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## Notice 741

### Place of supply of services

May 2008

This notice cancels and replaces Notice 741 (March 2002). It also cancels and replaces Notice 744D (March 2002), Information Sheet 07/05 and Revenue and Customs Brief 52/07. Details of any changes to the previous version can be found in paragraph 1.3 of this notice.

#### Further help and advice

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#### Other notices on this or related subjects:

Notice 700	Notice 701/49	Notice 723
Notice 700/1	Notice 703	Notice 725
Notice 700/2	Notice 703/1	Notice 742
Notice 700/15	Notice 706	Notice 744A
Notice 701/30	Notice 708	Notice 744B
Notice 701/36	Notice 709/5	Notice 744C
Notice 701/41	Notice 709/6	

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## 1. Introduction

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### 1.1 Who should read this notice?

You should read this notice if you make or receive supplies of services to or from a customer in another Member State of the European Community (EC) or outside the EC.

### 1.2 What is this notice about?

This notice explains how to determine the place of supply of your services. It also explains how to deal with supplies of services which you **receive** from outside the United Kingdom (UK).

This notice and others mentioned are available both on paper and our Internet website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

### 1.3 What has changed?

This notice has been restructured to improve readability. In particular the following guidance has been incorporated.

- Guidance on electronically supplied services. See sections:
  - 13 - Schedule 5, paragraph 7C – Services that can be supplied or received in a customer's country;
  - 15 - Use and enjoyment of electronically supplied services;
  - 16 - Electronically supplied services: Evidence of customer location and status; and
  - 18 - Electronically supplied services: Special scheme for non-EC businesses.
- The guidance in Notice 744D *International services: zero-rating* March 2002 edition has been incorporated into sections 4, 7 and 11 of this notice.

You can access details of any changes to this notice since May 2008 either on our Internet website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk) or by telephoning our National Advice Service on 0845 010 9000.

### 1.4 What VAT law covers this notice?

UK VAT law covering this notice is contained in:

- the Value Added Tax Act 1994 which is referred to in this notice as the VAT Act:
  - Section 9 of the VAT Act covers place of belonging. See section 3 of this notice;
  - Schedule 5 paragraphs 1 to 8 of the VAT Act covers services which may, under certain rules, be supplied where the recipient belongs. See sections 12 and 13 of this notice;
  - Schedule 8 Group 7 of the VAT Act covers the zero-rating provisions for international services. See sections 4, 7 and 11 of this notice.
- the Value Added Tax (Place of Supply of Services) Order 1992 (as amended by later orders) which is referred to in this notice as the Order.

EC VAT law covering this notice is contained in Council Regulation (EC) No. 1777/2005 (Implementing Regulation).

### 1.5 How to use this notice

This notice assumes you have a knowledge of the principles of VAT explained in Notice 700 *The VAT Guide* and have read Notice 700/15 *The ins and outs of VAT*.

It is unlikely that all the information in this notice will apply to you, so you do not need to read it all from cover to cover. The table at paragraph 2.4 will help you identify which sections are appropriate to you. There is a contents list and also an index in section 22 which covers popular areas. You should take care to read the beginning of appropriate sections and remember that lists of examples are not exhaustive.

### 1.6 Right of appeal

If you disagree with any decision made by HMRC you can ask for it to be reconsidered. You should certainly do so if you can provide further relevant information, or if there are facts which you think may not have been fully taken into account. If you are still not satisfied, you may be able to appeal to an independent Tribunal. There are time limits for doing this.

Notice 700 *The VAT Guide* provides information about the appeal procedure. A leaflet issued by the President of the VAT and Duties Tribunals is available from our National Advice Service and contains further details.



## 2. Place of supply of services

### 2.1 What is “place of supply of services”?

For VAT purposes, the **place of supply of services** is the place where a service is treated as being supplied. This is the place where it is liable to VAT (if any). There are a number of place of supply rules for determining where services of different kinds are made:

- where the place of supply of services is in a Member State of the European Community (EC), that supply is liable to VAT (if any) in that Member State and in no other country. If the Member State is not the UK, such supplies are said to be “outside the scope” of UK VAT;
- where the place of supply of services is outside the EC, that supply is made outside the EC and is therefore not liable to VAT in any Member State (although local taxes may apply). Such supplies are said to be “outside the scope” of both UK and EC VAT.

### 2.2 What does “place of supply” mean for UK suppliers?

If the place of supply of your services is the UK, you must charge any UK VAT due and account for it to HMRC regardless of where your customer belongs. If the place of supply of your services is another Member State, you or your customer may be liable to account for any VAT due to the tax authorities of that country. See paragraph 2.12.

Where the place of supply of your services is outside the UK, you should ensure that your records demonstrate that this is the case. See paragraph 12.5.

### 2.3 What services are being supplied?

To begin with, it is essential that you think carefully about the nature of any services that you supply (or receive). You must identify the real nature of a supply of services where general or generic descriptions are used, because it may affect which place of supply rule applies. Sometimes the same term may be used to describe a variety of activities. For example, the term “management services” does not indicate the nature of the services supplied, some of which may fall under the basic rule whereas others may not.

Although reference to your own costs may suggest the nature of your services, you should ask yourself “what am I supplying?”. Your invoices should explain the type of services you are actually providing.

### 2.4 How do I determine the place of supply of services?

Services are made where the supplier belongs, under what is known as the basic rule (see section 5), **unless** any of the special place of supply rules apply. Services covered by the special rules are detailed in the table below.

There are special rules for:	For further information refer to:
services relating to land and property;	section 6;
services involving physical performance. For example ancillary transport, artistic, cultural, education and training, exhibitions, conferences, meetings, entertainment, sporting, valuation/ of/work on goods;	section 7;
valuation of, or work on, goods for an EC VAT registered customer where the goods are subsequently removed to another country;	section 8 and diagram 1 at 8.5;
passenger transport;	section 9;
freight transport;	section 10;
certain intermediary services;	section 11 and diagram 2 at 11.15;
services listed in paragraphs 1 to 8 of Schedule 5 of the VAT Act, which are mainly “intangible” in character.	sections 12, 13, 14, 15, 16 and 18.

## **2.5 Why isn't there just one place of supply rule for all services?**

There is not one place of supply rule for all services because, where the customer belongs in one country and the supplier in a different country, rules are needed to determine the correct place of supply of the services in question.

Where the place of supply is a Member State, rules are necessary to avoid the possibility of supplies being taxed more than once, or not at all.

## **2.6 VAT liability**

This notice does not cover VAT liability. There is no general relief for the export of services as there is for goods. Services supplied in the UK may be exempt, zero-rated, standard-rated or liable to VAT at a reduced rate.

## **2.7 Tour operators' margin scheme**

If you buy travel, hotel, holiday and certain other supplies of a kind enjoyed by travellers from a third party and resell them as principal and in your own name, there are different place of supply rules.

See Notice 709/5 *Tour operators' margin scheme*.

## **2.8 What are the territorial limits of the UK?**

The UK consists of Great Britain, Northern Ireland and the waters within 12 nautical miles of their coastlines. The Isle of Man is treated as part of the UK for VAT purposes and VAT is chargeable in the Isle of Man (under Manx law which generally parallels UK legislation). There is no VAT in the Channel Islands, which are outside the UK and EC for VAT purposes.

The territorial limits of the EC, which are important in establishing where particular types of service are supplied, are shown in section 19.

## **2.9 Can I recover input tax?**

If you supply services, you may recover (subject to the normal rules) input tax related to:

- taxable supplies;
- supplies made outside the UK which would be taxable if they were made in the UK; or
- supplies of exempt insurance services and certain exempt financial services, and supplies made outside the UK which would have been exempt supplies if they had been made in the UK, where they are:
  - made to a person who belongs outside the EC;
  - supplies directly linked to the export of goods to a place outside the EC; or
  - the making of arrangements for such supplies.

See also Notice 706 *Partial exemption*.

## **2.10 Can businesses recover VAT incurred in other Member States?**

A business customer who incurs VAT in other Member States may be able to claim a refund of VAT incurred on services supplied in the UK. See Notice 723 *Refunds of VAT in the EC for EC and non-EC businesses*.

## **2.11 Could I be liable to register for VAT in the UK?**

If you belong in the UK or belong outside the UK and supply services whose place of supply is in the UK, you may be liable to register for VAT in the UK (subject to the relevant current registration threshold).

Information about registering for VAT in the UK is given in Notice 700/1 *Should I be registered for VAT?*

## **2.12 Could I be liable to register for VAT in other Member States?**

If you supply services whose place of supply is in another Member State, you may be liable to register for VAT in that country (subject to its VAT registration rules). If you do not have an establishment in that Member State, you may need to appoint a local tax representative to account for VAT there on your behalf.

Details of contact addresses and other useful information provided by the VAT authorities in other Member States can be found on the following EC website:

[http://europa.eu.int/comm/taxation\\_customs/taxation/vat/traders/vat\\_community/index\\_en.htm](http://europa.eu.int/comm/taxation_customs/taxation/vat/traders/vat_community/index_en.htm)

### 3. Place of belonging

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#### The law on place of belonging is in the VAT Act, section 9.

UK VAT law refers to “belonging” whereas EC VAT law refers to “establishment”. These two terms have the same meaning for VAT purposes.

#### 3.1 Why are “belonging” rules necessary?

For certain types of supply the place where a supplier or customer belongs determines where services are supplied and who accounts for any VAT due. Rules are needed to ensure that the correct place of supply is identified.

You can find out more information about this in sections:

- 5 - Services supplied where the supplier belongs;
- 11 - Services supplied where the customer belongs;
- 14 - Use and enjoyment of letting on hire of goods, telecommunications services and radio and television broadcasting services; and
- 15 - Use and enjoyment of electronically supplied services.

The place of supply of land-related services is where the land is located. See section 6. The place of supply of services supplied where performed is the place of performance. See section 7. Therefore the place of belonging of either the supplier or the customer does not affect the place of supply of these services.

#### 3.2 When do I belong in the UK?

You belong in the UK for the purposes of either making or receiving supplies of services when any of the following apply:

- you have a **business establishment** (see paragraph 3.3) in the UK and no **fixed establishment** (see paragraph 3.4) elsewhere;
- you have a business establishment in the UK and fixed establishments in other countries, but the UK establishment is most directly connected with making or receiving the supplies in question;
- you have a fixed establishment in the UK and a business establishment and/or fixed establishments overseas, but the UK establishment is most directly connected with making or receiving the supplies in question; or
- you have no business or fixed establishment anywhere, but your **usual place of residence** is the UK. See paragraph 3.5.

#### 3.3 What is a business establishment?

The business establishment is the principal place of business and is usually the head office, headquarters or “seat” from which the business is run. There can be only one such place which may be an office, showroom or factory.

##### 3.3.1 Examples of business establishment

- A business has its headquarters in the UK and branches in France, Italy and Germany. Its business establishment is the headquarters in the UK.
- A company is incorporated in the UK but trades entirely from its head office in Bermuda. Its business establishment is the head office in Bermuda.

#### 3.4 What is a fixed establishment?

A fixed establishment is an establishment other than the business establishment, which has the technical and human resources necessary for providing or receiving services permanently present. A business may have several fixed establishments, which may include a branch of a business or an agency.

If you carry on a business through a branch or agency, you have a fixed establishment where the branch or agency is located.

If you have a temporary presence of human and technical resources, this does not create a fixed establishment in the UK. For example, an overseas television company sending staff and equipment to the UK to film for a week does not constitute a fixed establishment in the UK.

Where you have establishments in more than one country, you will need to decide which one is most directly connected with a supply. See paragraph 3.6.

#### 3.4.1 What is an agency?

An agency is a separate business which behaves in a similar way to a branch. It acts on the instructions of its principal, often in the principal's name, in the conduct of the principal's business. It includes any business which does not, in function and substance, operate independently of its principal. A business may be the agency of a principal, irrespective of whether it has any authority or capacity to create a legal relationship between that principal and a third party.

However, you are not carrying on a business through an agency if you:

- act merely as an intermediary in bringing together customer and provider, but are not directly involved in the supply chain; or
- supply only incidental elements such as clerical or typing services.

#### 3.4.2 Examples of fixed establishment

- An overseas business sets up a branch comprising staff and offices in the UK to provide services. The UK branch is a fixed establishment.
- A company with a business establishment overseas owns a property in the UK which it leases to tenants. The property does not in itself create a fixed establishment. However, if the company has UK offices and staff or appoints a UK agency to carry on its business by managing the property, this creates a fixed establishment in the UK.
- An overseas business contracts with UK customers to provide services. It has no human or technical resources in the UK and therefore sets up a UK subsidiary to act in its name to provide those services. The overseas business has a fixed establishment in the UK created by the agency of the subsidiary.
- A company is incorporated in the UK but trades entirely overseas from its head office in the USA, which is its business establishment. The UK registered office is a fixed establishment.
- A UK company acts as the Operating Member of a consortium for offshore exploitation of oil or gas using a fixed production platform. The rig is a fixed establishment of the Operating Member.

### 3.5 **What is the usual place of residence?**

If a limited company or other corporate body has neither a business establishment nor other fixed establishment in any country, its usual place of residence (in other words, its place of belonging) is where it is legally constituted.

Individuals receiving supplies in a non-business capacity are treated as belonging in the country where they have their usual place of residence. An individual has only one usual place of residence at any point in time. Individuals are normally resident in the country where they have set up home with their family and are in full-time employment. They are not resident in a country they are only visiting as a tourist.

#### 3.5.1 Examples of usual place of residence

- The board of directors of a company incorporated in Bermuda, which has no business or fixed establishment anywhere in the world, meet from time to time in different countries, including the UK. The company belongs in Bermuda where it is incorporated.
- A person lives in the UK, but commutes to France daily for work. He belongs in the UK.
- Overseas forces personnel on a tour of duty in the UK live in rented accommodation with their families. They have homes overseas to which they periodically return on leave. They belong in the UK throughout their tour of duty.

#### 3.5.2 What is the usual place of residence of a person with no right to remain in the UK?

For VAT purposes, persons who have not been granted a right or permission to remain in the UK should be treated as belonging in their country of origin. This will apply to, for example, asylum seekers and those entering without permission.

In these circumstances, the country in which individuals have their usual or permanent place of residence can only reasonably be seen to be their country of origin unless and until they are granted the right to remain in the UK.

Once an individual has been granted leave or permission to remain in the UK, he belongs in the UK.

### 3.6 I have more than one establishment. Where do I belong?

If, as either the supplier or the recipient of services, you have establishments in more than one country, the supplies you make from, or receive at, each establishment have to be looked at separately. For each supply of services, you are regarded as belonging in the country where the establishment most directly connected with that particular supply is located.

To decide which establishment is most directly connected with the supply, you should consider all the facts, including:

- for suppliers, from which establishment the services are actually provided;
- for recipients, at which establishment the services are actually consumed, effectively used or enjoyed;
- which establishment appears on the contracts, correspondence and invoices;
- where the directors or others who entered into the contract are permanently based; **and**
- at which establishment decisions are taken and controls are exercised over the performance of the contracts.

Normally it is the establishment actually providing or receiving the supply of services which is the establishment most directly connected with the supply, even if the contractual position is different.

#### 3.6.1 Examples where a business has more than one establishment

Where a **supplier** has more than one establishment:

- a company whose business establishment is in France contracts with a UK bank to supply French speaking staff for the bank's international desk in London. The French company also has a fixed establishment in the UK created by a branch, which provides staff to other customers. The French establishment deals directly with the UK bank without any involvement of the UK branch. The staff are supplied by the French establishment;
- an overseas business establishment contracts with private customers in the UK to provide information. The services are provided and invoiced by its UK branch. Customers' day to day contact is with the UK branch and they pay the UK branch. The services are actually supplied from the UK branch which is a fixed establishment.

Where a **recipient** has more than one establishment:

- a UK supplier contracts to supply advertising services. Its customer has its business establishment in Austria and a fixed establishment in the UK created by its branch. Although day-to-day contact on routine administrative matters is between the supplier and the UK branch, the Austrian establishment takes all artistic and other decisions about the advertising. The supplies are received at the overseas establishment;
- a UK accountant supplies accountancy services to a UK incorporated company which has its business establishment abroad. However, the services are received in connection with the company's UK tax obligations and therefore the UK fixed establishment, created by the registered office, receives the supply;
- a customer has a business establishment in the UK and a fixed establishment in the USA created by its branch. The UK establishment contracts a UK company to provide staff to the USA branch. The supplier invoices the UK establishment and is paid by them. The services are most directly used by the USA branch and therefore are received at the overseas establishment.

### 3.7 What if I am unsure where my customer belongs?

If you are unsure where your customer belongs you should refer to paragraphs 3.6 and 3.6.1 for help in determining which of your customer's establishments receives your services. Further factors which may help you decide this include:

- obvious use of your services at a particular establishment (for example, the lease of equipment for use at that establishment);
- taking your instructions from a particular establishment;
- the service relating to business being conducted by your customer in an establishment in a particular country (such as written reports or accounts); **and**
- delivering any "products" (like a mastertape) to a particular establishment.

However, it is always necessary to consider all the facts.

If you are a supplier it is your responsibility to find out at which establishment your customer receives your supplies and therefore whether or not UK VAT is chargeable. If you have established the facts about your customer but are still unsure about where your services are received, you should contact our National Advice Service for guidance.

### **3.8 Securities**

There is a special rule, known as the “easement” for supplies of securities, where the identity of the purchaser is not known (see paragraph 13.7.4).

#### 4. International services: zero-rating

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**The law on zero-rating of certain international services is in Group 7 (International services) of Schedule 8 (Zero-Rate) of the VAT Act.**

Zero-rating (under an extra-statutory concession) also applies to training services supplied to overseas governments. See paragraph 7.2.

Zero-rated supplies are taxable supplies on which the rate of VAT is nil. Related input tax you incur may be recovered subject to the normal rules.

##### 4.1 When does zero-rating apply?

Zero-rating under Group 7 of Schedule 8 of the VAT Act can apply to certain international services where the place of supply is the UK. Zero-rating under Group 7 does **not** cover services where the place of supply is outside the UK and consequently outside the scope of UK VAT.

##### 4.2 Which international services can zero-rating apply to?

If the place of supply of the international services is the UK **and** certain conditions are met, zero-rating may apply to the following types of service:

- work on goods for export from the EC. See paragraph 7.6; **and**
- intermediary services. See section 11.

##### 4.2.1 Do I need to keep evidence for zero-rating?

You must keep evidence (for example, commercial documentation) to substantiate the zero-rating of supplies you make.

##### 4.2.2 What if my services do not qualify for zero-rating?

If the place of supply of your services is the UK and they do not qualify for zero-rating, then you should charge UK VAT in the normal way.



## 5. Services supplied where the supplier belongs – the basic rule

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**The law on services supplied where the supplier belongs is in the VAT Act, section 7(10).**

### 5.1 What is the basic rule for the place of supply of services?

If you supply services, other than those covered by the special rules described in the other sections of this notice, the place of supply of your services is the place where you belong for the purposes of making your supply (see section 3).

This is known as the basic place of supply rule. If you supply services that fall under this section and you belong in the UK, you must account for any UK VAT due, no matter where your customer belongs.

Although known as the basic rule, it only applies to supplies of services **not covered** by the rules in the other sections of this notice.

If you provide bought-in supplies of hired means of transport for the direct benefit of a traveller see paragraph 2.7.

### 5.2 How do I decide if services fall under the basic rule?

It is not possible to give a conclusive definition of basic rule services. The basic rule will only apply if a supply of services cannot be seen to fall under any of the other rules. Before deciding that a supply falls under the basic rule, you should identify the exact nature of your services and consider them against the other rules.

### 5.3 Examples of services supplied where the supplier belongs

- Services described simply as management where the actual services provided are not of a type covered by the other sections in this notice. See section 13 for consultancy, accountancy, legal or financial services.
- Clerical or secretarial services, or the provision of office facilities (but not the office accommodation itself).
- Archiving services, involving the maintenance of documents and records.
- Veterinary services.
- Services forming part of organising a funeral, where a single supply of a funeral is to be made.
- Schedule 5, paragraphs 1 to 8 services when supplied to customers belonging in the same Member State as the supplier, or to non-business customers belonging in a different Member State from the Member State of the supplier. See section 13.
- Letting on hire of a means of transport under certain circumstances. See paragraphs 5.4 and 5.5.

### 5.4 Letting on hire of a means of transport

The letting on hire, or leasing, of any goods which are a means of transport falls under the basic rule, and are supplied where the supplier belongs.

Hire of a means of transport **does not** cover supplies which include the services of a driver, pilot, operator or crew. The place of supply of such transport-related services depends on the nature of the services supplied. See section 10.

For the letting on hire of other goods, see section 13.

However, there are extra rules for all hired goods (including letting on hire or leasing means of transport), depending on where they are used and enjoyed (see section 14).

### 5.5 What is a “means of transport”?

To decide whether goods that you hire are means of transport, you must consider the actual structure and design of the hired goods. This objective consideration applies even where the intended, or actual, use of the hired goods may not be as a means of transport. For example, a yacht is a means of transport even if it is to be used for racing, as is a train which may be leased to a transport museum.

#### 5.5.1 Examples of means of transport

- Ships, boats, yachts, hovercraft, barges or dracones (bulk liquid barges).

- Aircraft.
- Cars, trucks, lorries.
- Motorcycles, cycles.
- Touring caravans and trailers.
- Trailers and semi-trailers.
- Railway wagons.

#### 5.5.2 Examples of goods which are not a means of transport

- Freight containers.
- Static caravans.
- Racing cars where the provision of the car forms part of a supply of sporting services (see section 7).

#### 5.5.3 Zero-rating of hired means of transport made in the UK

When supplied in the UK, the hire of certain ships and aircraft is zero-rated. See Notice 744C *Ships, aircraft and associated services*.

## 6. Services relating to land

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The law on land-related services is in Article 5 of the Order.

### 6.1 What is the place of supply of services relating to land?

If you supply services that relate to land or property, the place of supply of those services is where the land itself is located, irrespective of where you or your customer belong.

If you supply bought-in supplies of land-related services, such as hotel accommodation, or provide land-related services together with other bought-in supplies (for example, passenger transport), for the direct benefit of a traveller, see paragraph 2.7.

### 6.2 What is the VAT liability of supplies relating to UK land or property?

This notice deals only with the place of supply of land-related services. Once you have identified a supply of services relating to UK land or property, you then need to determine its VAT liability by referring to Notice 708 *Buildings and construction* and Notice 742 *Land and property*.

### 6.3 What is “land” for the purposes of this section?

For the purposes of this section “land” includes all forms of land and property; growing crops, buildings, walls, fences, civil engineering works or other structures fixed permanently to the land or seabed. It also covers plant, machinery or equipment which is an installation or edifice in its own right, for example, a refinery or fixed oil/gas production platform. Machinery installed in buildings other than as a fixture is normally not regarded as “land” but as “goods”.

### 6.4 What are land-related services?

Land-related services include:

- all grants, assignments or surrenders of any interests, rights or licences relating to land;
- any works of construction, demolition, conversion, reconstruction, alteration, enlargement, repair or maintenance of a building or civil engineering work; and
- services of estate agents, auctioneers, architects, solicitors, surveyors, engineers and other services relating to land.

#### 6.4.1 Examples of land-related services

- The supply of hotel accommodation.
- The provision of a site for a stand at an exhibition where the exhibitor obtains the right to a defined area of the exhibition hall. See section 7 where sites are not defined.
- Services supplied in the course of construction, alteration, demolition, repair or maintenance (including painting and decorating) of any building or civil engineering work.
- The supply of plant or machinery, **together with an operator**, for work on a construction site.
- Services of estate agents, auctioneers, architects, solicitors, surveyors, engineers and similar professional people relating to land, buildings or civil engineering works. This includes the management, conveyancing, survey or valuation of property by a solicitor, surveyor or loss adjuster.
- Services connected with oil/gas/mineral exploration or exploitation relating to specific sites of land or the seabed. See sections 7 and 13 where such services do not relate to specific sites.
- The surveying (such as seismic, geological or geomagnetic) of land or seabed, including associated data processing services to collate the required information.
- Legal services such as conveyancing or dealing with applications for planning permission.
- Packages of property management services which may include rent collection, arranging repairs and the maintenance of financial accounts.
- The supply of warehouse space.

## 6.5 What if my services are *not* directly land-related?

This place of supply rule applies only to services which relate **directly** to a specific site(s) of land or property. It does not apply if a supply of services has only an indirect connection with land, or if the land-related service is only an incidental component of a more comprehensive supply of services.

For example, the services of an interior designer contracted to redesign the decor of a particular hotel would be land-related. However, if the same supplier was contracted to create a “corporate” colour scheme/style for a hotel chain to use in their own properties, those design services would not be land-related. See section 13.

### 6.5.1 Examples of services which are *not* land-related

- Repair and maintenance of machinery which is not installed as a fixture. This is work on goods. See section 7.
- The hiring out of civil engineering plant on its own, which is the letting on hire of goods. See section 13.
- The secondment of staff to a building site, which is a supply of staff. See section 13.
- The legal administration of a deceased person’s estate which happens to include property. These are lawyers’ services. See section 13.
- Advice or information relating to land prices or property markets because they do not relate to specific sites. See section 13.
- Feasibility studies assessing the potential of particular businesses or business potential in a geographic area. Such services do not relate to a specific property or site. See section 13.
- Provision of a recording studio where technicians are included as part of the supply. These are engineering services. See section 13.
- Services of an accountant in simply calculating a tax return from figures provided by a client, even where those figures relate to rental income. See section 13.

## 6.6 UK customers receiving services relating to UK land

If you are a UK VAT registered recipient of these services and you receive them for business purposes you may be required to account for the reverse charge if your supplier belongs outside the UK. See section 16.

## 6.7 Non-UK suppliers of services relating to UK land

If you are a supplier who does not belong in the UK, and

- your customer is not registered for UK VAT; or
- your customer is registered for VAT but does not receive the supplies of services for business purposes;

you, as the supplier, are responsible for accounting for any UK VAT due on your supply. If you are not already registered in the UK, you may be liable to register. See paragraph 2.11.

## 6.8 Liability to register for VAT in other Member States

If you supply services relating to land in another Member State, you may be liable to register for VAT in that Member State. See paragraph 2.12.

## 7. Services supplied where performed

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The law on “where performed” services is in Article 15 of the Order.

### 7.1 What services are supplied where performed?

The place of supply of the following services is where they are physically carried out, irrespective of where the supplier or customer belong:

- cultural, artistic, sporting, scientific, educational or entertainment services;
- services relating to exhibitions, conferences or meetings;
- services ancillary to the above services which includes organising such supplies; and
- valuation of, or work carried out on, goods (except where section 8 applies).

Services covered by this section generally relate to a live event or physical activity. You will need to consider the nature of services that you supply, as terms such as entertainment, sponsorship, or scientific may apply to services which fall under other sections.

If you resell services covered by this section, particularly educational services and services connected with conferences and meetings, together with accommodation or travel, see paragraph 2.7.

#### 7.1.1 Examples of services supplied where performed

- Services of sportspersons appearing in exhibition matches, races or other forms of competition. However, where you receive sponsorship or prize money, you will need to determine whether or not these moneys are received as consideration for a supply. If they are consideration for a supply, the nature of your supply must be determined, see paragraph 7.1.2 and Notice 701/41 *Sponsorship*.
- Provision of race prepared cars. Such packages include the hire of the car and support services to ensure optimum maintenance and operation of the car throughout a series of races.
- Scientific services of technicians carrying out tests or experiments in order to obtain data. The final compilation of your record of results, carried out in the UK, will not make the supply liable to UK VAT provided your services were otherwise performed outside the UK.
- Services of an actor or singer, whether or not in front of a live audience.
- Services of an oral interpreter at an event, such as a meeting. For other forms of translation services, see paragraph 7.1.2 and section 13.
- The right to participate in an exhibition or the provision of an undefined site for a stand at an exhibition. See section 6 for defined sites.
- Services relating to a specific exhibition. This includes carpenters and electricians erecting and fitting out stands at exhibition venues.
- Educational and training services. Such services may be exempt when made in the UK, see Notice 701/30 *Education and vocational training*. See paragraph 7.2 for zero-rating of training performed in the UK for overseas Governments. The following interpretive note determines where flying or sailing training is performed: **Note:-** Flying training is treated as supplied wholly outside the UK provided the trainer aircraft leaves UK airspace and proceeds directly to a destination abroad, **and** at least 12 hours' training is provided at that place. Sailing training is treated as supplied wholly outside the UK provided all of the training is carried out on a vessel which clears UK territorial waters for a foreign destination. Also, it must remain outside UK territorial waters for the whole of the period of training (except for proceeding directly from and returning directly to the UK).

#### 7.1.2 Examples of services that are not supplied where performed

- Services of sportspersons receiving sponsorship money as consideration for product endorsement or publicity appearances. These are advertising services rather than participation in a sporting event. See section 13.
- Scientific services which include a recommendation or conclusion. These are consultancy or provision of information (see section 13); or, if connected with oil/gas/mineral exploration or exploitation of specific sites of land or the seabed, they are land-related (see section 6).
- Written translation services or interpreters' services which do not take place at an event. These are consultancy services. See section 13.

- The provision of a defined site for a stand at an exhibition, which is land-related. See section 6.
- The hire of goods without any additional services, even if the customer uses those goods at an exhibition or concert. See section 13.
- Veterinary services. These services fall under the basic rule. See section 5.

## 7.2 Training performed in the UK for overseas Governments

Non-exempt training services supplied in the UK to overseas Governments for the purposes of their sovereign activities can be zero-rated under an extra-statutory concession.

The relief does not apply if services are received for business purposes. It therefore excludes the training of personnel from Government owned industries or sponsored commercial organisations such as state airlines or nationalised industries.

However, such businesses may be able to claim a refund of VAT paid in the UK, see Notice 723 *Refunds of VAT in the EC for EC and non-EC businesses*.

If you supply training services to foreign or overseas Governments your supply will be zero-rated provided both of the following conditions are met:

- the services must be used by the foreign or overseas Government for the furtherance of its sovereign activities (that is not for business purposes); **and**
- you must obtain and retain a written statement from the foreign or overseas Government concerned, or its accredited representative, certifying that the trainees are employed in furtherance of its sovereign activities.

### 7.2.1 What do we mean by “foreign or overseas Government”?

“Foreign or overseas Government” includes overseas Government officials, public servants and members of organisations such as the armed forces, the police, the emergency services and similar bodies answerable to the Government concerned.

### 7.2.2 When are training services not zero-rated?

Training services are **not** zero-rated:

- when the conditions in paragraph 7.2 are not met;
- when the training services are provided to personnel from Government-owned businesses or sponsored commercial organisations such as state airlines or nationalised industries; **or**
- when the training services are exempt from VAT. See Notice 701/30 *Education and vocational training* for further details.

### 7.2.3 Does zero-rating extend to associated services?

Zero-rating only applies to the supply of the actual training and does not extend to any associated services which are supplied **separately**, such as accommodation or transport.

## 7.3 Exhibition organising

“Exhibition organiser” is a very general description. It covers a variety of services which are performed in different ways. It is important to establish the nature of services rather than relying on how the supply is described. For example:

- if you are an exhibition owner, your services will be of the event itself. Your supplies are likely to be of stand sites, visitor admission or advertising services (such as space in an event publication). Your services will not be ancillary exhibition services as they would not be of organising the event. See sections 5, 6 and 13;
- if you act as an organiser for an exhibition owner in making all the arrangements for the event on behalf of the owner, your services are ancillary to exhibition services and are supplied where you perform your organising services which may be different to the event location; **or**
- if you are a representative body assisting exhibitors to attend exhibitions by providing a single package of various services which may include exhibition space obtained from the owner, consultancy, design, provision of displays, transport and stand construction, your services are supplied where they are physically carried out.

### 7.3.1 Representative bodies and exhibitions held in other Member States

If you supply a comprehensive package of services for an exhibition in another Member State, you are supplying services which are performed at the venue. You may be required to account for VAT in that Member State. If you are not required to account for VAT in that Member State and your services are otherwise physically carried out in the UK, your services are supplied in the UK.

## 7.4 **Ancillary services**

The place of supply of services which are ancillary to supplies of:

- cultural, artistic, sporting, scientific, educational or entertainment services; and
- services relating to exhibitions, conferences or meetings;

is where those ancillary services are physically carried out. Ancillary services include the services of organising such supplies. As the place of supply is determined by where the ancillary services themselves are performed, this may be different to the venue.

### 7.4.1 Examples of ancillary services

- Services of a co-ordinator in administering arrangements for a sporting event on behalf of a promoter.
- Services of lighting or sound technicians at a concert. This also covers the hire of equipment included as part of the same supply. Where equipment is hired separately, see section 13.

### 7.4.2 Examples of services not included as ancillary services

- A supply of advertising services to a sponsor by the promoter/owner of a sporting event. See section 13.
- The simple hiring of equipment for use at a concert, without the services of technicians or operators. See section 13.
- Certain services which may be described as “exhibition organising”. See paragraph 7.2.

### 7.4.3 What about ancillary transport services?

See section 10 for guidance on ancillary transport services.

## 7.5 **Valuation of, or work carried out on, goods**

Valuations of, or work on, another person's goods are supplied where those services are physically performed.

For the purposes of these place of supply provisions, goods must constitute tangible movable property. See paragraph 7.5.1.

However there is a further provision which shifts the place of supply to the customer's Member State under certain circumstances. It applies if these services are performed in a Member State for an EC VAT registered customer and the goods subsequently leave the country of performance. See section 8.

### 7.5.1 What are “goods”?

“Goods” include all forms of movable tangible property, covering both finished commodities and raw materials but does not include immovable property such as permanently installed goods and fixtures. See paragraph 6.3.

### 7.5.2 What does “work carried out on goods” mean?

Work carried out on goods is essentially any physical service carried out on another person's goods. Examples include:

- processing, manufacturing or assembling;
- repairs, cleaning or restoration;
- alterations, calibrations, insulating, lacquering, painting, polishing, resetting (of jewellery), sharpening, varnishing, waterproofing; and
- nominations to stallions/covering (that is, attempting to secure the pregnancy of mares).

### 7.5.3 Examples of valuation services or work on goods

- Services of a sub-contractor installing machinery supplied by another person.

- Simple valuation of goods by loss adjusters, average adjusters, motor assessors, surveyors and other experts in connection with an insurance proposal or claim. The final compilation of a related report in a different country from the goods will not change the place of supply from the country where valuation work is performed. However, where valuation forms only a part of your professional services your supplies are of consultancy. See section 13.

#### 7.5.4 Examples of supplies which are not valuation services or work on goods

- Work which is not mainly physical work performed on the goods themselves. For example, mere inspection, is not “work on goods”. It can be “valuation”, but only if that is the purpose of the inspection. However, such activities may form part of a consultancy service. See section 13.
- Valuation of, or work carried out on, land or property. See section 6.
- Veterinary services. See section 5.
- Testing and analysis of goods. The physical work simply provides data for the required analysis. See section 13.

#### 7.5.5 Does zero-rating apply for work on goods?

Zero-rating is explained in section 4. Certain supplies of work on goods (but not valuation of goods) for export from the EC are zero-rated when made in the UK. See section 4 and paragraph 7.6. Zero-rating is also available for certain processing services relating to zero-rated goods.

### 7.6 **Zero-rating of work on goods for export from the EC**

**The law relating to the zero-rating of work on goods for export from the EC is in the VAT Act, Schedule 8, Group 7 Item 1.**

Work on goods for export from the EC is zero-rated provided that **all** of the following conditions are met:

- The goods on which the work is to be carried out, must have been obtained, acquired within, or imported into the EC for the purposes of being worked on; **and**
- the goods must not be used in the UK between the time of leaving the supplier’s premises and exportation; **and**
- on completion of the work, the goods are intended to be and, in fact are, exported from the EC either:
  - by you - the supplier of the service (or someone acting on your behalf); or
  - if your customer belongs outside the EC, by your customer (or someone acting on your customer’s behalf). See section 3 for guidance on place of belonging.

#### 7.6.1 Examples of work on goods which may qualify for zero-rating under this section

- Alterations and repairs, calibrations, cleaning, insulating, lacquering, painting, polishing, resetting (jewellery), cutting (of precious stones), sharpening, varnishing and waterproofing.
- The repair of freight containers.
- Services relating directly to the “covering” (that is, attempting to secure the pregnancy) of a mare, provided the mare is exported before the birth of the foal.
- The gelding and/or breaking in of young horses (for example training yearling racehorses to the stage where they can be ridden safely in races). However, actual racing is not accepted as training and if any horse is acquired or temporarily imported with the intention of racing it in the EC before re-export, zero-rating will not apply.
- The restoration of classic cars.

#### 7.6.2 Examples of services which do not qualify for zero-rating under this section

- Work which is not physical work carried out on the goods themselves (for example, mere inspection of goods or testing and analysis of goods) is not “work on goods”.
- Repair or other work which becomes necessary in the EC after acquisition or importation of goods, such as incidental running repairs, while the goods are being used (even though they may be subsequently exported).
- Valuation services.



### 7.6.3 How do I treat goods supplied with my services?

Any goods used in conjunction with the work performed, such as spare parts, paint, and so on, should be treated as part of the supply of services.

### 7.6.4 What export evidence do I need?

In order to zero-rate a supply of such services you must obtain and keep satisfactory official or commercial evidence of the export of the goods to a place outside the EC.

Official evidence is produced by HMRC, for example:

- a Single Administrative Document (SAD) endorsed by HMRC at the point of exit from the EC; or
- confirmation of the electronic discharge of a New Computerised Transit System movement.

See Notice 703 VAT: *Export of goods from the United Kingdom*.

Commercial transport evidence describes the physical movement of the goods, for example:

- authenticated sea-waybills;
- authenticated air-waybills;
- master air-waybills or bills of lading; or
- certificates of shipment containing the full details of the consignment and how it left the EC.

See Notice 703 VAT: *Export of goods from the United Kingdom*.

If, in anticipation of export to a place outside the EC, you zero-rate your supply under this item but, in the event, the goods are used in the EC before export or export does not take place, you will need to reconsider both the place of supply of your services and, if it is the UK, the appropriate VAT rate that applies.

## 7.7 **UK customers receiving “where performed” services made in the UK**

If you are a UK VAT registered recipient of a “where performed” service which is performed in the UK you may be required to account for the reverse charge if your supplier belongs outside the UK. See section 16.

## 7.8 **Non-UK suppliers of “where performed” services made in the UK**

If you are a supplier who does not belong in the UK, and your customer is not registered for UK VAT or is registered for VAT but does not receive the supply for business purposes, you, as the supplier, are responsible for accounting for any UK VAT due on your “where performed” supply if it is supplied in the UK. If you are not already registered in the UK, you may be liable to register. See paragraph 2.11.

## 7.9 **Could I be liable to register in other Member States?**

If you supply “where performed” services and the place of supply is in another Member State, you may be liable to register for VAT in that Member State. See paragraph 2.12.

## **8. Valuation of, or work carried out on goods for EC VAT registered customers**

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**The law on valuation of, or work carried out on, goods for EC VAT registered customers is in Article 14 of the Order.**

### **8.1 What is the special rule?**

The special rule is that the place of supply of valuation of, or work carried out on, goods moves to a VAT registered customer's Member State where:

- this is other than the Member State where the services are physically carried out; **and**
- the goods are dispatched or transported out of the Member State of performance; **and**
- the customer gives the supplier a valid VAT registration number.

The special rule only applies to valuation or work on goods physically carried out in the EC (including the UK) if **all** the above conditions are met.

In all other cases, such supplies are made where they are performed. See paragraph 7.5.

### **8.2 Who accounts for VAT under this special rule?**

Where the customer is registered for VAT in a different Member State to the supplier, the customer is the person required to account for any VAT due under the reverse charge procedure. See section 16. However, if they both belong in the same Member State for the purpose of making or receiving the supply, the supplier charges and accounts for any VAT due on the supplies in the normal way.

Diagram 1 in paragraph 8.5 will help you decide whether the special rule applies and who should account for any VAT that may be due.

#### **8.2.1 Example of a supply falling under this special rule**

A French VAT registered company sends machinery to the UK for repair. If you provide the repair service in the UK for the French company, the place of supply of your service will be in France, provided the goods leave the UK on completion of the work and the French company gives you their valid VAT registration number. The customer will be required to account for VAT in France under the "reverse charge" procedure.

If the goods are exported from the EC on completion of the work, zero-rating may apply. See paragraph 7.6.

### **8.3 What if my customer is VAT registered in more than one Member State?**

If your customer is VAT registered in more than one Member State they should use the VAT registration number most appropriate to the supply.

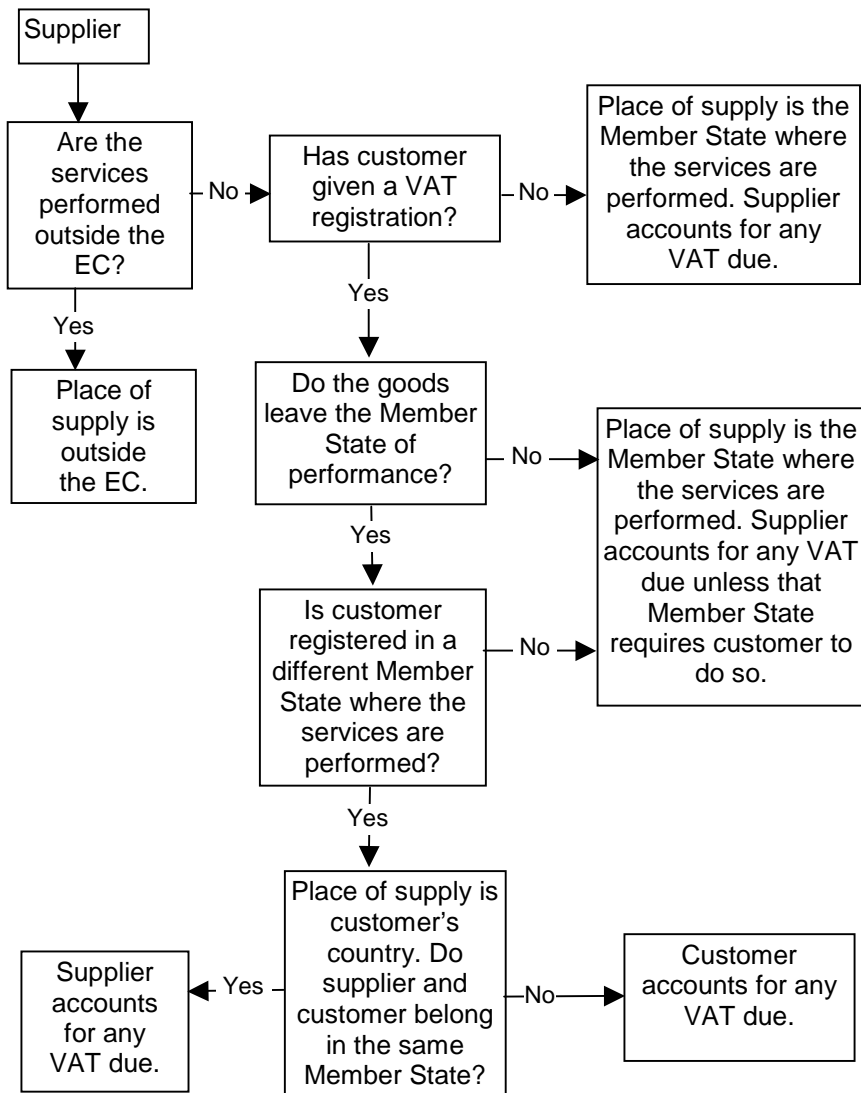
### **8.4 UK customers receiving valuation of, or work on goods physically carried out in a Member State**

If you are a UK VAT registered recipient of these services you are required to account for the reverse charge where:

- the goods subsequently leave the Member State where those services were performed; **and**
- your supplier belongs outside the UK (see paragraph 16.11).

### 8.5 Diagram 1 - Place of supply of valuation of, or work on goods

This diagram will help you to decide the place of supply of services of valuation of, or work on, goods and whether the supplier or the customer must account for any VAT due.



## 9. Passenger transport

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The law on place of supply of passenger transport is in Articles 6, 7 and 8 of the Order.

### 9.1 Place of supply of passenger transport

The place of supply of passenger transport is where it takes place. Therefore where passenger transport takes place in the UK, the UK is the place of supply. Special rules apply to some transport by sea or air. See paragraph 9.2.

To the extent that such transport takes place outside the UK, it is outside the scope of UK VAT, except where paragraph 9.2 applies. However, if a journey involves travel through another Member State, the supply of passenger transport will be made in that Member State to the extent that the transport takes place there.

See Notice 744A *Passenger Transport* for detailed guidance on the VAT treatment of passenger transport. This notice also describes the VAT treatment of passenger transport supplied in the UK by non-UK suppliers.

If you supply bought-in supplies of passenger transport, or provide passenger transport together with **other** bought-in supplies, such as hotel accommodation, for the direct benefit of a traveller, see paragraph 2.7.

### 9.2 What are the special rules for sea and air passenger transport?

The special rules for sea and air passenger transport are that provided the ship or aircraft does not put in or land in any other country, sea or air journeys which begin and end in the same country, but take place partly outside that country, are treated as taking place wholly within that country. This applies even if the journey is part of a longer journey involving travel to or from another country.

### 9.3 Zero-rating of intermediary services made in the UK

Some supplies of intermediaries are zero-rated when supplied in the UK. See section 11 and Notices:

- 744A *Passenger Transport*, **and**
- 709/6 *Travel agents and tour operators*.

## 10. Freight transport, related services and charter party contracts

The law on freight transport and related services is in Articles 6, 7 and 9 to 14 of the Order.

### 10.1 What does this section cover?

This section is intended to give only a basic overview of the VAT treatment of freight transport and related services. The table below outlines the main categories of these types of services and gives a general indication as to where the place of supply is. However, for full and detailed guidance on the VAT treatment of such services you should refer to Notice 744B *Freight transport and associated services*.

If the type of supply is:	the place of supply will be:
domestic freight transport (which takes place wholly within one country);	where the transport takes place.
international freight transport (between the EC and non-EC countries, or wholly outside the EC);	where the transport takes place.
intra-EC freight transport (from one Member State to another);	the Member State which is the place of departure of the goods <b>unless</b> : <ol style="list-style-type: none"> <li>1. your customer is VAT registered in your Member State - in which case you must charge and account for the VAT due; <b>or</b></li> <li>2. your customer is VAT registered in a different Member State to you - in which case your customer accounts for the VAT due there.</li> </ol>
ancillary transport services relating to domestic or international freight transport;	where the services are physically performed.
ancillary transport services relating to intra-EC freight transport;	where the services are physically performed <b>unless</b> : <ol style="list-style-type: none"> <li>1. your customer is VAT registered in your Member State - in which case you must charge and account for the VAT due; <b>or</b></li> <li>2. your customer is VAT registered in a different Member State to you - in which case your customer accounts for the VAT due there.</li> </ol>
making arrangements for intra-EC freight transport;	the place of departure of the goods <b>unless</b> : <ol style="list-style-type: none"> <li>1. your customer is VAT registered in your Member State - in which case you must charge and account for the VAT due; <b>or</b></li> <li>2. your customer is VAT registered in a different Member State to you - in which case your customer accounts for the VAT due there.</li> </ol>
making arrangements for related ancillary services;	where the services are physically performed <b>unless</b> : <ol style="list-style-type: none"> <li>1. your customer is VAT registered in your Member State - in which case you must charge and account for the VAT due; <b>or</b></li> <li>2. your customer is VAT registered in a different Member State to you - in which case your customer accounts for the VAT due there.</li> </ol>

## **10.2 Ship and aircraft charter party contracts**

If you supply the whole of a ship or aircraft with crew under a formal written charter party contract, the place of supply is where you belong. But if:

- you supply a whole ship or aircraft without crew under a written charter party agreement, your supply is the hire of a means of transport (see section 5);
- you supply a whole ship or aircraft with crew but without a written charter party contract, or of part of the seating capacity in a ship or aircraft, the place of supply of such transport-related services depends on the nature of the services supplied.

See Notice 744C *Ships, aircraft and associated services* for further information.

## **10.3 Zero-rating of intermediary services made in the UK**

Some supplies of intermediary services are zero-rated when supplied in the UK. See section 11 and Notices:

- 744B *Freight transport and associated services*; and
- 744C *Ships, aircraft and associated services*.

## 11. Intermediaries

**The law on intermediary services covered by this section is in Articles 13 and 14 of the Order.**

### 11.1 When am I an intermediary for the purposes of this section?

You are an intermediary for the purposes of this section if you act as a third party in arranging, or even simply facilitating, the making of supplies. An intermediary arranges supplies between two other parties; a supplier and that supplier's customer. Intermediaries may be referred to as brokers, buying or selling agents, go-betweens, commissionaires or agents acting in their own name (undisclosed agents). Payments for their services are often described as commission.

In this section, your customer is the person to whom you supply your intermediary services. This can be either the supplier or the recipient of the arranged supply (and in some cases may even be both).

### 11.2 Are all intermediary services covered by this section?

Not all intermediary services are covered by this section. Certain intermediary services have their own place of supply of services rules. There are special intermediary rules for:

- services of estate agents in arranging supplies of land or property. See section 6;
- arranging a supply of intra-EC freight transport or related ancillary services. See section 10; and
- arranging a supply of services in Schedule 5, paragraphs 1 to 8. See section 13.

### 11.3 What affects the place of supply of intermediary services in this section?

The place of supply of your intermediary services depends on:

- where the underlying arranged supply is made; **and**
- when the underlying supply is made in the EC, whether your customer is EC VAT registered.

### 11.4 How do I establish the place of supply of arranged supplies of services?

You can establish the place of supply of arranged supplies of services by referring to the appropriate section of this notice.

Type of arranged supply:	For further information see:
hired means of transport;	sections 5 and 14;
land-related services;	section 6;
"where performed" services;	section 7;
passenger transport, domestic or international freight transport;	sections 9 and 10;
other services.	section 5.

### 11.5 How do I establish the place of supply of goods?

The place of supply of goods is generally where the goods are located when they are supplied. However, there are special rules for imported goods (from outside the EC) and installed or assembled goods:

- the place of supply of goods imported by **the supplier** is the Member State of importation;
- the place of supply of goods imported by **the customer** is outside the EC;
- the place of supply of installed or assembled goods is where they are installed or assembled.

### 11.6 What if I arrange a supply which is supplied outside the EC?

If you arrange a supply which is supplied outside the EC, your supply may be supplied outside the EC, and if so will not be subject to EC VAT.

However, if the place of supply of your arranging service is the UK, but the place of supply of the service being arranged is outside the EC, your supply in the UK can be zero-rated. See paragraph 11.10. This does not include banking, financial and insurance services which are exempt in the UK.

**11.7 What if I am a UK intermediary arranging a supply which is supplied in a Member State?**

If you are a UK intermediary arranging a supply which is supplied in a Member State the place of your supply is the same Member State as that of the underlying arranged supply.

However, if your customer is EC VAT registered for the purpose of receiving the supply, the place of your supply is where your customer is registered.

**11.7.1 If your customer is not identified as being EC VAT registered**

If your customer is not EC VAT registered, the place of your supply is the Member State where the arranged supply is supplied (regardless of where your customer may belong). You are required to charge and account for any VAT due in that Member State.

**Example**

- If you arrange a supply of goods that are supplied in France, but your customer is not EC VAT registered, the place of supply of your service is also in France. You may be required to register and account for VAT in France.

**11.7.2 If your customer is identified as EC VAT registered**

If your customer is EC VAT registered for the purpose of receiving the supply, the place of your supply is where your customer is registered.

If your customer is VAT registered in your own Member State you must charge and account for any VAT due.

If your customer is VAT registered in a Member State other than your own Member State, the place of your supply is your customer's Member State and your customer accounts for any VAT due in their own Member State.



## Examples

- If you arrange a supply of goods that are supplied in France, and obtain your customer's UK VAT registration number, the place of supply of your service is the UK. You must charge UK VAT at the standard rate (but where the goods are for export to outside the EC, see paragraph 7.6).
- If you arrange a supply of goods that are supplied in France, and your customer gives you a French VAT registration number, the place of supply of your service is France and your customer accounts for any VAT due in France.
- If you arrange a supply of goods that are supplied in France, and your customer gives you a German VAT registration number, the place of supply of your service is Germany and your customer accounts for any VAT due in Germany.

### 11.8 What evidence is needed for my intermediary services to be supplied in my customer's Member State?

For the place of your supply of intermediary services to be your customer's Member State, your customer must provide you with a valid VAT registration number which you must quote on your invoice.

### 11.9 What if my customer is VAT registered in more than one Member State?

If your customer is VAT registered in more than one Member State they should use the VAT registration number that is most appropriate to the arranged supply.

### 11.10 Zero-rating of intermediary services made in the UK

If you have established that the place of supply of your intermediary services is the UK you should then consider whether zero-rating applies. The law relating to the zero-rating of certain intermediary services is in the VAT Act Schedule 8 Group 7 Item 2.

You can zero-rate the supply of the making of arrangements for:

- the export of any goods to a place outside the Member States;
- a supply of services which is itself zero-rated as work on goods for export from the EC. See paragraph 7.6; **or**
- any supply of services which is made outside the Member States.

**Zero-rating under these provisions only applies to the actual making of arrangements for eligible supplies.** It does not extend to services which simply facilitate supplies.

For further information see section 3, paragraph 7.4 and Notices:

- 744A *Passenger Transport*;
- 744B *Freight transport and associated services*;
- 744C *Ships, aircraft and associated services*; and
- 709/6 *Travel agents and tour operators*.

#### 11.10.1 Examples of zero-rated intermediary services

- If you obtain an order from an overseas buyer of UK-produced goods, and those goods are actually exported from the EC, your supply of services to the UK exporter or the overseas buyer is zero-rated. You must obtain suitable commercial evidence of export. See paragraph 7.6.4 and Notice 703 *Export of goods from the United Kingdom*.
- If you arrange for a person in the UK to provide a repair service, which is itself zero-rated under the VAT Act 1994, Schedule 8, Group 7, Item 1, your supply is also zero-rated. See section 7.
- If you arrange for a person who belongs in the UK to supply consultancy services to a person who belongs in Canada, your supply to the UK consultant is zero-rated. This is because the place of supply of the consultancy service is outside the EC - where the customer belongs - Canada. Therefore, you are arranging a supply that is made outside the Member States. See sections 12, 13 and 16 for guidance on the place of supply of consultancy type services.

#### 11.10.2 Examples of intermediary services which are not zero-rated

- The making of arrangements for the supply of exempt insurance or finance. See Notices 701/36 *Insurance* and 701/49 *Finance and Securities*.

- The making of arrangements for a supply of freight transport. See Notice 744B *Freight transport and associated services*.
- Services supplied by a person acting as a principal, even if their trading title or classification includes the word “agent” or “agency”.
- If you act as an intermediary in arranging a supply of services within the EC. See paragraphs 11.7, 11.8 and 11.9.
- If you arrange for a supply of goods which are supplied within the EC, and those goods remain in the EC. See Notice 700 *The VAT Guide* for information on the place of supply of goods and Notice 725 *The single market*.

#### **11.11 Am I liable to register for VAT if the place of supply of my services is the UK?**

If you make taxable supplies in the UK above the registration threshold, you are liable to register for VAT. However, if all of your supplies are zero-rated you may apply for exemption from registration. If the value of your supplies is below the threshold you may also register on a voluntary basis. Further information on all matters relating to VAT registration can be found in Notice 700/1 *Should I be registered for VAT?*

#### **11.12 UK customers receiving intermediary services where the arranged supply is made in the EC**

If you are a UK VAT registered recipient of intermediary services where the arranged supply is made in the EC, you may be required to account for the reverse charge where your supplier belongs outside the UK. See paragraph 16.11.

#### **11.13 Non-UK intermediaries arranging supplies supplied in the UK**

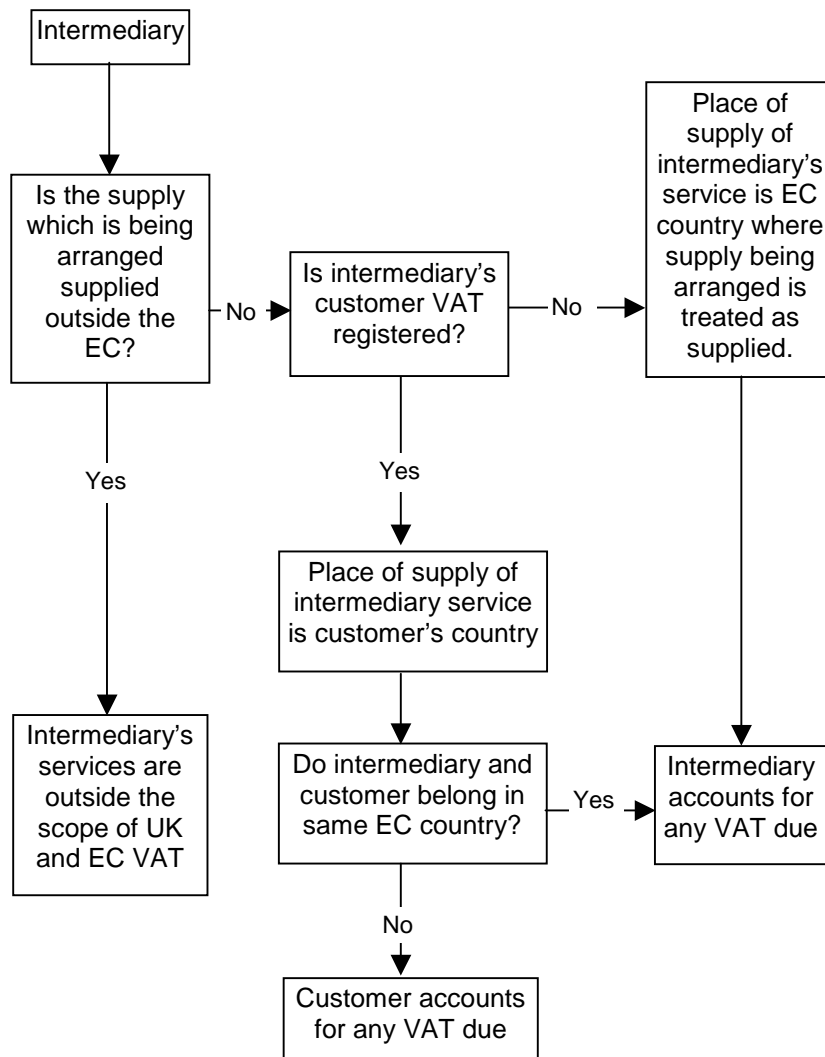
If you are a non-UK intermediary arranging a supply which is supplied in the UK and your customer is not EC VAT registered, you, as the supplier, are responsible for accounting for any UK VAT due on your supply. If you are not already registered in the UK, you may be liable to register. See paragraph 11.11.

#### **11.14 Liability to register in other Member States**

If you supply services of arranging a supply which is supplied in another Member State and your customer is not EC VAT registered, you may be liable to register for VAT in that Member State. See paragraph 2.12.

### 11.15 Diagram 2 – Intermediary services

This diagram will help you to decide the place of supply of your supplies of intermediary services and whether you or your customer must account for VAT. This diagram does not cover services in the VAT Act Schedule 5 paragraph 8, arranging Intra-EC freight transport and related ancillary services.



## 12. Services supplied where the customer belongs

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**The law on services supplied in a customer's country is in Schedule 5 of the VAT Act and Articles 16 and 16A of the Order.**

### 12.1 When do I need to refer to this section?

You need to refer to this section if you belong in the UK and supply services in section 13. If you are unsure whether you belong in the UK, see section 3.

See section 15 for electronically supplied services where the supplier belongs outside the EC.

### 12.2 What do I need to know to decide if my services fall under this section?

You need to know:

- whether your services are covered by section 13;
- who your customer is (that is, who is the recipient of your supply); **and**
- where your customer belongs for the purposes of receiving your supply. See section 3.

### 12.3 What is the place of supply of my services if my customer belongs outside the EC?

If, as a UK supplier, you supply any of the services in section 13 to any person who belongs outside the EC, that is supplies to business, non-business or private customers belonging outside the EC, your services are supplied in your customer's country and are outside the scope of UK and EC VAT. The place of supply of your services is outside the EC.

However, there are additional rules for the letting on hire of goods, telecommunications services, radio and television broadcasting services and electronically supplied services (see sections 14 and 15).

#### 12.3.1 Example of a supply of services supplied outside the EC

- If you supply accountancy services to a business or private individual who belongs in the Channel Islands, the place of supply of your services is outside the EC. This is because your customer belongs outside the EC. You should not charge VAT.

### 12.4 What is the place of supply of my services if my customer belongs in another Member State?

If, as a UK supplier, you supply these services to a person who belongs in another Member State, who receives the supply for **business purposes**, the place of supply of your services is your customer's country. Your customer accounts for any VAT due in that Member State.

If they are not received for business purposes, your services are supplied in the UK (see section 5).

However, there are additional rules for the letting on hire of goods, telecommunications services, radio and television broadcasting services and electronically supplied services (see sections 14 and 15).

#### 12.4.1 Example of a supply of services supplied in another Member State

- If you supply advertising services to a customer in France for the purpose of their business, the place of supply of your services is France. This is because your customer belongs in another Member State and receives your supply for business purposes. Your customer accounts for any VAT due in France.

### 12.5 How do I satisfy myself that this section applies?

To satisfy yourself that this section applies you should obtain commercial evidence showing that your customer belongs outside the UK and that a customer in another Member State is in business.

VAT registration numbers are the best evidence of business status and should be requested. If your customer is unable to provide a VAT number, you can accept alternative evidence of business status. This includes certificates from fiscal authorities, business letterheads or other commercial documents indicating the nature of the customer's business activities. Such evidence should be kept as part of your records. Where VAT numbers are available, they should be shown on your invoice.

Some customers may be VAT registered but have non-business as well as business activities. Examples of such customers are government departments and municipal authorities. In such circumstances you must be satisfied that the services you are supplying to your customer are being used for the purpose of his business activities. If your customer cannot provide satisfactory evidence, you should charge VAT.

See section 16 for the additional requirements for suppliers of electronically supplied services.

## 12.6 When does this section not apply?

This section does not apply if:

- you cannot determine where your customer belongs;
- your customer belongs in the UK; or
- your customer belongs in another Member State but you do not supply any of the services in section 13 for business purposes to them. Examples of such customers are: persons in their private or non-business capacity; and government bodies, municipal authorities or similar bodies (unless the services are specifically received for the purposes of a business activity).

In such cases your supplies are supplied in the UK.

### Example

- If you supply legal services to a private individual who belongs in the Republic of Ireland, the place of supply of your services is the UK and you must account for the VAT due. The supply is not made where your customer belongs. This is because, although your customer belongs in another Member State, the services are not received for business purposes.

## 12.7 What about the special place of supply rules for letting on hire of goods, telecommunications services, radio and television broadcasting services and electronically supplied services?

Paragraphs 12.3, 12.4 and 12.5 apply to supplies of letting on hire of goods, telecommunications services, radio and television broadcasting services and electronically supplied services unless these services are:

- received by a customer belonging outside the EC but the services are used in the UK; or
- received by a UK customer, or a customer in another Member State for non-business purposes, but the services are used outside the EC.

In these cases see the table below.

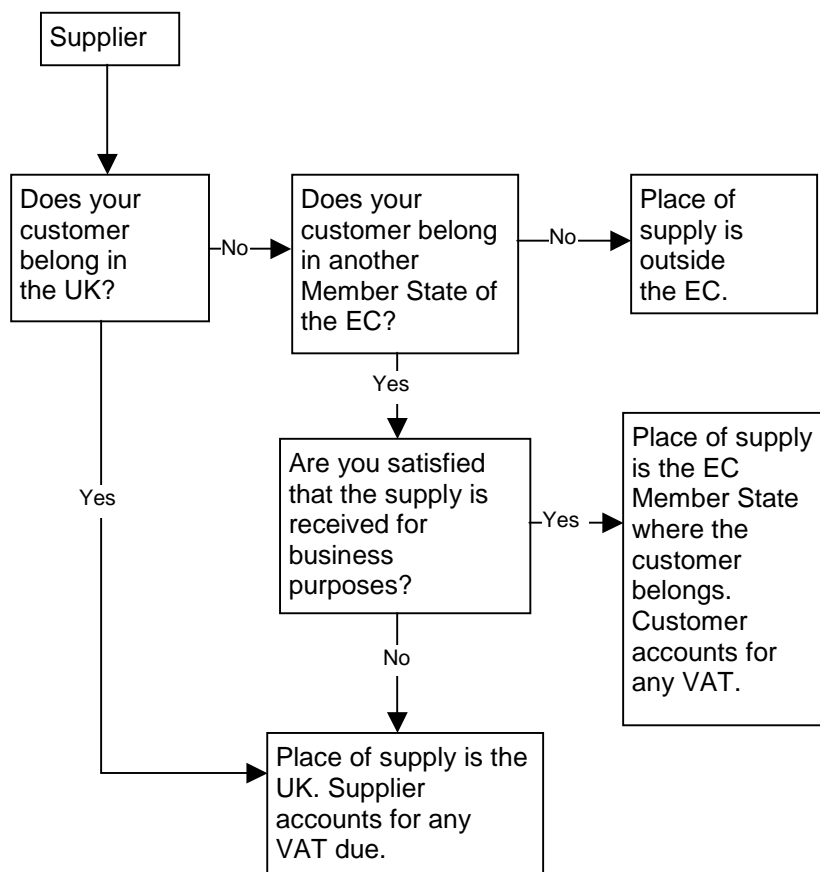
<b>Description of service:</b>	<b>Dealt with in:</b>
letting on hire of goods;	sections 14 and 20;
telecommunications services;	sections 14 and 20;
radio and television broadcasting services;	sections 14 and 20;
electronically supplied services.	sections 15 and 21.

## 12.8 Zero-rating of intermediary services made in the UK

If your services of the making of arrangements for supplies of services (which are themselves made outside the EC) are supplied in the UK, they can be zero-rated. See paragraph 11.10. This does not include banking, financial and insurance services which are exempt in the UK.

**12.9 Diagram 3 – UK supplier of services in paragraphs 1 to 8 of Schedule 5 (see sections 12 and 13).**

This diagram will help you to decide the place of supply of your services within paragraphs 1 to 8 of Schedule 5 and whether you or your customer must account for VAT. It does not take account of the special rules for letting on hire of goods, telecommunications services, radio and television broadcasting services and electronically supplied services. For assistance on such services see the tables in sections 20 and 21.



### **13. Schedule 5, paragraphs 1 to 8 – Services that can be supplied or received in a customer's country**

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**The law which lists the services that can be made in a customer's country is in the VAT Act, Schedule 5, paragraphs 1 to 8.**

Remember, this section covers a list of services. It does not determine where supplies of these services are made.

When these services are made by UK suppliers, see section 12.

When they are received by UK customers, see section 16.

#### **13.1 What kind of services are covered by this section?**

The common feature of services covered by this section is that their place of performance can be indeterminate or variable and they are easily undertaken in a different place to where a supplier has established a business. They are often intangible in nature.

#### **13.2 Why are paragraphs 9 and 10 of Schedule 5 not included in this section?**

This section only details services covered by section 12 and paragraph 16.10.

Paragraphs 9 and 10 of Schedule 5 refer to services whose place of supply is determined to be the UK under other sections. Their function is simply to provide the mechanism for the reverse charge provisions and allow UK VAT registered customers to account for UK VAT on behalf of overseas suppliers in certain circumstances. See paragraphs 16.11 and 16.12.

#### **13.3 Paragraph 1 of Schedule 5: Transfers and assignments of copyright, patents, licences, trademarks and similar rights**

##### 13.3.1 What types of services fall within paragraph 1?

This paragraph covers transfers, assignments and grants of copyright, patents, licences, trademarks and other similar rights. Similar rights are intellectual property rights which are capable of being legally enforced. Payments for these intellectual rights are often known as "royalties". They can be made on a regular and continuing basis or take the form of a single, one-off fee. Services which do not involve intellectual property are not covered even though they may be described as a right or licence.

##### 13.3.2 Examples of services within paragraph 1

- The assignment by a body established in a third country of television broadcasting rights in respect of football matches when supplied to taxable persons established in a Member State.
- The assignment of rights by a performer for her performance to be exploited, for example, on record, film or television.
- The granting of a licence to use computer software.
- The granting of a right to carry on a particular business activity within a defined territory (such as within some franchise agreements).
- The transfer of permission to use a logo.
- The granting of a right by a photographer for one of his photographs to be published in a magazine article. This includes material which is digitally downloaded to the customer.
- The assignment of rights in a cinematographic film to a distribution company.

##### 13.3.3 Examples of exclusions from paragraph 1

- The supply of individual shares in goods, for example an animal or yacht, even though certain rights may be included in the supply.
- The supply of a right to obtain reduced rates for admission to conferences and meetings as well as similar discounts on facilities available to members of clubs, associations or societies in return for a subscription.

- A supply which is simply described as “goodwill”. However, goodwill may be used to describe part of another supply of services, such as assigning a trademark, providing information or refraining from competition. You should therefore identify the nature of what is actually being provided. Goodwill commonly forms part of the transfer of a business, see Notice 700/9 *Transfer of a business as a going concern*.
- The supply of the right to occupy land or property including hotel accommodation. See section 6.
- The granting of a right to a future supply of a service. The place of supply of that right will be the same place as the underlying supply to which the right relates. This will be the case even in situations where the right is never exercised. A right to services includes a reference to any right, option or priority with respect to the supply of services and to the supply of an interest deriving from any right to services.

### 13.4 Paragraph 2 of Schedule 5: Advertising services

#### 13.4.1 What types of services fall within paragraph 2?

This paragraph covers all services of publicising another person’s name or products with a view to encouraging their sale. It includes supplies of advertising services in the established media: for example, of radio or television advertising time; of the right to place an advertisement on a hoarding; or of advertising space in any publication. It also covers newer promotional methods such as an entry in a telephone enquiry directory or advertising space in any electronic location.

Advertising or promotional messages may be disseminated in numerous ways. This paragraph covers everything provided as part of an advertising campaign, even if elements of the campaign would have fallen under other place of supply rules had they been supplied in isolation.

#### 13.4.2 Examples of advertising services

- An advertising performance or product endorsement by a personality supplied **directly** to the person whose products are advertised.
- The display of a sponsor’s name, or product, by a sponsored person or team in return for “sponsorship” payments. See Notice 701/41 *Sponsorship*.
- Supplies of services that are the “means of advertising”. This covers services used in connection with specific advertising, promotion or sponsorship. An example is the supply of a master advertising film, tape, record, poster, picture or photograph, or an advertisement printing block (from which copies are made).
- The devising and undertaking of a promotional campaign by an advertising agency to launch a client’s new product, even where this includes trade events or demonstrations for the public in general.
- Website advertising.

#### 13.4.3 Examples of exclusions from advertising services

- The provision of space or stands at a trade fair or exhibition. See sections 6 and 7.
- Organising a cocktail party for an advertising company where the event is part of a promotional campaign for the advertising company’s own client. The advertising company’s services to its own customer are advertising services. The cocktail party itself could constitute advertising services or a “where performed” service. See section 7. The services of organising the cocktail party do not constitute advertising services but could fall within paragraph 8 of Schedule 5 as intermediary services (see paragraph 13.14) or be a “where performed” service (see paragraph 7.4).

### 13.5 Paragraph 3 of Schedule 5: Services of consultants, engineers, consultancy bureaux, lawyers, accountants, and other similar services; data processing and provision of information (but excluding from this head any services relating to land)

#### 13.5.1 What types of services fall within paragraph 3?

This paragraph covers a wide range of services of different natures. It covers services of consultants, engineers, consultancy bureaux, lawyers and accountants as well as other services which are similar to them. Data processing services and the provision of information are also included. It does not matter how supplies of these services are delivered to a customer, which may be by electronic transmission, courier or mail. However, where any of these services relate to land or property they are excluded from paragraph 3 of Schedule 5. See section 6.



### 13.5.2 What are services of consultants and consultancy bureaux?

Services of consultants and consultancy bureaux cover the normal services of experts in all professional areas who act in an accepted professional or advisory capacity. Examples include:

- research and development;
- market research;
- written translation services or interpreters' services which do not take place at an event, such as interpreting services for a telephone conference. See section 7 for oral interpreting at an event;
- testing and analysis of goods (for example, drugs, chemicals and domestic electrical appliances). The essential nature of such services is analysis by experts who use the results of the testing to reach a professional conclusion, such as whether goods meet specified standards;
- writing scientific reports;
- production of customised ("bespoke" or "specific") computer software, excluding digitally downloaded software, as well as the services of adapting existing packages. However, some "off-the-shelf" software packages are treated as supplies of goods; and
- software maintenance involving upgrades, advice and resolving any problems. The place of performance is not relevant as solutions may be provided by telephone conversations, remote links or attending a mainframe site. However, a contract for simply maintaining computer hardware relates to work on goods. See section 7.

### 13.5.3 Examples of exclusions from services of consultants and consultancy bureaux

- Services of consultants and consultancy bureaux are excluded from paragraph 3 of Schedule 5 if they relate to specific land or property.
- Supplies described as management services, unless they can be shown to be essentially of consultancy services. However, such services may fall elsewhere within paragraph 3 of Schedule 5.
- Clerical or secretarial services, the provision of office facilities and archiving services. See section 5.
- Services provided by a consultant which are outside the supplier's habitual area of expertise, such as gardening carried out by a financial adviser.

### 13.5.4 What are services of engineers?

Services of engineers cover engineering design or consultancy services. Engineers generally, but not always, possess formal qualifications. The services must be of a type expected of an expert or professional.

Examples include:

- the provision of intellectual engineering advice or design. This includes overseeing the resultant physical work, provided that any such supervision is merely to ensure that the design or other advice is properly implemented; and
- services of engineers/technicians within the entertainment industry. This covers editors and sound engineers producing an edit master from which copies can be made (films, videos, compact discs or audio tapes) as well as those who exercise a degree of artistic control or influence over material.

### 13.5.5 Examples of exclusions from services of engineers

- Services of surveyors and consultants consisting primarily of work such as design, surveying, site supervision or valuation where these directly relate to land or property. See section 6.
- Services carried out by an engineer which consist wholly or mainly of physical work on goods, including installation of goods. See section 7.

### 13.5.6 What are services of lawyers and accountants?

Services of lawyers and accountants include services normally provided by lawyers, accountants, solicitors, barristers or auditors in their professional capacities, except where those services directly relate to land or property. See section 6. Examples include:

- legal and accountancy services in the **general** administration or winding up of a deceased's estate even if that estate includes land or property. Such supplies are not made to beneficiaries but to the estate. This is seen as whoever is appointed executor or administrator, although they may also be a beneficiary; and
- services described as management services, the essential nature of which comprise accountancy or legal services.

### 13.5.7 Examples of exclusions from services of lawyers and accountants

- Services consisting primarily of work which directly relates to land or property, such as:
  - property management,
  - conveyancing,
  - obtaining planning consent, or
  - a claim of ownership over a particular piece of land or property.

See section 6.

- Clerical or secretarial services, which includes the keeping of financial records. See section 5.

### 13.5.8 What are similar services?

Similar services include services which are similar to those normally provided by consultants, consultancy bureaux, engineers, lawyers, and accountants. Examples include:

- services of loss adjusters and assessors in assessing the validity of claims (except when these services relate to land). Such services may include examination of goods to establish a value for damage or deterioration as well as negotiating a settlement amount;
- services of surveyors, providing opinions which do not relate to specific sites;
- architects' services where there is no specific site of land. See section 6;
- services of fiscal agents in completing VAT returns and documentation for overseas businesses. It is important that the customer does not belong in the UK for the purposes of receiving these services. See section 3;
- design services;
- services of specialists or technicians which are essentially creative or artistic in nature;
- services of film directors or producers, where their services are not of rights already covered by paragraph 1 of Schedule 5. See paragraph 13.3.1; and
- services described as management services which comprise the exercise of corporate or strategic guidance over the running of another (usually associated) company.

### 13.5.9 Examples of exclusions from similar services

- Services provided by architects and surveyors which directly relate to land or property. This includes surveying, site supervision, conveyancing, valuation and obtaining planning consent. See section 6.
- Loss adjusting services in relation to claims on land or property (see section 6) and services provided by a loss adjuster which are simply the valuation of goods (see section 7).

### 13.5.10 What is data processing?

For the purposes of paragraph 3 of Schedule 5, data processing is the application of programmed instructions on existing data which results in the production of required information.

### 13.5.11 Examples of exclusions from data processing

- Services which simply include an element of data processing. Where this is simply required for a contract to be completed, the nature of the actual contracted services determines which section applies.
- Processing data from seismic surveys where the computer analysis relates to a specified area of land or seabed. See section 6.
- Simple re-formatting where there is no change to the meaning of the content.

### 13.5.12 What is provision of information?

Provision of information covers the supplying of knowledge of any type and in any form. Information includes facts, data, figures and other material. Examples include:

- tourist information;
- weather forecasts;
- information supplied by a private enquiry agent;
- telephone helpdesk services (such as for computer software);

- satellite, navigational and location services; and
- provision of on-line information.

#### 13.5.13 Examples of exclusions from provision of information

- The delivery or transmission of another person's information by whatever means. See section 10 for transporting goods and for electronic delivery see paragraphs 13.11 and 13.13.
- Information relating to specific land or property. See section 6.

#### 13.5.14 Does it matter which part of paragraph 3 of Schedule 5 applies to a service?

It does not matter which part of paragraph 3 of Schedule 5 applies to a service. Provided a supply of services falls within paragraph 3 of Schedule 5 it is not necessary to determine which part within paragraph 3 of Schedule 5 best describes the supply as the place of supply will be the same.

### **13.6 Paragraph 4 of Schedule 5: Acceptance of any obligation to refrain from pursuing or exercising, in whole or part, any business activity or any such rights as are referred to in paragraph 1 above**

#### 13.6.1 What types of services fall within paragraph 4?

This paragraph covers entering into agreements not to pursue or undertake any business activity and refraining from exercising, or relinquishing, those rights covered by paragraph 1 of Schedule 5. See paragraph 13.3.1.

#### 13.6.2 Examples of services within paragraph 4

- The vendor of a business accepting an undertaking not to compete with the purchaser.
- Agreement by the owner of a trademark to refrain from using it.

### **13.7 Paragraph 5 of Schedule 5: Banking, financial and insurance services (including reinsurance but not including the provision of safe deposit facilities)**

#### 13.7.1 What types of services fall within paragraph 5?

This paragraph covers all banking, financial and insurance services. Many, but not all, of these are exempt when made in the UK. See Notices 701/36 *Insurance* and 701/49 *Finance*.

#### 13.7.2 Examples of banking, financial and insurance services

- Granting of mortgages and loans; selling debts.
- The storage of gold bullion or gold coins by a bank or a dealer in gold who is a subsidiary of a bank.
- The sale of securities as principal.
- The sale of unallocated precious metals (gold, silver, platinum, palladium, rhodium, ruthenium, osmium and iridium) or of unallocated precious metal coins. (Goods are unallocated if they remain an unidentifiable part of a larger stock of goods held by the supplier).
- Debt collection services.
- Portfolio management services.
- The provision of insurance or reinsurance.
- The supply of financial futures and financial options.
- Trustee services.
- Commodity brokers' services of arranging transactions in futures and options.

#### 13.7.3 Examples of exclusions from banking, financial and insurance services

- Services of physical safe custody - other than those in paragraph 13.7.2.
- Rent collection services. See section 6.

#### 13.7.4 Securities

Where securities are sold by UK suppliers and the place where the purchaser cannot be determined, you may apply a special rule, known as the "easement". For full details on how this works, you should refer to Notice 701/49 *Finance*.

### 13.8 Paragraph 5A of Schedule 5: The provision of access to, and transport through, the natural gas and electricity distribution systems and the provision of other directly linked services

#### 13.8.1 What types of services fall within paragraph 5A?

This paragraph covers supplies of services which allow access to, and actual use of, the distribution networks. The distribution systems are the transmission networks of pipelines, cables and interconnectors, which enable the national and international transport of gas and electricity to be carried out. They provide the essential link between producers and consumers of natural gas and electricity within Europe.

Also included are what are referred to as "directly linked" services. These are services which, although not directly involving use of the systems, are clearly an adjunct to such usage.

#### 13.8.2 Examples of services within paragraph 5A

- Use of the gas National Transmission System.
- Use of the National Grid.
- Provision of data on network usage.
- Storage of gas within the natural gas distribution system.
- Services involving injection of gas into the system.

#### 13.8.3 Examples of exclusions from paragraph 5A

- Balancing and imbalance charges.
- Contract termination payments.
- Fees/subscriptions for membership of regulatory or trade bodies.
- Brokerage fees.

### 13.9 Paragraph 6 of Schedule 5: The supply of staff

#### 13.9.1 What types of services fall within paragraph 6?

This paragraph covers the supply of staff. A supply of staff is the placing of personnel under the general control and guidance of another party as if they become employees of that other party. You must distinguish between a supply of staff and a supply of other services which you make by using the staff yourself. The latter is not a supply of staff even if you charge by the hour.

When a supplier uses employees to provide whatever service they are contracted to supply (under a contract for services) to a customer, it is not a supply of staff by the supplier but a supply of other services.

#### 13.9.2 Examples of supplies of staff

- If you supply (which may be described as a secondment, transfer or placement) a typist to your customer and that typist comes under their general control and direction as an employee, your supply is of staff.
- The supply, secondment, loan, hire, lease or transfer **as principals** of personnel for a consideration by bodies such as employment and recruitment businesses, agencies or bureaux.
- The transfer for a fee by a sports club of a professional sportsman who has a contract of service with the club, such as a professional footballer.

#### 13.9.3 Examples of exclusions from supplies of staff

- The supply by a freelancer or other person of a **specific service or services** under a contract for services. The place of supply will depend on the nature of the services provided.
- Supplies by employment or recruitment businesses or agencies, of making arrangements for the supply of staff between other parties (see paragraph 13.14).
- If you are a company that employs typists and you supply **typing services** under a specific typing assignment for a third party using those typists, your service is not a supply of staff but of typing services. See section 5.

### **13.10 Paragraph 7 of Schedule 5: The letting on hire of goods other than means of transport**

#### **13.10.1 What types of services fall within paragraph 7?**

This paragraph covers the letting on hire, or leasing, of all goods other than those which are a means of transport. See section 5. Goods include all forms of movable property but exclude land and property or equipment and machinery installed as a fixture.

This paragraph does not cover supplies of the letting on hire or leasing of goods where the services of an operator or technician are included. In such cases the place of supply of such services depends on the nature of the services provided.

#### **13.10.2 Examples of services of the letting on hire of goods other than means of transport**

- The hire of mobile telephone handsets. See paragraph 13.11 if the supply is of telecommunications services.
- The hire of freight containers. See paragraph 13.10.5 for special rules.
- The hire of computer and office equipment.
- The hire of exhibition stand furniture and equipment without any other services.

#### **13.10.3 Examples of exclusions from services of the letting on hire of goods other than means of transport**

- The hire of exhibition stand space. See sections 6 and 7.
- The hire of a means of transport - including the leasing or hiring out of cars. See section 5.

#### **13.10.4 Additional rules for goods on hire**

In addition to the rules in sections 12 and 16, covering supplies made to overseas customers and supplies received into the UK by businesses, there are additional rules for the letting on hire of goods, depending on where they are used and enjoyed. See sections 14 and 20.

#### **13.10.5 Zero-rating for container exports**

Containers which are exported from the EC are zero-rated whether they are supplied on hire or by outright sale. See Notice 703/1 *Supply of freight containers for export or removal from the United Kingdom*.

### **13.11 Paragraph 7A of Schedule 5: Telecommunications services, that is to say services relating to the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems, including -**

- (a) the related transfer or assignment of the right to use capacity for such transmission, emission or reception, and**
- (b) the provision of access to global information networks.**

#### **13.11.1 What types of services fall within paragraph 7A?**

This paragraph covers the sending or receiving of material by electronic or similar communications systems. This may be via cable, fibre optics, radio waves, microwaves, satellite, or copper wire and covers telephony (systems for transmission of speech and other sounds) and telegraphy (systems for providing distant reproduction of written, printed or pictorial matter) as well as the right to use such facilities.

If you simply supply the “content” of a transmission, you should identify the actual nature of the services provided. For example, a weather forecasting service where weather charts are faxed to the customer is a supply of delivered information and not transmission. See paragraph 13.5.12.

#### **13.11.2 Examples of telecommunications services**

- Telephone calls, calls delivered by cellular phones, paging, the transmission element of Electronic Data Interchange, teleconferencing and call-back services.
- Switching, completion of another provider’s calls, the provision of leased lines and circuits or global networks.
- Telex, facsimile, multi-messaging.
- Email and access to the Internet.
- Satellite transmission services, covering transponder rental/hire and both space segments and earth segments, which includes uplinks and downlinks via land earth stations, coastal stations, outside broadcasting units, or similar.

- Transmission or delivery of another person's material by electronic means.

#### 13.11.3 Examples of exclusions from telecommunications services

- Supplies of information ordered and delivered through the Internet. See paragraph 13.5.12.
- Travel information accessed by telephone. See paragraph 13.5.12.
- Granting copyright to use transmitted material. See paragraph 13.3.1.
- Processing of data. See paragraph 13.5.10.
- Broadcasting to subscribers. See paragraph 13.12.

#### 13.11.4 Do Internet services constitute telecommunications services?

Access to the Internet and World Wide Web, the provision of email addresses and chatline facilities are telecommunications services. If you supply basic access to the Internet, even if related software, some information and customer support facilities are included, your supply is of telecommunications services.

However:

- if you supply a package of Internet services where the emphasis is on content rather than communication, your supply is **not** of pure telecommunications services. The place of supply of such a package depends on the nature of the services provided; or
- if you supply services separately or services which are simply delivered to a customer by electronic transmission, the place of supply depends on the nature of the services provided.

#### 13.11.5 Additional rules for telecommunications services

In addition to the rules in sections 12 and 16, covering supplies made to overseas customers and supplies received into the UK by businesses, there are additional rules for telecommunications services depending on where they are used and enjoyed. See sections 14 and 20.

### 13.12 Paragraph 7B of Schedule 5: Radio and television broadcasting services

#### 13.12.1 What types of services fall within paragraph 7B?

This paragraph covers services of broadcasting by audio and video signals, regardless of the means used (for example landline, line of sight or satellite link).

#### 13.12.2 Example of radio and television broadcasting services

Subscription for satellite or cable television.

#### 13.12.3 Example of exclusion from radio and television broadcasting services

Service of transmitting another person's material by electronic means.

#### 13.12.4 Additional rules for radio and television broadcasting services

In addition to the rules in sections 12 and 16, covering supplies made to overseas customers and supplies received into the UK by businesses, there are additional rules for radio and television broadcasting services, depending on where they are used and enjoyed. See sections 14 and 20.

### 13.13 Paragraph 7C of Schedule 5: Electronically supplied services, for example -

- (a) **website supply, web hosting and distance maintenance of programmes and equipment;**
- (b) **the supply of software and the updating of software;**
- (c) **the supply of images, text and information, and the making available of databases;**
- (d) **the supply of music, films and games (including games of chance and gambling games);**
- (e) **the supply of political, cultural, artistic, sporting, scientific and entertainment broadcasts (including broadcasts of events);**
- (f) **the supply of distance teaching.**

**But where the supplier of a service and his customer communicate via electronic mail, this shall not of itself mean that the service performed is an electronically supplied service.**

#### 13.13.1 What types of services fall within paragraph 7C?

This paragraph covers a service:

- delivered over the Internet or an electronic network (in other words is reliant on the Internet or similar network for its provision); **and**
- where the nature of the particular service means it is heavily dependent on information technology for its supply. In other words the service is essentially automated, involving minimal human intervention and in the absence of information technology does not have viability.

In general the use of the Internet or other electronic networks by parties to communicate with respect to transactions or to facilitate trading does not, any more than the use of a telephone or fax, affect the VAT treatment. For example, where parties simply use the Internet to convey information in the course of a business transaction (for example email), this does not change the nature of that transaction. This differs from a supply that is completely dependent on the Internet in order to be carried out (for example searching and retrieving information from a database with no human intervention).

#### 13.13.2 Examples of electronically supplied services

- Website supply or web hosting services.

- Distance maintenance of programmes and equipment.
- Supplies of software and updating thereof.
- Supplies of images, text and information and making available of databases.
- Supply of music, films and games, including games of chance and gambling games and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events.
- Supply of distance teaching.
- Downloaded services.
- Web-based broadcasting that is only provided over the Internet or similar electronic network and is not simultaneously broadcast over a traditional radio or television network.

#### 13.13.3 Examples of exclusions from electronically supplied services

- Supplies of goods, where the order and processing is done electronically.
- Supplies of CD-Roms, games on a CD-Rom, floppy disks and similar tangible media.
- Supplies of printed matter, such as books, newsletters, newspapers or journals.
- Supplies of CDs, audio cassettes, videos cassettes, DVDs.
- Services of lawyers and financial consultants and so on, who advise clients through email.
- Teaching services, where the course content is delivered by a teacher over the Internet or an electronic network (in other words, via a remote link).
- Offline physical repair services of computer equipment.
- Offline data warehousing services.
- Advertising services, in particular as in newspapers, on posters and on television.
- Telephone helpdesk services.
- Teaching services purely involving correspondence courses, such as postal courses.
- Conventional auctioneers' services reliant on direct human intervention, irrespective of how bids are made.
- Telephone services with a video component, otherwise known as videophone services.
- Internet and worldwide web access services. See paragraph 13.11.4.
- Telephone services provided through the Internet.

#### 13.13.4 VAT treatment of downloaded publications

For VAT and duty purposes, all supplies of downloaded publications are regarded as supplies of **services** and not goods. The UK VAT relief of zero-rating of supplies of printed matter does not apply because the relief is for goods and not services.

#### 13.13.5 Additional rules for electronically supplied services

In addition to the rules in sections 12 and 16, covering supplies made to overseas customers and supplies received into the UK by businesses, there are additional rules for electronically supplied services, depending on where they are used and enjoyed. See sections 15 and 21.

### **13.14 Paragraph 8 of Schedule 5: The services rendered by one person to another in procuring for the other any of the services mentioned in paragraphs 1 to 7C above**

#### 13.14.1 What types of services fall within paragraph 8?

This paragraph covers the services of intermediaries making arrangements for supplies of any of the other services in this section. It does not include services which simply facilitate the making of such supplies.

Some intermediary services in banking, finance and insurance are exempt when made in the UK see Notices 701/36 *Insurance* and 701/49 *Finance*.

#### 13.14.2 Examples of intermediary services falling within paragraph 8

- Stockbroking services.
- Insurance broking services.



- Patent, copyright and similar agents.
- Advertising agents.

#### 13.14.3 Examples of exclusions from intermediary services within paragraph 8

- Making arrangements for supplies other than those covered by this section.
- Services of only facilitating another supply, such as simple introduction.

#### 13.14.4 Where can I find more information on intermediaries excluded from paragraph 8 of Schedule 5?

<b>Description of service:</b>	<b>Dealt with in:</b>
estate agents' services in arranging supplies of land or property;	section 6;
arranging intra-EC freight transport or related ancillary services;	section 10;
arranging or simply facilitating the making of all other supplies.	section 11.

#### 13.15 **Emissions allowances**

Cross-border trading in emissions allowances or instruments is treated as supplied where received under Schedule 5 of the VAT Act 1994. Transactions that take place between parties belonging in the UK will continue to be taxed where the supplier belongs, under the basic rule for the place of supply of services. See section 5.

Emissions allowances and instruments representing emission reductions, carbon credits, and certificates that identify that the production of energy has been generated from renewable sources include, but are not limited to, Certified Emissions Reductions (CERs) and Levy Exemption Certificates (LECs).

## **14. Use and enjoyment of letting on hire of goods, telecommunications services and radio and television broadcasting services**

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**The law on use and enjoyment of the letting on hire of goods, telecommunications services and radio and television broadcasting services is in Articles 17 and 18 of the Order.**

For definitions of these services see:

- paragraph 5.5 - means of transport;
- paragraph 13.10 - services of the letting on hire or leasing of goods other than means of transport;
- paragraph 13.11 - telecommunications services; and
- paragraph 13.12 - radio and television broadcasting services.

### **14.1 When do the additional rules for letting on hire of goods, telecommunications services and radio and television broadcasting services apply?**

The additional rules for letting on hire of goods, telecommunications services and radio and television broadcasting services apply in either of the following situations:

- the place of supply would be the UK under another section (because the supplier or customer belongs in the UK) but the services are effectively used and enjoyed outside the EC; **or**
- the place of supply would be outside the EC under another section (because the supplier or customer belongs outside the EC) but the services are effectively used and enjoyed in the UK.

In these circumstances, the place of supply is where their effective use and enjoyment takes place. Where this is the UK, the services are subject to UK VAT.

### **14.2 What do I need to know to decide whether these rules apply?**

In order to decide whether these rules apply you need to know:

- where the supplier and customer belong; **and**
- the place where the services are effectively used and enjoyed.

### **14.3 Does it always matter where the letting on hire of goods, telecommunications services and radio and television broadcasting services are effectively used and enjoyed?**

It does not always matter where the letting on hire of goods, telecommunications services and radio and television broadcasting services are effectively used and enjoyed.

It only matters in the situations described in paragraph 14.1. The use and enjoyment provisions apply where the EC position would otherwise be distortive. Consequently, they do **not** apply where:

- the place of supply is the UK (because either the supplier or the customer belongs in the UK) and the service was effectively used and enjoyed in another Member State; **or**
- the place of supply is another Member State (because either the supplier or the customer belongs there) but the supply is effectively used and enjoyed in the UK.

### **14.4 What does effective use and enjoyment of the letting on hire of goods (including hired means of transport) mean?**

Effective use and enjoyment takes place where the hired goods are used (in practice this will be where the goods are physically located) irrespective of contract, payment or beneficial interest.

### **14.5 Use and enjoyment of hired means of transport**

If you (as lessor) belong in the UK and hire out a means of transport which is used and enjoyed outside the EC during the hiring period, the place of supply of your services is outside the EC to the extent that the use and enjoyment takes place outside the EC. You will need to retain evidence to substantiate such use and enjoyment.

Similarly, if you (as lessor) belong outside the EC and hire out a means of transport which is used and enjoyed in the UK during the hiring period, the place of supply of your services is the UK to the extent that the use and enjoyment takes place within the UK.

#### 14.5.1 Examples for hired means of transport

##### **If you**

##### **the place of supply of your services is**

belong in the UK and hire out a means of transport, for use and enjoyment within the EC,

the UK.

belong in the UK and hire out a means of transport which is used and enjoyed outside the EC throughout the hiring period,

outside the EC.

belong in the UK and hire out a means of transport which is used and enjoyed partly within and partly outside the EC during the hiring period,

the UK to the extent that the means of transport is used and enjoyed in the EC.

belong outside the EC and hire out a means of transport which is used and enjoyed within the UK for the whole duration of the hiring period,

the UK.

belong outside the EC and hire out a means of transport which is used and enjoyed partly within the UK during the hiring period,

the UK to the extent that the means of transport is used and enjoyed in the UK.

#### **14.6 Use and enjoyment of the letting on hire of goods (other than means of transport)**

If the place of supply of your services would be the UK under sections 5 or 12, and the goods are used and enjoyed outside the EC during the hiring period, your services are supplied outside the EC to the extent that the effective use and enjoyment takes place outside the EC. You will need to retain evidence to substantiate such use and enjoyment.

If the place of supply of your services would be outside the EC under sections 5 or 12, and the goods are used and enjoyed in the UK during the hiring period, your services are supplied in the UK to the extent that the effective use and enjoyment takes place in the UK.

#### 14.6.1 Examples for hired goods other than means of transport

- A Canadian company hires out recording equipment to a UK private individual who uses the equipment in his UK home. The place of supply is the UK. This is because the goods are used and enjoyed in the UK and the place of supply would otherwise have been outside the EC. See section 5.
- An Australian tourist hires a video camera from a UK provider during a visit to the UK. The place of supply is the UK. This is because the goods are used and enjoyed in the UK and the place of supply would otherwise have been outside the EC. See section 12.
- A UK golf shop hires out a set of golf clubs to a UK customer for use on a holiday in the USA. The place of supply is outside the EC if the customer is able to demonstrate that the golf clubs are used and enjoyed only in the USA. This is because the goods are used and enjoyed outside the EC and the place of supply would otherwise have been the UK. See section 5.
- A company belonging in Switzerland hires fax machines from a supplier in the USA. The fax machines are partly used and enjoyed at the Swiss company's London branch. The place of supply is the UK to the extent that the machines are used at the London branch. This is because the goods are used and enjoyed in the UK and the place of supply would otherwise have been outside the EC. See section 12.

#### **14.7 What does effective use and enjoyment of telecommunications services and radio and television broadcasting services mean?**

Effective use and enjoyment takes place where the customer actually consumes telecommunications services and radio and television broadcasting services (in practice this will be where the services are physically used) irrespective of contract, payment or beneficial interest.

#### 14.7.1 Examples for telecommunications services

- A private individual whose usual place of residence is in the UK rents a telephone line for his holiday home in Florida from a UK supplier. The services are actually used and enjoyed in Florida. The place of supply is outside the EC because effective use and enjoyment takes place outside the EC and the services would otherwise be supplied in the UK. See section 5.

- A UK resident rents a telephone line for his elderly mother's house in Australia. He receives and pays the bills from his UK provider. The services are actually used and enjoyed in Australia by his mother. The place of supply is outside the EC because effective use and enjoyment takes place outside the EC and the services would otherwise be supplied in the UK. See section 5.
- The parents of a student travelling in the Far East accept a reverse charge call to their UK home from their daughter. The accepted call forms part of the service from their local provider and is actually used and enjoyed at the UK family home. The place of supply is the UK because the services are not effectively used and enjoyed outside the EC. See section 5.
- A business traveller makes a reservation at a Hong Kong hotel from his London office using a toll free number. The telecommunications services are supplied to, and used by, the Hong Kong hotel. The place of supply is outside the EC because the services are not effectively used and enjoyed in the UK. See section 12.

#### 14.7.2 How do the extra rules apply to travellers?

Telecommunications services are subject to UK VAT when used in the UK by non-EC visitors. Examples include public pay-phones, fax shop services and charges for calls made from hotel rooms. However, elements of telecommunications services used in the UK are ignored if they are:

- simply an incidental part of an established telephone contract or account held by a customer who belongs outside the EC;
- used by a non-EC temporary visitor; **and**
- HMRC is satisfied that these conditions are not being abused.

If a UK resident uses telecommunications services outside the EC under such an account with a UK provider, those services will be outside the scope of UK VAT, provided that evidence is retained to substantiate the element of use and enjoyment that occurs outside the EC.

#### **14.8 Do I have to apply different rules if I supply electronically supplied services as well as telecommunications services or radio and television broadcasting services?**

HMRC recognises that in certain situations, the place of supply would be the same whether the rules for telecommunications services and radio and television broadcasting services, or those for electronically supplied services were applied. This is because most non-business customers use and enjoy services in the same country in which they belong. See paragraph 15.7.

#### **14.9 Accounting procedures for UK suppliers of letting on hire of goods (other than means of transport), telecommunications services and radio and television broadcasting services**

<b>If your</b>	<b>you</b>
customer belongs in the UK,	are not required to account for UK VAT to the extent that your customer uses and enjoys your services outside the EC.
non-business customer belongs in another Member State,	are not required to account for UK VAT to the extent that your customer uses and enjoys your services outside the EC.
customer belongs outside the EC,	are required to account for UK VAT to the extent that your customer uses and enjoys your services in the UK.
customer belongs outside the EC and your customer uses and enjoys your services in another Member State,	may be required to account for VAT in that Member State because those services are supplied in that Member State (see paragraph 14.14).

#### **14.10 Accounting procedures for non-UK suppliers of the letting on hire of goods (including means of transport), telecommunications services and radio and television broadcasting services used and enjoyed in the UK**

If you are a supplier who does not belong in the UK and your customer is registered for UK VAT and receives the supply for business purposes, your customer is responsible for accounting for any VAT due on the supply under the reverse charge procedure. See paragraph 16.12.1.

If you are a supplier who does not belong in the UK, and your customer is not registered for UK VAT, you, as the supplier, are responsible for accounting for any VAT due on your supply where the place of supply is the UK. See paragraph 16.12.6. If you are not already registered in the UK, you may be liable to register. See paragraph 2.11.

If you are a supplier who does not belong in the EC, you are required to register and account for UK VAT if you supply services that are used and enjoyed in the UK by UK private individuals and non-business organisations, subject to the normal rules. See Notice 700/1 *Should I be registered for VAT?*

#### **14.11 Accounting procedures for UK VAT registered recipients of services of the letting on hire of goods (other than means of transport), telecommunications services and radio and television broadcasting services from a non-EC supplier where the place of supply is the UK**

If you are a UK VAT registered recipient of these services and:

- you belong outside the EC for the purposes of receiving the supply;
- you use and enjoy the services in the UK; **and**
- your supplier belongs outside the UK

you are required to account for UK VAT using the reverse charge procedure. See paragraph 16.12. See paragraph 16.10 if you belong in the UK for the purposes of receiving such a supply.

#### **14.12 Accounting procedures for UK customers receiving hired means of transport from a non-EC supplier where the place of supply is the UK**

If you are a UK VAT registered recipient of these services, you are required to account for the reverse charge where your supplier belongs outside the EC (see paragraph 16.12).

#### **14.13 How do I account for VAT on the letting on hire of goods, telecommunications services and radio and television broadcasting services that are only partly liable to UK VAT because of the use and enjoyment provisions?**

You are only required to account for UK VAT to the extent that the place of supply of services is the UK. Therefore you should seek to identify the location where the services are actually used.

HMRC will normally accept any records or documentation that demonstrates any division in the provision of services but, where such records do not exist, you should make a fair and reasonable assessment.

There is no prescribed method for determining the extent to which services are used in the UK. You may adopt whatever method is available to you that produces a fair and reasonable reflection of services that are liable to UK VAT. If you are in doubt you should contact our National Advice Service. Evidence of how the apportionment has been made should be retained and made available on request.

#### **14.14 Liability to register in other Member States**

If you supply the letting on hire of any goods, telecommunications services or radio and television broadcasting services where the place of supply would be outside the EC under sections 5 or 12, and the services are effectively used and enjoyed by your customer in another Member State, you may be liable to register for VAT in that Member State (see paragraph 2.12).

#### **14.15 Decision tables for hired goods (other than means of transport), telecommunications services and radio and television broadcasting services**

Tables in section 20 contain further guidance for all suppliers to help in deciding the place of supply of hired goods (other than means of transport), telecommunications services and radio and television broadcasting services.

## 15. Use and enjoyment of electronically supplied services

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**The law on the additional rules for electronically supplied services is in Articles 16A, 17 and 18 of the Order.**

For a definition of electronically supplied services see paragraph 13.13.

### 15.1 What is the VAT liability of electronically supplied services?

Normally, electronically supplied services supplied in a Member State will be taxable at the standard rate established by a Member State in accordance with Articles 97-98(2) of the Principal VAT Directive (formerly Article 12(3)(a) of the VAT Sixth Directive), unless an exempting provision in a Member State applies.

Particular care should be taken where a service includes both electronic and other elements. Such composite transactions must generally be considered on a case-by-case basis.

### 15.2 When do the additional rules for electronically supplied services apply?

The additional rules for electronically supplied services apply where the supply is to another business (and not to a private individual or non-business organisation) in either of the following situations:

- the place of supply would be the UK (because the supplier or the customer belongs in the UK) but the services are effectively used and enjoyed outside the EC; **or**
- the place of supply would be outside the EC (because the supplier or the customer belongs outside the EC), but the services are effectively used and enjoyed in the UK.

In these circumstances, the place of supply of the electronically supplied services is where their effective use and enjoyment takes place. Where this is the UK, the services are subject to UK VAT.

### 15.3 How do suppliers of electronically supplied services determine if their customers are in business?

In addition to the guidance in paragraph 12.5, section 16 contains additional guidelines which will help suppliers of electronically supplied services determine if their customers are in business.

### 15.4 What do I need to know to decide whether these rules apply?

You need to know:

- where the supplier and customer belong; and
- the place where the services are effectively used and enjoyed.

### 15.5 Does it always matter where electronically supplied services are effectively used and enjoyed?

It does not always matter where electronically supplied services are effectively used and enjoyed. It only matters in the situations described in paragraph 15.2. The use and enjoyment provisions apply where the EC position would otherwise be distortive. Consequently, they do not apply in any situation where:

- the customer is a private individual or a non-business organisation. This is because most private individuals and non-business customers are considered to use and enjoy the services in the same country in which they belong;
- the place of supply is the UK (because either the supplier or the customer belongs in the UK) and the service was effectively used and enjoyed in another Member State; or
- the place of supply is in another Member State (because either the supplier or the customer belongs there) but the supply is effectively used and enjoyed in the UK.

In such situations the rules set out in sections 12 and 16 apply.

### 15.6 What does effective use and enjoyment of electronically supplied services mean?

Effective use and enjoyment takes place where the customer actually consumes the electronically supplied services irrespective of contract, payment or beneficial interest.

#### 15.6.1 Examples for electronically supplied services

- A UK business purchases digitised software from an Irish supplier for use only in its branch in the Channel Islands. Although the supply is received in the UK where the business belongs, it is used outside the EC and is outside the scope of UK (and EC) VAT.

- A USA business purchases web-hosting services for its international business, including its UK branch. Although the supply is received in the USA, to the extent that it is used in the UK, it is subject to UK VAT.
- A UK business purchases downloaded information from another UK business for use in both its UK headquarters and its Canadian branch. Although the supply is received in the UK, to the extent it is used in Canada it is outside the scope of UK VAT. UK VAT is only due to the extent of use by the UK headquarters.

### **15.7 Do I have to apply different rules if I supply telecommunications services or radio and television broadcasting services as well as electronically supplied services?**

HMRC recognises that in certain situations, the place of supply would be the same whether the rules for telecommunications services and radio and television broadcasting services, or those for electronically supplied services were applied. This is because most non-business customers use and enjoy services in the same country in which they belong.

Consequently, if you are:

- a UK business which supplies electronically supplied services;
- your services are supplied to private individuals or non-business organisations; **and**
- your existing accounting systems are set up to tax supplies where they are effectively used and enjoyed;

you may, exceptionally, opt to apply the use and enjoyment rules to your supplies of electronically supplied services.

This is a simplification measure which prevents the need for businesses to adjust their systems. However, HMRC will not allow this simplification to be used in any case where we consider it leads to abuse.

### **15.8 Accounting procedures for UK suppliers of electronically supplied services**

<b>If your</b>	<b>you are</b>
business customer belongs in the UK,	not required to account for UK VAT to the extent that your business customer uses and enjoys your services outside the EC.
business customer belongs outside the EC,	required to account for UK VAT to the extent that your customer uses and enjoys your services in the UK.
business customer belongs outside the EC and your customer uses and enjoys your services in another Member State.	not required to account for UK VAT as those services are supplied in that Member State. See section 21.

### **15.9 Accounting procedures for non-UK suppliers of electronically supplied services used and enjoyed in the UK**

#### **15.9.1 Non-UK supplier supplying a customer registered for UK VAT**

If you are a supplier who does not belong in the UK and your customer is registered for UK VAT and receives the supply for business purposes, your customer is responsible for accounting for any VAT due on the supply under the reverse charge procedure.

See paragraph 16.12.1.

#### **15.9.2 Non-UK supplier supplying a customer not registered for UK VAT**

If you are a supplier who does not belong in the UK, and your customer is not registered for UK VAT and receives the supply for business purposes, you, as the supplier, are responsible for accounting for any VAT due on your supply where the place of supply is the UK. See paragraph 16.12.6. If you are not already registered in the UK, you may be liable to register. See paragraph 2.11.

If you are a non-EC supplier of electronically supplied services providing services to private individuals or non-business organisations in the EC, you may be potentially required to register and account for VAT with effect from 1 July 2003 in every Member State where you supply your services (according to the rules which apply in the various Member States).

However, to relieve this burden, a simplified special scheme permits you to register electronically in the Member State of your choice and account for EC VAT on an electronic VAT return. See section 18. This scheme does not apply to non-EC businesses supplying other services.

### **15.10 Accounting procedures for UK customers receiving electronically supplied services from a non-EC supplier where the place of supply is the UK**

If you are a UK VAT registered customer receiving these services for business purposes and:

- you belong outside the EC for the purposes of receiving the supply;
- you use and enjoy the services in the UK; **and**
- your supplier belongs outside the UK;

you are required to account for VAT using the reverse charge procedure. See paragraph 16.12. If you belong in the UK for the purposes of receiving such a supply see paragraph 16.10

### **15.11 How do I account for VAT on electronically supplied services that are only partly liable to UK VAT because of the use and enjoyment provisions?**

You are only required to account for UK VAT to the extent that the place of supply of services is the UK. Therefore you should seek to identify the location where the services are actually used.

HMRC will normally accept any records or documentation that demonstrates the extent to which services are used and enjoyed in the UK but, where such records do not exist, you should make a fair and reasonable assessment.

There is no prescribed method for determining the extent to which services are used in the UK. You may adopt whatever method is available to you that produces a fair and reasonable reflection of services that are liable to UK VAT. If you are in doubt you should contact our National Advice Service. Evidence of how the apportionment has been made should be retained to be made available on request.

### **15.12 Liability to register in other Member States**

If you supply electronically supplied services where the place of supply would be outside the EC under sections 5 or 12, and the services are effectively used and enjoyed by your business customer in another Member State, you may be liable to register for VAT in that Member State. See paragraph 2.12.

### **15.13 Decision tables for electronically supplied services**

Tables in section 21 contain further guidance for all suppliers to help in deciding the place of supply of electronically supplied services.



## 16. Reverse charge

The law on the reverse charge is in the VAT Act, section 8.

### 16.1 Who needs to refer to this section?

You will need to refer to this section if you belong, or are VAT registered, in the UK and receive the following types of services from an overseas supplier:

Types of services:	Dealt with in:
services in the VAT Act Schedule 5, paragraphs 1 to 8;	section 13 and paragraph 16.10;
services of valuation of or work on goods where the goods leave the Member State of performance; services relating to intra-EC freight transport; or intermediary services (services with an EC simplification);	sections 7, 10, 11 and paragraph 16.11;
any other services which are supplied in the UK.	paragraph 16.12.

It is important to refer to the appropriate paragraph because there are different conditions for each situation.

### 16.2 What is the “reverse charge”?

Normally, the supplier of a service is the person who must account, to the tax authorities, for any VAT due on the supply. However, in certain situations, it is the customer who must account for any VAT due. Although called reverse charge in this notice, the procedure may also be referred to as **tax shift**.

Reverse charge is not a complicated accounting procedure. Where it applies to services which you receive, you, the customer, must act as if you are both the supplier and the recipient of the services.

### 16.3 How does the reverse charge work?

You simply credit your VAT account with an amount of output tax, calculated on the full value of the supply you have received, and at the same time debit your VAT account with the input tax to which you are entitled, in accordance with the normal rules. The partial exemption implications for reverse charge services are explained in Notice 706 *Partial exemption*.

You then include in the relevant boxes of your VAT return:

- the amount of output tax in box 1 **VAT due on sales;**
- the amount of input tax in box 4 **VAT reclaimed on purchases;**
- the full value of the supply in box 6 **total value of sales; and**
- the full value of the supply in box 7 **total value of purchases.**

### 16.4 What is the effect of the reverse charge?

If you can attribute the input tax to taxable supplies, and can therefore reclaim it all, the reverse charge has no net cost to you. If you cannot, the effect is to make you pay VAT on the supply at the UK rate. This puts you in the same position as if you had received the supply from a UK supplier rather than from one outside the UK.

### 16.5 Valuation of supplies covered by the reverse charge

The amount payable to your overseas supplier for the services **excludes** UK VAT. The value of the transaction on which VAT must be accounted under the reverse charge is the total amount paid together with the value of any other form of consideration. This includes any taxes levied abroad. See Notice 700 *The VAT Guide* if you need to convert foreign currency into sterling.

### 16.6 Time of supply

The time of supply (tax point) for these services is the date on which you make a payment or, if the consideration is not in money, the last day of each tax period during which the services are performed.

### **16.7 Can the reverse charge apply to services supplied by UK suppliers?**

The reverse charge does not apply to supplies of services where the supplier belongs in the UK. It only applies where services are supplied in the UK by suppliers belonging overseas.

Services which, under the place of supply rules, are supplied in another country are outside the scope of UK VAT. Such services can only be subject to tax in that country.

### **16.8 International companies**

The reverse charge does not apply to services provided by an overseas establishment within the same legal entity, since this is not a supply for VAT purposes.

### **16.9 UK VAT incurred by non-UK suppliers**

Suppliers who belong outside the UK, and whose customers account for UK VAT by means of the reverse charge, may be able to reclaim VAT incurred in the UK. See Notice 723 *Refunds of VAT in the EC for EC and non-EC businesses*.

### **16.10 Services within paragraphs 1 to 8 of Schedule 5**

If you belong in the UK and receive any of the services within paragraphs 1 to 8 of Schedule 5 (see section 13) where:

- your supplier belongs outside the UK; **and**
- you receive the supply for business purposes (even if you receive it partly for non-business purposes);

the reverse charge applies. If you are unsure whether you belong in the UK, see section 3.

#### **16.10.1 Example**

A UK business receives customised software from a USA business (Schedule 5 paragraph 7C service) for business purposes. The place of supply is the UK and the UK business must account for VAT under the reverse charge.

#### **16.10.2 What if I receive exempt or zero-rated services?**

The reverse charge does not apply to exempt services or zero-rated services.

#### **16.10.3 What if I am not already UK VAT registered and receive these services?**

If you are not already UK VAT registered and you receive supplies of services within Schedule 5 paragraphs 1 to 8 which meet the conditions in paragraph 16.10 and are treated as supplied where the recipient belongs, the value of those supplies must be added to the value of your own taxable supplies in determining whether you should be registered for UK VAT. Even if you make no taxable supplies yourself you will still be a taxable person if the value of your imported services exceeds the registration limits.

#### **16.10.4 What if the reverse charge does not apply to these services?**

If the conditions in paragraph 16.10 are not met the reverse charge does not apply to these services and there is no UK VAT due on such supplies. However, see paragraph 16.12 if you receive:

- supplies of the letting on hire of goods (other than means of transport);
- telecommunications services;
- radio and television broadcasting services; **or**
- electronically supplied services

which are made in the UK under the additional rules for use and enjoyment of such supplies. See sections 14 and 15.

#### **16.10.5 Group treatment**

Where services covered by section 13 (except exempt services) are purchased by an overseas member of a UK VAT group and provided to a UK member of that VAT group, its representative member is required to account for any UK VAT due under the intra-group reverse charge. See Notice 700/2 *Group and divisional registration*.

### 16.11 Services with an EC simplification

The place of supply of certain services made in the EC can be further adjusted if the customer gives a VAT registration number from a different Member State. EC simplifications resulting in the reverse charge apply to:

- valuation or work on goods performed in the EC. See section 8;
- intra-EC freight transport services and related ancillary services. See section 10;
- arranging intra-EC freight transport services and related ancillary services. See section 10; **and**
- most intermediary services supplied in the EC. See section 11.

#### 16.11.1 When does the reverse charge apply to these services?

The reverse charge applies if you use a UK VAT registration number and receive a supply covered by paragraph 16.11 where:

- your supplier belongs outside the UK; **and**
- you receive the supply for business purposes.

#### 16.11.2 What if I receive exempt or zero-rated services?

The reverse charge does not apply to exempt services or zero-rated services.

#### 16.11.3 What if I do not provide a UK VAT registration number?

If you do not provide a UK VAT registration number your supplier will charge and account for any VAT due in the appropriate Member State. If the VAT you are charged is not UK VAT you will need to pursue any claim for a refund through the provisions of the 8th or 13th Directives. See Notice 723 *Refunds of VAT in the EC for EC and non-EC businesses*. However, if you are already UK VAT registered and the place of supply of the services is the UK, see paragraph 16.12.

#### 16.11.4 What if I receive these supplies for non-business purposes?

If you receive these supplies for non-business purposes you should not make use of a VAT registration number. Your supplier will account for any VAT due on the supply in the appropriate Member State.

#### 16.11.5 What if I am VAT registered in more than one Member State?

If you are registered in more than one Member State you are not required to account for the reverse charge in the UK under paragraph 16.11 if your VAT registration number in another Member State is more appropriate to the supply. You may be required to account for VAT in that other Member State.

#### 16.11.6 What if I am not already UK VAT registered and receive these services?

The reverse charge cannot apply if you are not already VAT registered. Such supplies do not count as your taxable supplies for the purposes of determining whether you are liable to be registered as a taxable person. Your supplier is liable to account for any VAT due in the appropriate Member State.

### 16.12 Extension to other services supplied in the UK

The reverse charge also applies to the following services when they are made in the UK:

- services relating to land and property. See section 6;
- services supplied where performed. See section 7;
- passenger transport. See section 9;
- freight transport services not covered by paragraph 16.11;
- services covered by the additional rules for hired goods, telecommunications services, radio and television broadcasting services. See section 14; and
- services covered by the additional rules for electronically supplied services. See section 15.

#### 16.12.1 When does the extension to the reverse charge apply?

The extension to the reverse charge applies if you are UK VAT registered and receive services listed in paragraph 16.12 which are supplied in the UK where:

- your supplier belongs outside the UK; **and**
- you receive the supply for business purposes.

#### 16.12.2 Should I give my UK VAT registration number?

You should give your UK VAT registration number to your supplier as evidence that they are not liable to account for any UK VAT due.

#### 16.12.3 What if I receive exempt or zero-rated services?

The reverse charge does not apply to exempt or zero-rated services.

#### 16.12.4 What if I receive such supplies for non-business purposes?

If you receive such supplies for non-business purposes the reverse charge does not apply. You should not give a UK VAT registration number. Your supplier is liable to account for any UK VAT due.

#### 16.12.5 What if I am not UK VAT registered and receive such services supplied in the UK?

If you are not UK VAT registered and receive such services supplied in the UK the reverse charge does not apply. Such supplies do not count as your taxable supplies for the purposes of determining whether you are liable to be registered as a taxable person. Your supplier is liable to account for any UK VAT due.

#### 16.12.6 What if I am a non-UK supplier of these services but my customer does not give a UK VAT registration number?

If you are a non-UK supplier of these services but your customer does not give a UK VAT registration number you are responsible for accounting for any UK VAT due on your supply. If you are not already registered in the UK, you may be liable to register. See paragraph 2.11.

## 17. Electronically supplied services: Evidence of customer location and status

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For a definition of electronically supplied services see paragraph 13.13.

### 17.1 When do I need to refer to this section?

You need to refer to this section if you are a supplier of electronically supplied services. This is because you should identify the status and location of your customers in order to determine the place of supply of your services and thus the correct VAT treatment of such services.

### 17.2 How do I verify my customer's business status?

If you make business-to-business supplies within the EC the evidence required at the time of the transaction would normally be the customer's VAT registration number and country identification code prefix. The number must conform to the format for the registered person's Member State. See Notice 725 *The single market*.

Under normal trading practices you will often know your business customers. Therefore, in such cases, you will not need to routinely check all VAT numbers quoted, provided that the numbers conform to the correct country format.

However, where a relationship has not been established with a business customer the VAT number should be checked when:

- the VAT involved exceeds £500 on a single transaction; **or**
- the cumulative VAT on transactions for electronically supplied services to a single customer in a VAT quarter exceeds £500.

Similarly, if you supply downloaded music, games, films and so on of a kind normally supplied to a private consumer, you would not expect a VAT number to be quoted in such circumstances. However, where a VAT number is quoted in what is clearly a supply to a private consumer the use of that number should be challenged.

Full verification should be undertaken in **all** cases where you have any reason to believe that a VAT number quoted by a customer is false or is being used incorrectly.

If a customer claims to be in business but not to be VAT registered then alternative evidence should be obtained to support the claim. This can be in the form of other reasonable commercial evidence or records that should normally be available. Examples include contracts, business letterheads, a commercial website address, publicity material, certificates from fiscal authorities. A digital certificate from a reputable organisation can also be used for this purpose.

The VAT Information Exchange System (VIES) can support your decision-making process by providing an online verification system. The system can be accessed on the europa.eu website <http://europa.eu>

You may also contact our National Advice Service to verify names and addresses as well as dates of registration and deregistration where appropriate.

Other Member States may have similar systems by which it is possible to check the validity of VAT registration numbers.

If any of the above checks fail to confirm that your customer is in business or if there remains any doubt about the use of a VAT registration number, VAT should be charged as appropriate on all supplies to that customer including supplies that have already been made.

Any VAT that has been charged in error may be credited under the normal rules.

### 17.3 How do I identify my customer's country of residence?

Under normal trading practices you will often know your business customers and where they are located. However, this is less likely to be the case with supplies to private customers and with lower value transactions to business customers. As technology cannot determine with certainty the place where such customers belong, **self-declaration by the customer combined with a reasonable level of verification** will be acceptable.

It is likely that you already have established procedures in place to identify and verify the country where your customer belongs. HMRC will rely as much as possible on those practices to ensure you are not burdened with unnecessary requirements. If the method you use is not included in the list of examples in the following paragraph, you are advised to contact HMRC.

Customer self-declaration will be acceptable (without prior approval from HMRC) in respect of electronically supplied services, where one or other of the following practices is followed:

- (a) Use of your customer's postal address provided you have used it to send (for example) goods, catalogues, samples, CD-Roms, invoices, correspondence without these items having been returned, undelivered. (However, alternative means will have to be used if mail is returned undelivered).
- (b) Acceptance of payment by credit/debit card where you compare the customer's home address with the billing address, but then rely on satisfactory alternative evidence if the match is unsuccessful;
- (c) Acceptance of payment by credit/debit card and, using proprietary software, you compare the customer's country of residence with the location of the issuing bank but then rely on satisfactory alternative evidence if the match is unsuccessful.
- (d) Use of geo-location or proprietary software to verify where your customer belongs but then rely on satisfactory alternative evidence if the match fails.
- (e) Use of systems that are configured to identify where the service is used and enjoyed (for example telecommunications suppliers). HMRC will accept the arrangement as a proxy for identifying the country where the customer belongs.

If you use one or other of the above methods, you will need to demonstrate that HMRC's requirements have been met. For example, you may be asked to show how your system processes the relevant information.

#### **17.4 What if the information provided by customers is found to be incorrect?**

Where verification has been undertaken and the details provided were believed to be correct at that time, but subsequently the customer is found to have made a false declaration, HMRC will not seek to recover VAT from you, the supplier, where it was not charged to the customer. This does not apply if there was reasonable information at the time of the sale to indicate that the customer's information was incorrect. HMRC's treatment of such cases will be subject to periodic review.

## 18. Electronically supplied services: Special scheme for non-EC businesses

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**The law on the special scheme for non-EC businesses supplying electronically supplied services is in the VAT Act Schedule 3B.**

For a definition of electronically supplied services see paragraph 13.13.

### 18.1 When do I need to refer to this section?

You need to refer to this section if you are a non-EC business and you supply electronically supplied services to EC consumers (that is, private individuals and non-business organisations).

### 18.2 What is the special scheme for non-EC businesses?

The special scheme provides an optional, simplified means of registering and accounting electronically for EC VAT.

### 18.3 Why was the scheme introduced?

The scheme was introduced alongside the changes to the EC place of supply rules for electronically supplied services, which took effect from 1 July 2003. From that date, these services, when supplied by non-EC businesses to EC consumers, are subject to VAT in the Member State where the customer belongs. See paragraph 15.2.

This means that non-EC businesses would be required, under the normal rules, to register separately and account for VAT in each and every Member State in which they make those supplies. For example, a Canadian business with customers in the UK, France and Spain would have to register in, and submit declarations to each of those Member States.

As an alternative, the special scheme offers eligible non-EC businesses the option of registering electronically in a **single** Member State of their choice and accounting for VAT on their sales of electronically supplied services to all EC consumers on a **single** quarterly electronic VAT declaration which provides details of VAT due in each Member State. This is submitted with payment to the tax administration in the Member State of registration which then distributes the VAT to the Member States where the services are consumed.

#### 18.3.1 Example

A USA business registers for the special scheme in the UK. Its customers are located in the UK, Germany and Italy. The USA business charges UK VAT to its UK customers, German VAT to its German customers and Italian VAT to its Italian customers. The business enters the VAT for each Member State on the appropriate line of the electronic declaration. It sends the declaration electronically with payment to HMRC, who retain the UK VAT and pass on the German VAT to the German authorities and the Italian VAT to the Italian authorities.

### 18.4 Who may use the special scheme?

You are eligible to use the special scheme if:

- you supply electronically supplied services to consumers (private individuals and non-business organisations) belonging in the EC;
- you are not established within the EC, **and**
- you are not registered for VAT under the normal rules in any Member State.

### 18.5 Can I use the special scheme if I make supplies to business customers as well as private consumers in the EC?

You can use the special scheme for your supplies to private consumers in the EC even if you also make supplies to business customers, subject to meeting the other conditions set out in paragraph 18.4.

You are not entitled to use the special scheme for supplies to business customers. You are not required to charge and account for VAT on electronically supplied services supplied to EC businesses because your customers account for any VAT due there.

### 18.6 How do I register for the special scheme in the UK?

You can register in the UK for the special scheme at the dedicated website:

<https://secure.hmce.gov.uk/ecom/voes/welcome.do;jsessionid=38724132D7A9A1B635D267754F9D2A91>

This is a secure site which automatically guides you through an electronic registration process. This will include selecting a user name and password to identify yourself for the purposes of completing and submitting declarations electronically (see paragraph 18.18).

**Remember:** Subject to the conditions in paragraph 18.4, you can elect to register for the special scheme in a Member State of your choice, but you can only register in that one Member State.

### **18.7 What information must I provide to register?**

You will only have to provide the following limited information to register:

- business name;
- postal address;
- electronic addresses including websites;
- national tax number (where applicable);
- a statement that you are not registered for VAT purposes within the EC; **and**
- the date on which you began, or intend to begin, making supplies of electronically supplied services to EC consumers.

HMRC will also ask you to provide a contact name and telephone number.

### **18.8 When will I receive a VAT identification number?**

We will normally send your VAT identification number by email within five working days of us receiving your completed electronic registration request.

Identification numbers for the special scheme have their own unique format beginning with the prefix 'EU', followed by a nine-digit number. These are different from VAT registration numbers issued under the normal rules.

### **18.9 Must a business be making supplies before registering?**

Subject to the other conditions, you are entitled to register for the special scheme even if you are not actually making supplies of electronically supplied services at the time but intend to do so at a later stage. You will need to complete 'nil' VAT declarations for the period between the date you are registered until the time you begin to make supplies. See paragraph 18.18. However, you must advise HMRC if your intention to make supplies ceases. See paragraphs 18.15 and 18.16.

### **18.10 What if I am already registered for VAT in the EC under the normal rules but want to apply for the special scheme?**

If you are required to be registered for VAT in the EC under the normal rules, for example, because you supply goods or services other than electronically supplied services, you are not eligible for the special scheme. You are required to account for VAT on electronically supplied services to EC consumers under the normal rules.

### **18.11 Are there any other conditions I must comply with if I apply for the special scheme?**

If you apply for the special scheme you are required to comply with all its conditions. These include electronically registering, accounting for, and paying the VAT that is due at the correct time.

There are no penalties which apply under the special scheme. However, if you persistently fail to comply with its conditions, your registration may be cancelled. In that event, you would be required to register under the normal rules which apply in the various Member States where your customers belong. You could then be subject to any penalties which those Member States apply.

Similarly, if you are supplying electronic services to UK customers and you fail to register for VAT (either under the special scheme or under the normal rules), you may be compulsorily registered in the UK under the normal rules and may incur a late registration penalty.

### **18.12 Can I use an agent to deal with my VAT affairs?**

Only a business may register for the special scheme. An agent, even an authorised one, is therefore not allowed to register for the special scheme on your behalf.



You may authorise an agent to submit declarations and, if necessary, payment on your behalf under the special scheme. However, rules regarding agents vary between the Member States.

### **18.13 My sales of electronic services to EC consumers are small. Do I need to register for the special scheme?**

There is no threshold for registration under the special scheme. Although your sales of electronically supplied services to EC consumers may be small or even occasional, the special scheme enables you to register, submit declarations and pay VAT in the **single** EC Member State of your choice. If you choose not to register under the special scheme, the normal rules (including VAT registration thresholds) will apply. In contrast to the special scheme, these may require you to register and account for VAT in most Member States where your customers belong.

### **18.14 Am I required to register if my services qualify for a VAT exemption in the EC?**

Normally, electronically supplied services supplied in a Member State will be taxable at the standard rate established by a Member State, unless an exempting provision in a Member State applies. If you think that your services may qualify for an exemption you should check with the Member State(s) concerned.

However, if any of your services are taxable in your customer's Member State, you may be required to register and account for VAT in the EC under either the normal rules or the special scheme.

### **18.15 What is the procedure if my business's circumstances change?**

Once you are registered for the special scheme, you must notify us, using the dedicated website, if:

- there is any change in your business details as at paragraph 18.7 above;
- you cease to make, or cease to have the intention of making, electronically supplied services to EC consumers; **or**
- you cease to be eligible for the scheme (for example, you begin to supply goods in the EC and are consequently liable to register under the normal rules).

You must advise us within 30 days of the date of the changes, or of the date when your intention to make supplies ceased.

### **18.16 In what circumstances must I apply to cancel my registration under the special scheme?**

You must apply to cancel your registration under the special scheme if at any time you cease to be eligible for it; for example, if you cease to supply electronically supplied services to EC consumers or if you establish your business within the EC.

We can also cancel your registration in certain circumstances if you do not meet the conditions of the special scheme, for example, because we discover you make supplies other than electronically supplied services in the EC and are therefore required to register under the normal rules.

### **18.17 What if I decide to switch from registration under the normal rules to the special scheme at a later date?**

If, from 1 July 2003, you were required to be registered in the EC solely because you were supplying electronically supplied services to EC consumers, you may decide to register under the normal rules. For example, you might initially be making supplies of electronically supplied services to consumers in a single Member State only. You may subsequently wish to register under the special scheme, for example, because you expand your market to consumers in other Member States.

In these circumstances, you may apply to be registered for the special scheme in the UK provided you cancel your registration under the normal rules with the Member State concerned.

### **18.18 What is the procedure for submitting declarations and payments?**

Electronic declarations are due for each calendar quarter (30 September, 31 December, 31 March and 30 June) and should be submitted within 20 days after the end of the quarter to which it relates. For example, a declaration for the quarter ending 30 September should be submitted with full payment of the tax due, by 20 October. You must also submit 'nil' declarations.

You complete the declaration by logging on to the dedicated website using your VAT identification number, user name and password to ensure security.

**18.19 What details will be required on the VAT declaration?**

For **each** Member State in which your business has supplied electronically supplied services you must state on the declaration:

- the total value of all supplies in the period excluding any VAT;
- the VAT rate which applies; **and**
- the total amount of VAT payable.

You must also show the total amount of VAT payable in all Member States.

**18.20 Can I recover VAT on purchases under the special scheme?**

You cannot recover VAT on purchases using the special scheme. The special scheme provides only for payment of the VAT due on sales to your EC customers without any deductions of EC VAT incurred on purchases. However, you may reclaim any VAT that you have paid on goods and services used for the purpose of your taxable activities falling under the special scheme from the Member State where that VAT was paid, under the terms of the EC 13th Directive. See paragraphs 16.9 and 18.34.

**18.21 How do I pay electronically?**

You will need to arrange with your bank to make electronic payment to HMRC's bank account at the same time you submit the declaration. The bank account details can be found on the dedicated website. You should not use any other bank account.

**18.22 In what currency must returns and payments be made?**

Businesses registered for the special scheme in the UK are required to submit declarations and payments in sterling.

**18.23 What exchange rate must I use when converting into sterling?**

Businesses registered for the special scheme in the UK are required to submit declarations and payments to HMRC in sterling (GBP). Conversions from other currencies into sterling must be made using the exchange rates published by the European Central Bank (the ECB):

- for the last day of the reporting period to which the declaration relates; **or**
- if no such rate is published for that day, for the next day for which such a rate is published.

To avoid the need for businesses to calculate a conversion from the currency of sale into Euros and then from Euros into sterling, HMRC publishes online the exchange rates for some leading currencies direct into sterling. This includes dollars (USA, Canadian and Australian), rupees and yen.

Alternatively, you may calculate the conversion yourself using the exchange rates shown at the ECB's website <http://www.ecb.int>

**18.24 What VAT rates apply in the Member States?**

Non-EC businesses supplying electronic services to EC consumers are required to charge VAT at the rate which applies in the customer's Member State. These rates are published on the Commission's webpage <http://ec.europa.eu>

**18.25 How will I know that HMRC has received the declaration?**

You will receive an on-line acknowledgment confirming that HMRC has received your declaration. If you do not immediately receive this, you should contact HMRC's Customer Services Team by email at [voes@hmrc.gsi.gov.uk](mailto:voes@hmrc.gsi.gov.uk)

This acknowledgment also provides a unique reference number for each declaration you submit. You should refer to this number if you need to contact HMRC with a query about a declaration.

**18.26 What do I do if a business customer requests a refund of VAT?**

The special scheme is intended for supplies to consumers who cannot recover VAT. Thus, a business customer who fails to provide a valid VAT registration number at the time of the transaction and is charged VAT, cannot deduct that VAT as input tax. However, if he subsequently produces a valid VAT registration number and requests a credit, you may refund the VAT.

### **18.27 What is the procedure for correcting an error in the VAT declared on the declaration?**

If you submit a declaration and subsequently discover that you have made an error, for example, entering French VAT in the line for Spain or underdeclaring UK VAT, you should contact HMRC at [voes@hmrc.gsi.gov.uk](mailto:voes@hmrc.gsi.gov.uk) quoting your declaration acknowledgement number (see paragraph 18.25) and advising of the correct amount(s) due for the Member State(s) concerned. You do not need to submit a supplementary declaration.

If you owe additional VAT as a result of your mistake, you will either be asked to send the payment to HMRC or advised that the Member State(s) concerned will contact you to explain how you should pay the VAT due.

### **18.28 What do I do if I have paid an amount different to the VAT declared?**

If you have declared the correct amount of tax, but discover that you have paid HMRC more or less than that amount in error, you should contact HMRC at [voes@hmrc.gsi.gov.uk](mailto:voes@hmrc.gsi.gov.uk) to obtain advice on what action to take.

### **18.29 What records should I maintain?**

If you are registered for the special scheme you should maintain records of your transactions in sufficient detail to enable the tax administrations in your customers' Member States to determine that the VAT declarations and payments you make are correct. These records include normal commercial data held for each transaction, for example, transaction number, date, type (credit or debit), customer name and location, currency and values including VAT.

These records should be made available electronically on request to either the tax administration where:

- you are registered for the special scheme; or
- where your customers belong.

### **18.30 How long must business records be retained?**

Businesses must retain records relating to supplies made under the special scheme for a period of 10 years.

### **18.31 Must I issue VAT invoices?**

It is common practice for businesses supplying electronically supplied services to issue electronically an invoice or similar document which confirms the details of the sale. There are no special rules for issuing VAT invoices under the special scheme and consequently the normal rules apply. In the UK you are not required to issue VAT invoices for such supplies because your customers are not in business for the purposes of the special scheme and cannot deduct VAT on their purchases.

### **18.32 Can I appeal any aspects of the special scheme to a VAT Tribunal?**

Under paragraph 20(1) of Schedule 3B to the VAT Act 1994, you have the right to appeal to a VAT Tribunal about any decisions HMRC gives on the following aspects of the special scheme:

- registering or cancelling the registration of any person;
- a decision to give a formal notice of an amount underdeclared; or
- the amount of VAT stated as over or underdeclared in a formal notice.

### **18.33 What if I have a dispute with another Member State?**

UK VAT Tribunals cannot deal with VAT matters which fall within the jurisdiction of other Member States. If you disagree with a decision taken by a Member State about any aspect of the special scheme, for example the amount of VAT owed to you, you should raise the matter with them.

### **18.34 How do I make a claim under the 13th Directive for a refund of VAT paid in the UK?**

Claims under the 13th Directive for a refund of VAT paid in the UK can be made on form VAT 65A. Claimants registered under the special scheme should state in section 9A of the VAT 65A 'ESS special scheme' and quote their special scheme identification number, and also indicate in section 10 of the form which expenditure relates to the special scheme.

Full details of the general requirements are in Notice 723 *Refunds of VAT in the EC for EC and non-EC businesses*.

**18.35 How do I recover VAT paid in other Member States of the EC?**

You must contact the responsible authorities in the other Member States for information on how to reclaim VAT incurred in those countries. Details of the authorities are given in Notice 723 *Refunds of VAT in the EC for EC and non-EC businesses*.

## 19. Territory of the European Community (the EC)

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(referred to in paragraph 2.8)

From 1 January 2007, the VAT territory of the EC is made up of 27 Member States. The following table shows the Member States and their territories which are included or excluded for VAT purposes.

<b>Member State</b>	<b>Including</b>	<b>but excluding</b>
Austria	Jungholz and Mittelberg.	
Belgium		
Bulgaria		
Cyprus	the British Sovereign Base Areas of Akrotiri and Dhekelia,	the United Nations buffer zone and the part of Cyprus to the north of the buffer zone, where the Republic of Cyprus does not exercise effective control.
Czech Republic		
Denmark		the Faroe Islands and Greenland.
Estonia		
Finland		Åland Islands.
France	Monaco,	Martinique, French Guiana, Guadeloupe, Reunion and St Pierre and Miquelon.
Germany		the Island of Heligoland, and Büdingen.
Greece		Mount Athos (also known as Agion Oros).
Hungary		
Ireland		
Italy		Campione d'Italia, the Italian waters of Lake Lugano and Lvgno.
Latvia		
Lithuania		
Luxembourg		
Malta		
Netherlands		Antilles.
Poland		
Portugal	the Azores, and Madeira.	
Romania		
Slovakia		
Slovenia		
Spain	the Balearic Islands,	the Canary Islands, Ceuta and Melilla.
Sweden		
United Kingdom	the Isle of Man,	the Channel Islands and Gibraltar.

### 19.1 Other areas not within the EC

Liechtenstein, the Vatican City, Andorra and San Marino are not within the EC for VAT purposes.

**20. Decision tables for telecommunications services, hired goods (other than means of transport), radio and television broadcasting services**

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(referred to in paragraphs 13.10.4, 13.11.5, 13.12.4, and section 14).

**20.1 What does this section cover?**

This section provides more specific guidance through examples with explanations of place of supply, use and enjoyment implications and the UK VAT position.

**It is important that you read each row in a table in its entirety.**

<b>Table 1</b>	Paragraph 20.2 - gives examples where the supplier belongs in the UK.
<b>Table 2</b>	Paragraph 20.3 - gives examples where the supplier belongs in another Member State.
<b>Table 3</b>	Paragraph 20.4 - gives examples where the supplier belongs outside the EC.

**20.2 Table 1: Examples where the supplier belongs in the UK**

<b>Customer belongs (see section 3)</b>	<b>UK VAT position is that**</b>	<b>Additional rules: use and enjoyment provisions (see section 14)</b>
in the UK.	services are supplied in the UK and the supplier accounts for any UK VAT due.	Services used and enjoyed outside the EC are outside the scope of UK (and EC) VAT.
in another Member State and receives the services for business purposes.	services are supplied in the other Member State and are outside the scope of UK VAT.	Do not apply.
in another Member State and receives the services for non-business purposes.	services are supplied in the UK and the supplier accounts for any UK VAT due.	Services used and enjoyed outside the EC are outside the scope of UK (and EC) VAT.
outside the EC.	services are supplied outside the EC and are outside the scope of UK (and EC) VAT.	Services used and enjoyed in the UK are supplied in the UK and the supplier accounts for any UK VAT due.

**\*\*This is the correct VAT treatment unless the additional rules shown in the last column apply.**

**20.3 Table 2: Examples where the supplier belongs in another Member State**

<b>Customer belongs (see section 3)</b>	<b>UK VAT position is that**</b>	<b>Additional rules: use and enjoyment provisions (see section 14)</b>
in the UK and receives the services for business purposes.	services are supplied in the UK and the customer accounts for UK VAT by applying the reverse charge (see section 16).	Services used and enjoyed outside the EC are outside the scope of UK (and EC) VAT.
in the UK and receives the services for non-business purposes.	services are supplied in the supplier's Member State and are outside the scope of UK VAT (invoices will show local VAT).	Do not apply.
in another Member State.	services are supplied in another Member State and are outside the scope of UK VAT.	Do not apply.
outside the EC.	services are supplied outside the EC and are outside the scope of UK (and EC) VAT.	Services used and enjoyed in the UK are supplied in the UK and the supplier accounts for any UK VAT due, unless the customer provides a UK registration number and accounts for UK VAT by applying the reverse charge (see section 16).

**\*\* This is the correct VAT treatment unless the additional rules shown in the last column apply.**



20.4 Table 3: Examples where the supplier belongs outside the EC

Customer belongs (see section 3)	UK VAT position is that**	Additional rules: use and enjoyment provisions (see section 14)
in the UK and receives the services for business purposes.	services are supplied in the UK and the customer accounts for any UK VAT by applying the reverse charge (see section 16).	Services used and enjoyed outside the EC are outside the scope of UK (and EC) VAT.
in the UK and receives the services for non-business purposes.	services are supplied in the supplier's country and are outside the scope of UK (and EC) VAT - <b><i>use and enjoyment provisions are likely to apply.</i></b>	Services used and enjoyed in the UK are supplied in the UK and the supplier accounts for any UK VAT due.
in another Member State and receives the services for business purposes.	services are supplied in the other Member State and are outside the scope of UK VAT.	Do not apply.
in another Member State and receives the services for non-business purposes.	services are supplied in the supplier's country and are outside the scope of UK (and EC) VAT.	Services used and enjoyed in the UK are supplied in the UK and the supplier accounts for any UK VAT due.
outside the EC.	services are supplied outside the EC and are outside the scope of UK (and EC) VAT.	Services used and enjoyed in the UK are supplied in the UK and the supplier accounts for any UK VAT due, unless the customer provides a UK registration number and accounts for UK VAT by applying the reverse charge (see section 16).

**\*\*This is the correct VAT treatment unless the additional rules shown in the last column apply.**

## 21. Decision tables for electronically supplied services

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(referred to in paragraph 13.13, and section 15)

### 21.1 What does this section cover?

This section provides more specific guidance through examples with explanations of place of supply, use and enjoyment implications and the UK VAT position.

**It is important that you read each row in a table in its entirety.**

<b>Table 1</b>	Paragraph 21.2 - gives examples where the supplier belongs in the UK.
<b>Table 2</b>	Paragraph 21.3 - gives examples where the supplier belongs in another Member State.
<b>Table 3</b>	Paragraph 21.4 - gives examples where the supplier belongs outside the EC.

## 21.2 Table 1: Examples where the supplier belongs in the UK

<b>Customer belongs (see section 3)</b>	<b>UK VAT position is that**</b>	<b>Additional rules: use and enjoyment provisions (see section 15)</b>
in the UK and receives the services for business purposes.	services are supplied in the UK and the supplier accounts for any VAT due.	Services used and enjoyed outside the EC are outside the scope of UK (and EC) VAT.
in the UK and receives the services for non-business purposes.	services are supplied in the UK and the supplier accounts for any VAT due.	Do not apply.
in another Member State and receives the supply for business purposes.	services are outside the scope of UK VAT and the customer accounts for any VAT due.	Do not apply.
in another Member State and receives the services for non-business purposes.	services are supplied in the UK and the supplier accounts for any VAT due.	Do not apply.

<b>Customer belongs (see section 3)</b>	<b>UK VAT position is that**</b>	<b>Additional rules: use and enjoyment provisions (see section 15)</b>
outside the EC and receives the services for business purposes.	if the services are not used and enjoyed in the EC the services are outside the scope of UK and EC VAT.	Services used and enjoyed in the UK are supplied in the UK and the supplier accounts for any VAT due.  Services used and enjoyed in another Member State are outside the scope of UK VAT but may be within the scope of VAT in the Member State where they are used and enjoyed. Check with Member State.
outside the EC and receives the services for non-business purposes.	services are supplied outside the EC and outside the scope of UK (and EC) VAT.	Do not apply.

**\*\*This is the correct VAT treatment unless the additional rules shown in the last column apply.**

21.3 Table 2: Examples where the supplier belongs in the EC

<b>Customer belongs (see section 3)</b>	<b>UK VAT position is that**</b>	<b>Additional rules: use and enjoyment provisions (see section 15)</b>
in the UK and receives the services for business purposes.	services are supplied in the UK. Customer accounts for any UK VAT by applying the reverse charge (see section 16).	Services used and enjoyed outside the EC are outside the scope of UK VAT.
in the UK and receives the services for non-business purposes.	services are supplied in the supplier's Member State and the supplier accounts for any VAT due.	Do not apply.
in another Member State.	services are outside the scope of UK VAT.	Do not apply.
outside the EC and receives the services for business purposes.	if the services are not used and enjoyed in the EC the services are outside the scope of UK and EC VAT.	Services used and enjoyed in the UK are supplied in the UK. Supplier accounts for any VAT due unless the customer provides a UK VAT registration number and accounts for UK VAT using the reverse charge.  Services used and enjoyed in another Member State are outside the scope of UK VAT but may be within the scope of VAT in the Member State where they are used and enjoyed. Check with Member State.
<b>Customer belongs (see section 3)</b>	<b>UK VAT position is that**</b>	<b>Additional rules: use and enjoyment provisions (see section 15)</b>
outside the EC and receives the services for non-business purposes.	services are supplied outside the EC and outside the scope of UK (and EC) VAT.	Do not apply.

**\*\*This is the correct VAT treatment unless the additional rules shown in the last column apply.**

#### 21.4 Table 3: Examples where the supplier belongs outside the EC

<b>Customer belongs (see section 3)</b>	<b>UK VAT position is that**</b>	<b>Additional rules: use and enjoyment provisions (see section 15)</b>
in the UK and receives the services for business purposes.	services are supplied in the UK. Customer accounts for any UK VAT by applying the reverse charge (see section 16).	Services used and enjoyed outside the EC are outside the scope of UK VAT.
in the UK and receives the services for non-business purposes.	services are supplied in the UK. Supplier should account for any UK VAT due. (Supplier may opt to use the special scheme, subject to conditions.)	Do not apply.
in another Member State.	services to customer in another Member State are outside the scope of UK VAT.	Do not apply.

<b>Customer belongs (see section 3)</b>	<b>UK VAT position is that**</b>	<b>Additional rules: use and enjoyment provisions (see section 15)</b>
outside the EC and receives the services for business purposes.	services are supplied outside the EC and are outside the scope of UK (and EC) VAT.	Services used and enjoyed in the UK are supplied in the UK. Supplier accounts for any UK VAT due unless the customer provides a UK VAT registration number and accounts for UK VAT using the reverse charge (see section 16). Services used and enjoyed in another Member State are outside the scope of VAT but may be within the scope of VAT in the Member State where they are used and enjoyed. Check with Member State.
outside the EC and receives the services for non-business purposes.	services are supplied outside the EC and are outside the scope of UK (and EC) VAT.	Do not apply.

**\*\*This is the correct VAT treatment unless the additional rules shown in the last column apply.**

## 22. Index

This index is a guide to the information set out in Notice 741. The references are to relevant sections (sec) or paragraphs (for example 2.1).

There is a more general index at the back of Notice 700 *The VAT Guide*, which covers a wide range of VAT issues.

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Translation services		13.5.2
Transmission services		13.11.1
Transport - <i>see freight transport &amp; passenger transport</i>		
Trustee services		13.7.2
Television broadcasting services - <i>see radio and television broadcasting services</i>		
UK - definition of		2.8
Unallocated precious metal/metal coins		13.7.2
Use and enjoyment provisions	- letting on hire of goods, telecommunications services, radio and television broadcasting services	sec 14, 20
	- electronically supplied services	sec 15, 21
Usual place of residence - <i>definition of</i>		3.5
Valuation services	- general	7.1, 7.5

Subject	Sub-heading within subject	Paragraph/section reference
	- on goods for EC VAT registered customers	sec 8
Veterinary services		5.3
VoES (VAT on e-Services) - special scheme for non-EC businesses		sec 18
Warehouse space		6.4.1
Work on goods		7.1, 7.5, 7.6, sec 8
Zero-rating - <i>definition of</i>		sec 4

## Do you have any comments?

We would be pleased to receive any comments or suggestions you may have about this notice. Please write to:

**HM Revenue & Customs  
Place and Time of Supply Team  
100 Parliament Street  
London  
SW1A 2BQ**

Please note this address is **not for general enquiries**. You should call our National Advice Service about those.

## If you have a complaint or suggestion

If you have a complaint please try to resolve it on the spot with our officer. If you are unable to do so, or have a suggestion about how we can improve our service, you should contact one of our Regional Complaints Units. You will find the telephone number under 'HM Revenue & Customs' in your local telephone book. You will find further information on our website at <http://www.hmrc.gov.uk>

If we are unable to resolve your complaint to your satisfaction you can ask the Adjudicator to look into it. The Adjudicator, whose services are free, is a fair and unbiased referee whose recommendations are independent of HM Revenue & Customs.

You can contact the Adjudicator at:

**The Adjudicator's Office  
Eighth Floor  
Euston Tower  
286 Euston Road  
London  
NW1 3US**

**Phone: 0300 057 1111**

Fax: 0300 057 1212

E-mail: [adjudicators@gtnet.gov.uk](mailto:adjudicators@gtnet.gov.uk)

Internet: <http://www.adjudicatorsoffice.gov.uk/>