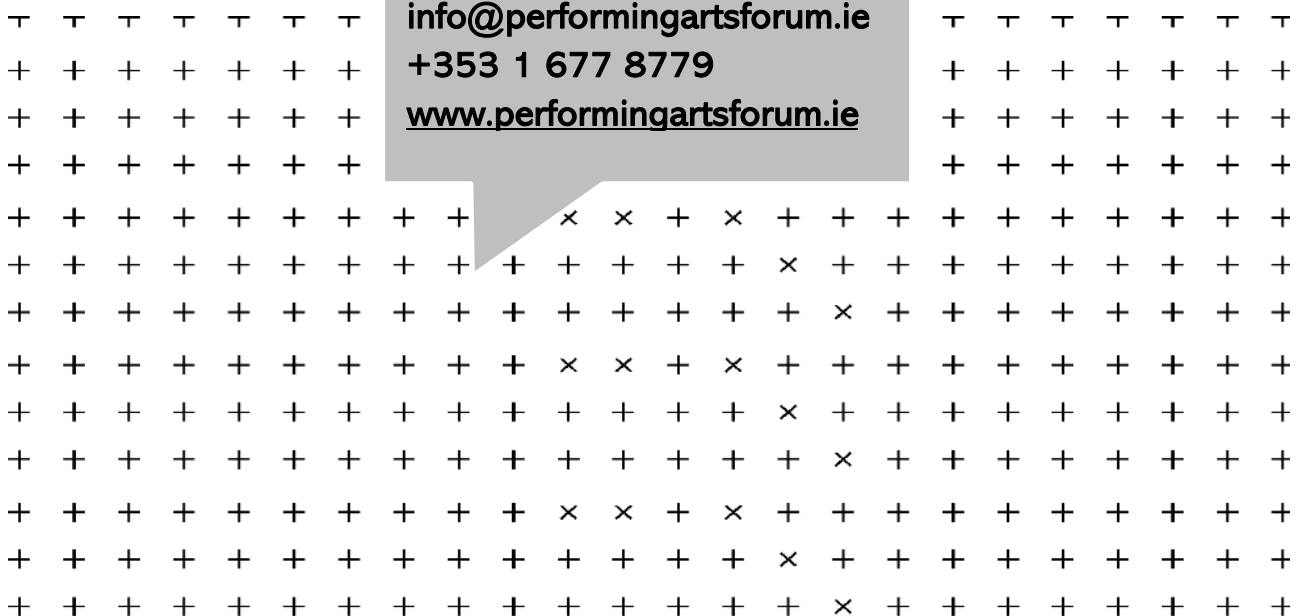


PERFORMING ARTS FORUM

VAT AND ARTISTS // FACTSHEET

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Vat and Artists Factsheet

While every effort is made to ensure the information in this article is accurate, Theatre Forum and the author can accept no responsibility for loss or distress to any person acting or refraining from acting as a result of the material contained herein.

Introduction to VAT

It should be noted from the outset that this text is a simple guide to Value Added Tax (VAT) general rules and administration. There is a huge amount of Revenue and EU legislation on the subject, so where large sales figures are involved specialist advice is always recommended, particularly if those sales are arising in another EU country.

VAT is a European Tax, and every member state of the European Union must have a system of VAT which is compatible with European legislation.

VAT Registration

Requirement to Register

In Ireland, you are subject to VAT if you are self-employed or work on a freelance basis and have sales in excess of the following thresholds: The threshold for registration is €40,000 for services and €80,000 for goods. If the income from your business activity exceeds these limits within any 12-month period it is necessary for you to register for VAT.

Writers, actors, performers and freelance producers are deemed to be providing a service, so the €40,000 income threshold will apply in all cases.

The table below shows a list of selected activities deemed to be either goods or services. You will find more information in the Applicable Rates of VAT section on page 5.

Goods	Services
Selling programmes or brochures	Facilitating workshops or classes
Selling catalogues of your work	Selling Theatre Tickets
Video/DVD Sales	Giving a performance
	Sales of video / new media artwork **

* This activity is considered a service in the creative context. A video retailer is selling goods, but a person who is commissioned to make a video or a piece of media art is providing a service. A person who creates a piece of media artwork and regulates where it can be shown is providing a service. A person who makes their own videos and sells the videos independently is selling goods.

Option to Register

If your turnover is below these limits you can opt to register for VAT should you wish to do so. The advantage of being VAT registered is that you can reclaim VAT on your business costs, however this means that you also have to charge VAT on your income.

If your customers are VAT registered and entitled to reclaim VAT charged to them on the service provided then this option can be favourable. Where your customers are not able to reclaim the VAT it results in the service or goods being more expensive for your customer, and may have a negative impact on your sales.

How to Register for VAT

If one of the following applies;

1. You are registered for [MyAccount](#)
2. You are registered for the [Revenue Online Service \(ROS\)](#)
3. You are represented by a Tax Agent (accountant or tax advisor).
4. Then you must use the Revenue eRegistration Service (details [here](#)) to do apply for a VAT registration. This must be done via ROS, which you can register for [here](#). Once you have ROS up and running you can set up your VAT registration and manage your tax affairs using the service.

If none of the above three scenarios apply to you then you can complete a paper form TR1 – in the case of individuals or partnerships, or a TR2 – in the case of companies. The TR1 is available on the Revenue website [here](#). It is necessary to provide Revenue with bank account details to register, as they will only issue VAT refunds electronically.

When you can De-register

If you decide to cease your trade for whatever reason you should deregister for VAT. This can be done easily via ROS or by cancelling your registration by arrangement with the local inspector of taxes. Note that if you deregister Revenue assess the VAT that you have reclaimed on goods and services sold to you, and if this has not resulted in goods/services being produced and sold by yourself, they can ask for this money back.

Similarly, a person whose turnover has fallen below the appropriate turnover threshold may have the registration cancelled.

A person ceasing to trade should cease all taxes via ROS, or notify the inspector of taxes of this fact, so that the VAT registration number can be cancelled without delay. This is important to note, otherwise return forms and demands for estimated VAT liabilities will continue to be issued automatically.

Artist Exemption doesn't apply to VAT.

In the case of writers for example, where Artist Tax Exemption has been granted, it is important to note that the exemption applies to income tax only. VAT must be applied as normal.

General Rules

Charging VAT on Sales

Once you are VAT registered it is necessary to charge VAT on your sales. The rate of VAT charged depends on the goods or service you provide. The applicable VAT rates are 0%, 13.5%, 9% and 23%. These rates are occasionally changed by Finance Acts.

Writers will have to charge VAT at 23% on sale their work. For admissions to cinemas, theatres, certain musical performances, museums and art gallery exhibitions the applicable rate of VAT has been reduced to 9% since 1st January 2011. More details on the applicable VAT rates are included below.

Claiming VAT on Expenses

The VAT that is charged on your income must be paid over to the Revenue Commissioners. From the VAT payable on your sales you may deduct the VAT charged on most goods and services that are used for the purposes of your taxable business. No deduction may be made for the VAT on goods and services used for any other purpose e.g. personal use. The purchases must be in “the course or furtherance of business”.

Restricted expenses

A situation may arise where a portion of the purchases may be for the purposes of your taxable business and the remaining portion for your private use.

Example: Electricity, telephone charges & heating expenses where the business is carried on from your private residence. It can also arise that inputs may be used for both taxable and non-taxable activities. In such cases, only the amount of VAT that is appropriate to the taxable business is deductible. In practice, this normally works by apportioning a percentage of the bills to your business.

If you use your car (if it is a diesel engine car) or have a van for business use you can claim back the VAT charged on your diesel bills but you must note that you cannot claim VAT on petrol even if you use a petrol engine car to transport your works.

Non-deductible expenses

You may not deduct VAT on any of the following, even when the goods and services in question are required or used for the purposes of your taxable business:

1. You can't reclaim VAT charged to you on restaurant or hotel bills or other personal services, for you - the taxable person - your agents or employees, except to the extent, if any, that such provision constitutes a supply of services in respect of which he or she is accountable for VAT.

2. Expenditure incurred by you on food or drink, or accommodation or other entertainment services, where such expenditure forms all or part of the cost of providing an advertising service in respect of which tax is due and payable by you.
3. Entertainment expenses incurred by you - the taxable person - your agents or employees.
4. The acquisition (including hiring) of passenger motor vehicles otherwise than as stock-in-trade (that is, for resale) or for hire in a vehicle hire business or for use giving driving instruction in a driving school business.
5. The purchase of petrol otherwise than as stock-in-trade.

As a general rule, if registered persons are not entitled to a credit on the purchase of goods for use in their business, they are not liable for VAT on the sale of such goods.

Self Supplies

A "Self Supply" occurs when a taxable person uses goods or materials for a personal i.e. non-business use. If VAT has been reclaimed on the original purchase of the goods then it must be repaid to Revenue.

Administration

The information given on invoices and credit notes normally establishes the VAT liability of the supplier of goods or services and the entitlement of the customer to a deduction, where applicable, for the VAT charged. It is therefore vital that these documents are properly drawn up and carefully retained.

Requirements of a VAT invoice

A taxable person who supplies taxable goods or services to another taxable person is obliged to issue a VAT invoice showing the following particulars:

- the name and address of the trader issuing the invoice
- the trader's VAT registration number
- the name and address of the customer
- the date of issue of the invoice
- the date of supply of the goods or services
- a full description of the goods or services
- the quantity or volume of the goods supplied
- the consideration/sales price exclusive of VAT expressed in euro
- the rate (including zero rate*) and amount of VAT at each rate.

*Zero Rated intra-Community Supplies (more on this below):

Where you sell your works to the UK or install works in the UK (including Northern Ireland) or any other EU country special rules apply. These rules say that you must, in addition to the above, show the VAT registration number of the customer in the other EU Member State. Where payment in full or by installments for goods or services supplied to a VAT-registered person is made before the completion of the supply, the person receiving payment must issue an invoice in the proper form not later than the 15th day of the month following that during which each such payment was received.

Filing a VAT Return

VAT returns must be filed every 2 months in the first year of registration. After the first year you can opt for a quarterly, bi-annual or annual return subject to turnover limits.

The online VAT return for Jan/Feb is due on the 23rd March. For online March/April return - the 23rd May etc.

The form to be completed is a VAT 3.

If your annual taxable income is less than €1,250,000 you only have to return VAT on sales when you have received the payment. This is known as the "Cash Receipts Basis".

If you fail to make a VAT return on time Revenue can charge interest on the late payment of tax. The rate is 0.0219% per day (approx. 8% p.a.)

Penalties & Interest

Penalties can be charged for not keeping proper books and records, failing to register, filing false returns etc. The maximum fine is €126,970 and 5 years imprisonment. This is only in extreme cases; the standard penalty is €1,520 and can normally be mitigated.

Revenue Powers

Revenue have the authority to examine your books and records to make sure that you have paid the correct amount of VAT. If they find that you have made a mistake then the authorised Revenue official may remove and retain the relevant papers and records. In the unlikely event that they believe that you have defrauded the Revenue they can also search for records if they believe they have not been produced in full. S/he may also search for goods, but may not remove them. Revenue powers are extensive in this area and they do not need a search warrant.

Keeping Records

A VAT-registered trader must keep full and true records of all business transactions that affect or may affect his or her liability to VAT. The records must be kept up to date and must be sufficiently detailed to enable a trader to accurately calculate any liability or repayment and also to enable the inspector of taxes to check the calculations, if necessary.

A taxable person must retain all books, records and documents relevant to the business, including invoices, credit and debit notes, receipts, accounts, cash register tally rolls,

vouchers, VIES and intrastat returns, stamped copies of customs entries and other import documents and bank statements. These business records must be preserved for six years from the date of the latest transaction to which they refer

Persons who carry on business, even though they may not be taxable persons, must for VAT purposes keep all invoices issued to them in connection with the business and copies of customs entries in respect of goods imported.

VIES & Intrastat Returns

VIES returns: When an Irish VAT-registered trader makes zero rated supplies of goods or services to a trader in another EU Member State, summary details of those supplies must be returned to Revenue on a quarterly or monthly basis. This return, known as the VIES return, is to enable the authorities in each EU Member State to ensure that intra-Community transactions are properly recorded and accounted for.

INTRASTAT returns: Traders engaged in intra-Community trade are also obliged to make a periodic INTRASTAT return, for statistical purposes, where the value of goods acquired by them from other Member States exceeds €191,000 per annum or the value of goods supplied by them to other EU Member States exceeds €635,000 per annum.

Applicable Rates of VAT with Industry Specific Examples Exempt from VAT

- Providing Training and Classes (for vocational purposes)
- Theatrical performances where no food or drink is made available
- Payments in respect of droit de suite / Artists' Resale Right.

Where an activity is exempt, VAT cannot be reclaimed on the purchases relating to that activity. Example: If a writer purchases stationery to use in writing a piece the VAT can be reclaimed, but if they use the materials for a writing class the VAT cannot be reclaimed.

0% VAT - Intra-community Supplies

You can zero rate the supply of goods or services to a customer in another EU Member State if:

the customer is registered for VAT in that other EU Member State

- the customer's VAT registration number (including country prefix) is obtained and retained in the supplier's records
- this number, together with the supplier's VAT registration number, is quoted on the sales invoice
- any goods are dispatched or transported to that other EU Member State.

If these four conditions are not met the supplier is liable for VAT at the appropriate Irish rate. If the supplier is not able to satisfy the inspector of taxes that particular consignments of goods have been sold and delivered to a VAT-registered person in another Member State, the supplier becomes liable for the payment of Irish VAT on the transaction. Where any of

the above four conditions are not satisfied the seller should charge Irish VAT. If the conditions

for zero-rating are subsequently established the customer is entitled to recover the VAT paid from the supplier. The supplier can then make an adjustment in his/her VAT return for the period.

Unlike exempt supplies VAT can be reclaimed on expenses relating to 0% supplies.

13.5% VAT - Reduced Rate

Examples include:

- Commissioned Video work
- Works of art (paintings/drawings/pastels)
- Literary manuscripts, certified by the Director of the National Library of being of major importance.

9% VAT - Second Reduced Rate

This new reduced rate was introduced on 1st July 2011 in an effort to provide a boost to the tourism industry. It was introduced as a temporary measure, due to expire 31st December 2013, but it has since been extended indefinitely. The 9% rate applies to certain goods and services previously liable at the 13.5% rate, including:

- Admissions to cinemas, theatres, certain musical performances, museums and art gallery exhibitions
- Providing printed matter such as brochures, maps, programmes, leaflets, catalogues and newspapers.

23% VAT – Standard Rate

This is the most common rate of VAT charged on most goods and services, including;

- Non-commissioned video production
- Writing services
- Acting and commercial work
- Services provided as an agent.

Any work which is created for a commercial purpose rather than an artistic one is liable at 23% e.g. where a script is written for the purpose of using in an advertisement.

By Gaby Smyth & Company Ltd. and Peter Daly

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