

VAT Issues for Solicitors

This leaflet sets out some of the VAT issues that can arise in practice for VAT registered Solicitors. It is important to ensure that Solicitors correctly account for VAT as penalties may be charged even where there is no tax liability.

Taxable Amount (including Outlay)

A Solicitor is liable to account for VAT on the amount of their professional fees together with 'all taxes (excluding VAT itself), commissions, costs and charges whatsoever' which the Solicitor is entitled to receive in respect of or in relation to the supply of services. Expenses incurred by a Solicitor in the course of, and for the purposes of, carrying out his or her professional services are regarded as part of the Solicitor's charges and are VATable. These include: courier fees, hire of consultation rooms from the Law Society (although these are exempt if charged out separately by the Solicitor), hotel costs, photocopying, postage, summons serving fees, telephone, town agent fees, travelling costs.

Outlays made by a Solicitor on behalf of a client are not regarded as part of the Solicitor's charges and are not, therefore, VATable. Those outlays which are not liable to VAT in the hands of a Solicitor include: advertising, CRO fees incl. company seals, Counsels fees [see NOTE], Court fees and fines, deposits (eg house deposits paid by clients), PRA fees, surveyors' and estate agent fees, valuation services, witness fees and expenses, stamp duty and other duties and taxes.

NOTE re Counsel's fees: When Counsel has received payment of fees he/she will issue to the instructing Solicitor, at the Solicitor's request, a combined VAT invoice/receipt drawn up in the name of the client.

Cross Border Supply of Legal Services/Services received from abroad

Legal services supplied by a Solicitor established in Ireland to any non-business person within the EU are deemed to be supplied in Ireland and are liable to Irish VAT.

Legal services supplied by Irish Solicitors to business persons (whether they are registered for VAT or not) outside of Ireland are deemed to be supplied at the customer's business establishment. If the Recipient is based in the EU, the zero rate of VAT is applied. The Recipient should account for the VAT due on the reverse charge basis. The Solicitor should obtain the customer's VAT number and include on the invoice the narration "the recipient of these services will account for the VAT due on this invoice." The details of services provided to VAT registered persons in other EU States should be included on a VIES return (VAT Information Exchange System).

Where legal services are supplied by Irish Solicitors to persons outside the EU the zero rate of VAT applies. This applies whether the recipient is a business person or non-business person.

Where services are received from abroad the Solicitor should self account for the VAT due on the invoice. Where the service provider is in the EU the Irish Recipient Solicitor should provide his/her VAT number to the service provider and request a VAT invoice with zero VAT. If the service was received in the course of business the Irish Recipient may claim an input credit matching the reverse charge VAT. The net result being no VAT is payable.

VAT treatment of party and party costs

The VAT treatment of party and party costs in litigation can be a cause of confusion.

Where a Plaintiff who is successful in an action recovers costs from a Defendant, the Plaintiff's Solicitor should issue a VAT invoice to the Plaintiff for services supplied to the Plaintiff and account to Revenue for VAT on the fees invoiced to the Plaintiff.

The Defendant's Solicitor should issue a VAT invoice for services supplied to the Defendant and account to Revenue for VAT on fees invoiced to the Defendant.

If the successful Plaintiff is registered for VAT and the Solicitor's services are supplied for business purposes, the plaintiff will be able to claim the VAT payable to his/her Solicitor and there should be no recovery of this VAT from the losing side. It is a matter for the losing or paying party to raise the query whether or not the winner is correctly seeking VAT recovery.

The services of a Barrister or Solicitor supplied in relation to business undertaken for Insurance firms are deemed to be supplied to the policy holders where the holders are indemnified for the costs of such services and the policies have been taken out for business purposes. The insurance company (which would not have VAT deductibility) does not have to suffer the VAT on the legal fees.

VAT and bad debts

A claim for Bad Debt relief may arise when a client defaults in full or part on payment and where the VAT on the invoice raised has been paid to Revenue. Bad debt relief is only available to those who account for VAT on the invoice basis and for debts actually written off. It is not available in respect of a debt due from a 'connected' person.

The relief can be claimed where it can be demonstrated that all reasonable steps to recover the bad debt have been taken, the debt is allowable as a deduction in arriving at the tax adjusted profits for income tax and it has been written off in the financial accounts.

Deduction for VAT charged on purchases

A VAT registered Solicitor is entitled to take a credit or deduction (i.e. set off against his/her liability) for most VAT properly invoiced to him/her by suppliers. The Solicitor does not have to have paid the suppliers to be entitled to the credit. However if the creditor is not paid within 6 months an adjustment may have to be made to the VAT return.

The only expenditure in respect of which a tax credit may not be taken is expenditure relating to the provision of food, drink, accommodation or other personal services for the Solicitor or his/her agents, employees (e.g. hotel costs); entertainment expenses; purchase, hire or leasing of a car or other road passenger vehicle; purchase of petrol; an exempt (e.g. short-term letting of premises) or non-business activity; and VAT incurred prior to VAT registration.

Withholding Tax – Professional Services

Income tax withheld from payments for professional services is deemed, for VAT purposes, to have been received by the Solicitor. The Solicitor must therefore account for VAT on the full amount of the invoice and not the amount actually received.

If you would like further information on any item within this leaflet, or information on our services please contact us.



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