Schedule 1 or declared by the Minister by order for the time being in force under section 52 to be an exempted activity;

“exportation of goods” means the exportation of goods to a destination outside the Community, and cognate words shall be construed accordingly;

“farmer” has the meaning assigned to it by section 4 (1);

“flat-rate addition” has the meaning assigned to it by section 86 (1);

“flat-rate farmer” means—

(a) a farmer who is not an accountable person,

(b) a farmer who is an accountable person referred to in section 9 (4) or 12 (3), or

(c) a person who, in accordance with section 17 (2), is deemed not to be an accountable person with respect to supplies of a kind specified in the definition of “farmer” in section 4 (1),

in so far as that farmer engages in the supply of agricultural produce or agricultural services within the State;

“footwear” includes shoes, boots, slippers and the like but does not include stockings, under-stockings, socks, ankle-socks or similar articles or footwear without soles or footwear which is or incorporates skating or swimming equipment;

“free port” means the land declared to be a free port for the purposes of the Free Ports Act 1986 by an order made under section 2 of that Act;

“freehold equivalent interest” means an interest in immovable goods (other than a freehold interest) the transfer of which constitutes a supply of goods in accordance with Chapter 1 of Part 3;

“fur skin” means any skin with the fur, hair or wool attached except the skin of woolled sheep or lamb;

“goods” means all movable and immovable objects (other than things in action or money), and references to goods include references to both new and used goods;

“goods threshold” means €75,000;

“hire”, in relation to movable goods, includes a letting on any terms including a leasing;

“immovable goods” means land;

“importation of goods” means the importation of goods from outside the Community into the State—

(a) directly, or

(b) through one or more than one other Member State where value-added tax referred to in the VAT Directive has not been chargeable on the goods in such other Member State or Member States in respect of the transaction concerned,

and cognate words shall be construed accordingly;

“independently”, in relation to a taxable person, excludes a person who is employed or who is bound to an employer by a contract of employment or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer’s liability;

“individual supply” means a supply of goods or services which is a constituent part of a multiple supply and which is physically and economically dissociable from the other goods or services forming part of that multiple supply, and is capable of being supplied as a good or service in its own right;

“inspector of taxes” means an inspector of taxes appointed under section 852 of the Taxes Consolidation Act 1997 ;

“intra-Community acquisition”, in relation to goods, has the meaning assigned to it by section 24;

“joint option for taxation” has the meaning assigned to it by section 94;

“landlord’s option to tax” has the meaning assigned to it by section 97;

“livestock” means live cattle, horses, sheep, goats, pigs and deer;

“local authority” has the meaning assigned to it by the Local Government Act 2001 ;

“margin scheme” has the meaning assigned to it by section 87 (1);

“Minister” means the Minister for Finance;

“movable goods” means goods other than immovable goods;

“multiple supply” means 2 or more individual supplies made by a taxable person to a customer where those supplies are made in conjunction with each other for a total consideration covering all of those individual supplies, and where those individual supplies do not constitute a composite supply;

“new means of transport” means motorised land vehicles with an engine cylinder capacity exceeding 48 cubic centimetres or a power exceeding 7.2 kilowatts, vessels exceeding 7.5 metres in length and aircraft with a take-off weight exceeding 1,550 kilogrammes—

(a) which are intended for the transport of persons or goods, and

(b)(i) which in the case of vessels and aircraft were supplied 3 months or less after the date of first entry into service and in the case of land vehicles were supplied 6 months or less after the date of first entry into service, or

(ii) which have travelled 6,000 kilometres or less in the case of land vehicles, sailed for 100 hours or less in the case of vessels or flown for 40 hours or less in the case of aircraft,

other than vessels and aircraft of the kind referred to in paragraph 4(2) of Schedule 2;

“person registered for value-added tax”—

(a) in relation to another Member State, means a person currently issued with an identification number in that State for the purposes of accounting for value-added tax referred to in the VAT Directive,

(b) in relation to the State, means a registered person;

“principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

“public body” means—

(a) a Department of State,

(b) a local authority, or

(c) a body established by any enactment;

“registered person” means a person who is registered in the register maintained under section 65;

“regulations” means regulations under section 120;

“repealed enactment” has the meaning assigned to it by section 121;

“second-hand goods” has the meaning assigned to it by section 87 (1);

“secretary” includes such persons as are referred to in section 1044 (2) of the Taxes Consolidation Act 1997 and section 55 (1) of the Finance Act 1920 ;

“services threshold” means €37,500;

“stock-in-trade”, in relation to a person, means goods—

(a) that are movable goods of a kind that the person has supplied in the ordinary course of the person’s business and that—

(i) are held for supply (1)(f)), or

(ii) would be so held if they were mature or if their manufacture, preparation or construction had been completed,

(b) materials incorporated into immovable goods of a kind that—

(i) are supplied by the person in the ordinary course of the person's business, and

(ii) have not been supplied by the person since the goods were developed, but are held for supply, or would be so held if their development had been completed,

and such materials shall be taken to have been supplied to the same extent as the immovable goods into which they have been incorporated are taken to have been supplied,

(c) consumable materials that the person has incorporated into immovable goods in the course of a business that consists of the supply of a service involving constructing, repairing, painting or decorating immovable goods where that service has yet to be completed, and such materials shall be taken to have been supplied to the extent that the service in relation to which they have been used has been supplied, or

(d) materials that have not been incorporated in goods and—

(i) are used by the person in the manufacture or construction of goods of a kind that the person supplies in the ordinary course of the person's business, or

(ii) if the person's ordinary business consists of repairing, painting or decorating immovable goods, are used by the person as consumable materials in the course of that business;

“supply”—

(a) in relation to goods, has the meaning assigned to it by subsection (3) and Chapter 1 of Part 3,

(b) in relation to services, has the meaning assigned to it by Chapter 3 of Part 3,

and cognate words shall be construed accordingly;

“surrender”, in relation to an interest in immovable goods—

(a) means the surrender by a person (in this definition referred to as the “lessee”) of an interest in those goods or any part of those goods to the person (in this definition referred to as the “lessor”) who, at the time of the surrender, retains the reversion on that interest in those goods, and

(b) includes—

(i) the abandonment of that interest in those goods by the lessee,

(ii) the failure of the lessee to exercise any option of the kind referred to in section 93 (1)(a) in relation to that interest in those goods (but excluding any such failure if such interest were created on or after 1 July 2008), and

(iii) the recovery by the lessor of that interest in those goods by ejectment or forfeiture prior to the date that the interest would, but for its surrender, have expired;

“tax” means value-added tax chargeable by virtue of this Act;

“taxable dealer”—

(a) in relation to supplies of gas through the natural gas distribution system, or of electricity, has the meaning assigned to it by section 31 (1)(a), and

(b) in relation to supplies of movable goods (including a means of transport and agricultural machinery) has the meaning assigned to it by section 87 (1);

“taxable goods”, in relation to any supply, intra-Community acquisition or importation, means goods the supply of which is not an exempted activity;

“taxable period” means a period of 2 months beginning on 1 January, 1 March, 1 May, 1 July, 1 September or 1 November;

“taxable person” means a person who independently carries on a business in the Community or elsewhere;

“taxable services” means services the supply of which is not an exempted activity;

“telecommunications services” means services relating to the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems, and includes—

(a) the related transfer or assignment of the right to use capacity for such transmission, emission or reception, and

(b) the provision of access to global information networks;

“telephone card” means a card, or a means other than money—

(a) that confers a right to access a telecommunications service and, in cases where the supplier of the telecommunications service so agrees with another supplier (in this definition referred to as a “contracted third party supplier”), a right to receive other services or goods from that contracted third party supplier, and

(b) that, when the card or other means is supplied to a person other than for the purpose of resale, entitles the supplier to a consideration for the supply under circumstances that preclude the user of the card or means from being liable for any further charge for access to the telecommunications service or for the receipt of services or goods from a contracted third party supplier;

“VAT Directive” means Council Directive No. 2006/112/EC of 28 November 2006¹ on the common system of value-added tax;

“vessel”, in relation to transport, means a waterborne craft of any type, whether self-propelled or not,

and includes a hovercraft;

“works of art” has the meaning assigned to it by section 87 (1).

(2) In this Act references to moneys received by a person include references to—

(a) money lodged or credited to the account of the person in any bank, savings bank, building society, hire purchase finance concern or similar financial concern,

(b) money (other than money referred to in paragraph (a)) which under an agreement (other than an agreement providing for discount or a price adjustment made in the ordinary course of business or an arrangement with creditors) has ceased to be due to the person,

(c) money due to the person which, in accordance with section 1002 of the Taxes Consolidation Act 1997 , is paid to the Revenue Commissioners by another person and has thereby ceased to be due to the person by that other person, and

(d) money, which, in relation to money received by a person from another person, has been deducted in accordance with—

(i) Chapter 1 of Part 18 of the Taxes Consolidation Act 1997 , or

(ii) Chapter 2 of Part 18 of the Taxes Consolidation Act 1997 ,

and has thereby ceased to be due to the first-mentioned person by the other person,

and money so lodged or credited to the account of a person shall be deemed to have been received by the person on the date of the making of the lodgement or credit and money which has so ceased to be due to a person shall be deemed to have been received by the person on the date of the cesser.

(3) For the purposes of this Act, the provision of electricity, gas and any form of power, heat, refrigeration or ventilation shall be deemed to be a supply of goods and not a supply of services.

(4) In this Act, a reference to the territory of a Member State has the same meaning as it has in Articles 5 to 8 of the VAT Directive, and references to Member States and cognate references shall be construed accordingly.

(5) References in any other enactment to the “Value-Added Tax Acts” mean this Act and every enactment which is to be read together with this Act.