

## PART 11 Immovable Goods

Supply of immovable goods (old rules). VATA s. 4(1), (9) and (10) and s. 4 (11) (in part)

93.—(1)(a) In this section—

(i) “interest”, in relation to immovable goods—

(I) subject to clause (II), means an estate or interest in those goods which, when it was created, was for a period of at least 10 years or, if it was for a period of less than 10 years, its terms contained an option for the person in whose favour the interest was created to extend it to a period of at least 10 years,

(II) does not include a mortgage,

(ii) a reference to the disposal of an interest includes a reference to the creation of an interest, and

(iii) an interval of the type referred to in section 4(2A) of the repealed enactment shall be deemed to be an interest for the purposes of this section.

(b) Where an interest is created and, at the date of its creation, its terms contain one or more options for the person in whose favour the interest was so created to extend the interest, then that interest shall be deemed to be for the period from the date of creation of that interest to the date that that interest would expire if those options were so exercised.

(c) This section applies to immovable goods—

(i) which have been developed by or on behalf of the person supplying them, or

(ii) in respect of which the person supplying them was, or would, but for the operation of section 20 (2)(c), have been at any time entitled to claim a deduction under Chapter 1 of Part 8 for any tax borne or paid in relation to a supply or development of them.

(2)(a)(i) Subject to subparagraph (ii), where an interest in immovable goods was created prior to 1 July 2008 in such circumstances that a reversion on that interest (in this subsection referred to as a “reversionary interest”) was created and retained, then any subsequent disposal to another person of the reversionary interest or of an interest derived entirely from that reversionary interest shall be deemed to be a supply of immovable goods to which tax is not charged if, since the date the first-mentioned interest was created, those goods have not been developed by, on behalf of, or to the benefit of, the person making such subsequent disposal.

(ii) This subsection shall not be construed as applying to a disposal of an interest which includes an interval.

(b) For the purposes of this subsection, the Revenue Commissioners may make regulations specifying the circumstances or conditions under which development work on immovable goods is not treated as being on behalf of, or to the benefit of, a person.

(3)(a) For the purposes of this subsection—

“landlord” has the meaning assigned to it by paragraph (b);

“post-letting expenses”, in relation to an interest in immovable goods—

(i) subject to subparagraph (ii), means expenses which the landlord incurs—

(I) in carrying out services which the landlord is obliged to carry out under the terms and conditions of the written contract entered into on the disposal of the interest which was chargeable to tax (other than transactions in relation to which the obligation to perform is not reflected in the consideration on which tax was charged on the disposal of that interest),

(II) which directly relate to the collection of rent arising under the contract referred to in clause (I),

(III) which directly relate to a review of rent where the terms and conditions of the contract referred to in clause (I) provide for such a review, or

(IV) which directly relate to the exercise of an option to extend the interest or to exercise a break-clause in relation to that interest where the terms and conditions of the contract referred to in clause (I) provide for such an option or such a break-clause,

(ii) do not include any expenses relating to goods or services of the type specified in section 60 (2).

(b) Where—

(i) an interest in immovable goods was disposed of prior to 1 July 2008,

(ii) that disposal was chargeable to tax, and

(iii) the person who acquired that interest is obliged to pay rent to another person (in this subsection referred to as the “landlord”) under the terms and conditions laid down in respect of that interest,

then the landlord—

(I) shall, notwithstanding Part 2, be deemed not to be an accountable person in respect of transactions in relation to those immovable goods other than—

(A) supplies of those immovable goods on which tax was chargeable in accordance with section 4 of the repealed enactment,

(B) supplies of other goods or services effected for consideration by the landlord, or

(C) post-letting expenses in respect of that interest,

(II) shall not be entitled to deduct tax in respect of transactions in relation to those immovable goods other than—

(A) supplies of those immovable goods on which tax was chargeable in accordance with section 4 (other than subsection (4) of that section) of the repealed enactment,

(B) supplies of other goods or services effected for consideration by the landlord, or

(C) post-letting expenses in respect of that interest,

(III) shall be deemed, where the landlord is not the person who made the disposal of the interest, to be an accountable person in respect of post-letting expenses in relation to that interest, and

(IV) shall, in relation to those post-letting expenses, be entitled to deduct tax, in accordance with Chapter 1 of Part 8, as if those post-letting expenses were for the purposes of the landlord's taxable supplies.