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Finance Bill 2022 – Key Indirect Tax Measures

Albeit the announcements made on Budget Day were relatively subtle on the indirect tax front, the Finance Bill (the Bill) introduces a variety of VAT changes of significance to the financial services industry. In this article, we focus on the most notable changes proposed.

Agency Services

Under Irish legislation, agency services in respect of the management of UCITS (Undertakings for Collective Investment in Transferable Securities) and other qualifying funds are exempt from VAT. The Finance Bill removes the VAT exemption from agency services relating to the management of certain investment funds, which aligns Irish VAT legislation with the EU VAT Directive.

Management of Special Investment Funds

The Bill clarifies that the management of special investment funds which are subject to Directive 2009/65/EC (the UCITS Directive) and Directive 2011/61/EU (the Alternative Investment Funds Managers Directive) and which are registered in other EU Member States are exempt from VAT, similar to such funds which are regulated by the Central Bank of Ireland.

Fund managers of these entities should review their VAT recovery position given the fact that the VAT exemption may result in restricted VAT recovery for the fund manager in question.

Section 110 companies

Irish VAT legislation currently provides that the management of an undertaking that is a qualifying company for the purposes of section 110 of the Taxes Consolidation Act 1997 is VAT exempt. From 1 March 2023, the VAT exemption for fund management will exclude qualifying companies under section 110, which hold qualifying assets that consist of plant and machinery.

By way of example, the management of a section 110 company that holds aircraft will be subject to VAT. Section 110 companies that hold only aircraft and are engaged in fully VATable activities will be able to claim an input VAT credit incurred on any management fees. However, if the section 110 company also holds any financial assets, VAT recovery will be restricted and this could give rise to a portion of irrecoverable VAT.

If you are involved with a management company that provides VAT exempt management services to a section 110 company, it is imperative to seek advice as to whether the VAT exemption is still appropriate. This may create additional VAT recovery opportunities.

VAT Deduction – Costs relating to the issue of new stocks, new shares, new debentures or new securities for the purpose of raising capital

A technical amendment has been made in respect of obtaining a VAT deduction for costs relating to the issue of new stocks, new shares, new debentures or new securities for the purpose of raising capital. A VAT deduction is now available under general VAT recovery provisions.

Traders in this space should review their activities to determine if additional VAT recovery is available in respect of costs.

Cost Sharing Groups

The VAT exemption in respect of cost sharing groups has been extended to include groups whose members also carry out activities which are subject to VAT, in line with recent EU case-law. It should be noted that there are other conditions contained in legislation for these groups, which remain unchanged.

Read our Finance Bill 2022 Financial Services Tax bulletin for more information on the measures in the Bill that relate to the Financial Services Industry.

Other VAT changes

VAT Registrations

In a change to VAT registrations, where a trader registers for Irish VAT in respect of a "domestic only" registration but subsequently engages in intra-Community trade with other EU Member States, the trader will be required to notify Revenue within 30 days. This provision applies to goods only.

VAT registered traders who obtained "domestic only" registrations should monitor activity closely to ensure that they promptly notify Revenue of any intra-Community trade in goods. Traders whom already have an intra-EU VAT registration will not need to notify Revenue in respect of the commencement of intra-Community trade.

Information Requests

Legislation is to be amended to provide that Revenue may request information from financial institutions where another EU Member State, under EU Council Regulations, has requested that information. A penalty may be imposed where such a request is not complied with. Financial institutions should bear this in mind if receiving such requests from the Irish Revenue.

VAT rates

The Bill has provides for numerous changes to VAT rates on various products, as outlined below.

VAT at the 0% rate, will apply to the below products, with effect from 1 January 2023;

- newspapers, including e-newspapers;
- menstrual cups, menstrual pants and menstrual sponges;
- non-oral hormone replacement therapy medicine and non-oral nicotine replacement therapy medicine; and
- automated external defibrillators, including parts or accessories suitable for use solely or principally with an automated external defibrillator.

In an adjustment to food and drink VAT rates, the 0% rate will be removed from products which are classified as "preparations and extracts derived from milk". Suppliers of milk or milk related products should review their position to determine if they will be within the scope to the standard rate of VAT, rather than the 0% rate.

The temporary 9% VAT rate applying to the supply of electricity and gas has been extended to 28 February 2023. The temporary 9% VAT rate applying to the hospitality industry was previously extended to 28 February 2023; there is no provision to further extend this rate.

The updated rate of 5% for the flat rate farmer addition has been confirmed as coming into effect from 1 January 2023. Changes to this rate are reflective of macro-economic data available to the department.

The VAT exemption in respect of medical care services will be amended to clarify that the persons who may supply exempt medical care services under this provision are registered medical professionals and registered members of designated health and social care professions as provided for by the Department of Health.

Customs & Excise

Numerous customs and excise changes were announced in as part of Budget 2023, with the Bill providing the legislation for these changes. Some of the changes were brought in on budget night.

In summary, the key changes which have been introduced are outlined below:

- 50c increase to the price of a package of 20 cigarettes (pro-rated for other tobacco products);
- the extension of the existing Mineral Oil Tax reductions of 21 cent per litre on petrol, 16 cent on diesel and 5 cent on Marked Gas Oil. These reductions were first introduced in March 2022 and were due to be reversed from 12 October 2022. The reversal of these reductions will now be implemented from 1 March 2023;
- reduction on the excise fees on the application of a late night special exemption order (SEO) from €110 to €55. This is applicable to SEO's granted from 28 September 2022; and
- in relation to betting duty, where a person places a free bet, it is taxable at the value of the bet.

Alcohol

In accordance with the EU Alcohol Directive, up to 50% excise relief will apply to cider and pear cider produced by small independent producers. This is provided for in the Bill as applying to cider and perry (also known as pear cider) with a volume of between 2.8% and 8.5%. The relief will apply up to a maximum of 8,000 hectolitres in a calendar year.

The production threshold for eligibility to claim relief from alcohol products tax on beer brewed in small breweries will increase to 75,000 hectolitres per annum, the limit on the amount of relief granted remains unchanged at up to 30,000 hectolitres per annum. Detailed terms and conditions are set out within the Bill.

Self-certification requirements applying to small independent producers (within the State) of beer, wine, other fermented beverages, intermediate products and ethyl alcohol who wish to avail of reduced rates in other Member States, have been clarified in detail.

Contact us

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