



STATUTORY INSTRUMENTS.

S.I. No. 272 of 2007



VALUE-ADDED TAX (AMENDMENT) REGULATIONS 2007

(Prn. A7/1102)

VALUE-ADDED TAX (AMENDMENT) REGULATIONS 2007

The Revenue Commissioners, in exercise of the powers conferred on them by sections 10(3)(c), 14(2) and 32 of the Value-Added Tax Act 1972 (No. 22 of 1972), make the following regulations:

1. These Regulations may be cited as the Value-Added Tax (Amendment) Regulations 2007.

2. The Value-Added Tax Regulations 2006 (S.I. No. 548 of 2006) are amended—

(a) in Regulation 15 by inserting the following after paragraph (5):

“(5A) Tax chargeable in respect of the supply of goods within the meaning of section 3(1)(b) of the Act is excluded from the application of section 14(1) of the Act.

(5B) Tax chargeable in respect of the supply of goods or services in any of the circumstances referred to in subsections (2) to (9) of section 10 of the Act is excluded from the application of section 14(1) of the Act.”,

(b) in Regulation 16(1) by substituting “by reason of the allowance of discount, a reduction in price or the return of goods other than the return of goods in an early determination of a hire purchase agreement” for “by reason of the return of goods, the allowance of discount, a reduction in price or the default of a debtor”, and

(c) by inserting the following after Regulation 16:

“Adjustments for bad debts and for early determination of hire purchase transactions

16A. (1) In this Regulation—

“determination” means the termination of a hire purchase agreement and the return of the goods which are subject to that agreement on a prior date to the date fixed for such termination under that agreement;

“part payment” means the amount of money or the value of goods traded in by the customer which amount or value is shown in the hire purchase agreement as representing that part of the sale price of goods which is not being financed under the terms of the hire purchase agreement;

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 15th June, 2007.

“sale price” means the price shown in the hire purchase agreement which is inclusive of tax, and vehicle registration tax where appropriate, and which is the price for which the goods would be sold to a customer if their purchase were not financed in whole or in part under a hire purchase agreement.

(2) In a case in which section 10(3)(c) of the Act applies by reason of the default of a debtor, where—

- (a) the consideration exclusive of tax actually received by a taxable person in relation to the supply by him or her of any goods or services is less than the amount on which tax was chargeable in respect of such supply, or
- (b) no consideration is actually received,

then, subject to the conditions in paragraph (3), relief in respect of the tax attributable to the deficiency (in this Regulation referred to as a “bad debt”) may be claimed in accordance with this Regulation.

(3) A taxable person who has accounted for tax in respect of a supply covered by paragraph (2) may subsequently claim bad debt relief for the tax attributable to the bad debt, where—

- (a) that taxable person has taken all reasonable steps to recover the bad debt,
- (b) the bad debt is allowable as a deduction for the purposes of section 81(2)(i) of the Taxes Consolidation Act 1997 (No. 39 of 1997) and has been written off as such in the financial accounts of that taxable person and the requirements of Regulation 8(1)(m) in respect of that debt have been fulfilled, and
- (c) the person from whom the debt is due is not connected with that taxable person, and the question of whether a person is connected with that taxable person shall be determined in accordance with Regulation 15(5)(b).

(4) The amount of the relief which a taxable person may claim in respect of a supply covered by paragraphs (2) and (3), which is not a supply within the meaning of section 3(1)(b) of the Act, is calculated in accordance with the following formula:

$$A \times \frac{B}{100 + B}$$

where—

A is the amount which is outstanding from the debtor in relation to the taxable supply, and

B is the percentage rate of tax, specified in section 11(1) of the Act, which was applied to the supply in question.

- (5) (a) The amount of the relief which a taxable person may claim in respect of a supply covered by paragraphs (2) and (3), which is a supply within the meaning of section 3(1)(b) of the Act (in this Regulation referred to as a “supply of the goods under the hire purchase agreement”), is calculated in accordance with the following formula:

$$(C - D) \times \frac{(E - F)}{C}$$

where—

C is the sum of all the amounts scheduled for payment by instalment under the hire purchase agreement,

D is the total amount paid by the customer against the instalments scheduled for payment under the hire purchase agreement up to and including the date on which the bad debt is written off in the financial accounts of the taxable person,

E is an amount equal to the amount of tax accounted for by the taxable person on the supply of the goods under the hire purchase agreement, and

F is an amount equal to the tax attributable to a part payment shown in the hire purchase agreement calculated in accordance with subparagraph (b).

- (b) The tax attributable to a part payment shall be calculated in accordance with the following formula:

$$G \times \frac{E}{H}$$

where—

G is an amount equal to the part payment,

E is an amount equal to the amount of tax accounted for by the taxable person on the supply of the goods under the hire purchase agreement, and

H is the sale price of the goods.

(6) In a case in which section 10(3)(c) of the Act applies by reason of the return of the goods by a customer to his or her supplier as part of a determination, relief in respect of the supply of the goods under the hire purchase agreement may, subject to section 10(3)(d) of the Act, be claimed in accordance with paragraph (7).

(7) The amount of the relief which a taxable person may claim in respect of a supply of the goods referred to in paragraph (6) is established by—

- (a) calculating the tax attributable to the part payment in accordance with the formula in paragraph (5)(b), and
- (b) calculating, in accordance with the following formula, the tax attributable to the sum of the total amount paid by the customer against the instalments scheduled for payment under the hire purchase agreement and any amount paid by the customer as part of the determination:

$$J \times \frac{(E - K)}{C}$$

where—

J is the total amount paid by the customer against the instalments scheduled for payment under the hire purchase agreement up to and including the prior date agreed under the determination plus any amount paid by the customer as part of the determination,

E is an amount equal to the amount of tax accounted for by the taxable person on the supply of the goods under the hire purchase agreement,

K is an amount equal to the amount of tax attributable to the part payment shown in the hire purchase agreement calculated in accordance with paragraph (5)(b), and

C is the sum of all the amounts scheduled for payment by instalment under the hire purchase agreement,

subtracting the sum of the amounts calculated in accordance with subparagraphs (a) and (b) from the tax accounted for by the taxable person on the supply of the goods under the hire purchase agreement.

(8) Notwithstanding paragraphs (4), (5) and (7), the taxable person may, subject to the prior agreement of the Revenue Commissioners, use any other method of calculating the relief that correctly reflects the tax appropriate to the amount outstanding.

(9) A taxable person is entitled to claim the total amount of relief calculated in accordance with paragraphs (4), (5), (7) or (8), as if that amount were tax deductible in accordance with section 12 of the Act for the taxable period in which a claim is made.”.

GIVEN under my hand,
11 June 2007

JOSEPHINE FEEHILY
Revenue Commissioner.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations amend Regulations 15 and 16 of Value-Added Tax Regulations 2006 (S.I. No. 548 of 2006) and insert a new Regulation 16A into those Regulations.

The amendment to Regulation 15 excludes certain transactions from the operation of the cash receipts basis of accounting for VAT.

The amendment to Regulation 16 deletes the reference to bad debts and the return of goods in an early termination of a hire purchase agreement from that Regulation as relief in such circumstances is now provided for in the new Regulation 16A.

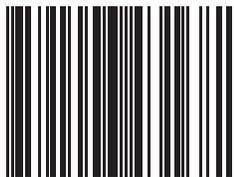
Regulation 16A sets out the conditions to be fulfilled and the procedures to be followed to qualify for bad debt relief for VAT already accounted for in respect of all supplies including supplies of goods under hire purchase agreements. It also provides for relief for VAT already accounted for in respect of a supply of goods under a hire purchase agreement that is terminated early where those goods are returned to the hire purchase company.

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