

OHT Guide

VAT on Services Connected with Immovable Property



VAT on the supply of services is dealt with in S. 34 Value Added Tax Consolidated Act 2010.

The general rule is that the place of supply of services depends on whether the services are supplied in a business to business transaction (known as a “B2B” supply), in a business to customer transaction (known as a “B2C” supply) or to a business/customer located outside the EU. However, an exception to this general rule applies in the case of the place of supply of services in relation to immovable property (e.g. legal services to transfer ownership) as such services are deemed to be supplied where the property is located.

The place of supply of services connected to immovable property is governed by Article 47 of the Recast Sixth Directive (Directive 2006/112/EC) as amended by Directive 2008/8/EC.

Immovable property means land and any buildings or fixtures attached to the land, including tenements, hereditaments, house buildings, walls, fences, other permanent structures or fixtures such as pipeline systems for gas, water, sewage etc, land covered by water, and any estate interest in, or over, land.

Supplies of services in connection with immovable property can range from the services provided by estate agents, engineers, and solicitors in relation to the acquisition of property to property management services supplied by letting agents. The place of supply of hotel accommodation or the provision of similar accommodation services (such as the use of camping sites) will always be where the hotel, camping site, or other accommodation is located.

The specific rule concerning the place of supply of services relating to property only applies where the service supplied is directly related to a specific property. It does not apply if the service involved has only an indirect connection with land or if the land based service is only an incidental component of a more comprehensive supply of services.

Where these services are provided in Ireland in relation to property in Ireland, then the place of supply is quite straightforward, i.e. it is an Irish supply. Where such services are provided to an individual located in another Member State (e.g. the UK) in regard to a property located in that Member State then the place of supply will be that other Member State (the UK).

If an Irish business supplies services in relation to immovable property in another Member State which exceeds the relevant VAT threshold in that Member State, then the business will have to register, and account for VAT, in that Member State.

The Revenue’s Leaflet “VAT treatment of services connected with Immovable Property” indicates that the following are not connected with immovable property:

- *The letting of property or part of a property for the purposes of advertising; Advice and information relating to land prices or property markets which do not relate to specific properties;*
- *Feasibility studies of the commercial potential of development etc. in a geographical area;*
- *Legal or estate agents fees for services that do not relate to specific properties.*
- *The drawing up of plans for a building or parts of a building if not designated for a particular plot of land;*
- *The installation or assembly, the repair and maintenance, the inspection or the supervision of machinery which is not, or does not become, part of the immovable property;*
- *The hiring out of equipment for use on building sites;*
- *The making available of equipment, together with staff qualified to operate the equipment, for a customer carrying out work on immovable property where the customer is responsible for carrying out the work.;*
- *Legal services connected to contracts, including advice given on the terms of a contract to transfer immovable property, or to enforce such a contract, or to prove the existence of such a contract, where such services are not specific to the transfer of a title on an immovable property.*
- *The storage of goods if no specific part of an immovable property is designated by the owner for use of the customer;*
- *The provision of a stand location on a fair or exhibition site where accompanied by other related services such as electricity, stand design, transport, storage, provision of machines, cable laying ,insurance, and supply of publicity material.*



Where services are supplied from a Member State other than Ireland to a business located in Ireland in relation to Irish property, the foreign supplier can avail of the reverse charge mechanism set out in S. 12(2) VATCA10. This provides for a zero rate of VAT on the invoices for the supply.

The Irish business receiving the services should account for VAT in Ireland in relation to those services. In this situation the foreign supplier of the services does not have to account for VAT in Ireland.

If services are provided by accountable persons in other Member States (but the services provided relate to property which is located in Ireland) those service providers may have an obligation to register for VAT in Ireland. If they are registered for VAT in Ireland they can claim an input credit for any VAT paid in Ireland which relates to the business.

The issue becomes more complicated where services are provided to individuals located outside the EU. In the normal course of events a supply of services to a business outside the EU, would be outside the charge to VAT as these services are deemed to be provided at the place where the recipient is located.

However, in the case of services relating to immovable property located within the EU those services are deemed to be supplied where the property is situated and subject to VAT in the Member State in which the immovable property is located.

If tax advice is required on any of the points covered in this article, please email info@ohanlontax.ie.

Revenue have stated in their May 2012 Leaflet “VAT treatment of services connected with Immovable Property” that the following are services connected with immovable property:

- *Construction of or demolition work on, a building or of other permanent structures such as pipeline systems for gas, water, sewage and the like;*
- *The drawing up of plans for a building or parts of a building designated for a particular plot of land regardless of whether the building is erected;*
- *The provision of on site supervision and construction work performed on a building or parts of a building or on land;*
- *The renovation and repair of a building or parts of a building, including work such as cleaning, tiling, papering and parqueting;*
- *The installation or assembly of equipment which, upon installation or assembly, becomes part of an immovable property;*
- *The provision of on site (not remotely supplied) supervision and security services;*
- *The repair and maintenance, inspection and supervision of equipment if the equipment is part of an immovable property;*
- *Work on land including agricultural services such as tillage, sowing, watering, and fertilisation services;*
- *The provision of accommodation in the hotel sector or sectors with a similar function such as holiday camps or sites developed for use as camping sites including the right to stay in a specific place resulting from the conversion of timeshare usage rights and the like;*
- *The valuation of immovable property, including where such service is needed for insurance purposes, to determine the value of a property as collateral for a loan, or to assess risk and damages in disputes;*
- *Intermediation in the sale or letting of immovable property;*
- *Legal services relating to the conveyance or the transfer of a title to immovable property, such as notary work, or the drawing up of a contract to sell or acquire such property, even if the underlying transaction resulting in the legal alteration of the property is not carried through;*
- *The assessment of the risk and integrity of immovable property;*
- *The leasing or letting of immovable property, including the storage of goods for which a specific part of the property is designated by the owner for use of the customer;*

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Caveat: *These notes are intended as a general guide. OHT has endeavoured to provide an accurate commentary but the notes cannot cover all circumstances. OHT strongly recommends that formal tax advice be obtained before any steps are taken that may have a tax effect.*