

Finance Bill 2022 – Changes to Irish VAT Exemption for Section 110 Companies

The Irish Minister for Finance has published the Finance Bill 2022 which includes a proposed change to a VAT exemption commonly relied on by Irish section 110 companies that hold plant and machinery assets.

If enacted, this will bring certain services of administrators and managers of such companies within the charge to Irish VAT, resulting in additional cost in some cases.

The Irish Value Added Tax Consolidation Act 2010 contains an exemption for services that consist of managing a 'qualifying company' for the purposes of section 110 TCA (a "Section 110 company"). Accordingly, corporate administration services and investment management services provided to these companies are generally exempt from Irish VAT.

The Finance Bill 2022 change provides that, from 1 March 2023, this exemption will no longer apply to Section 110 companies that hold qualifying assets that consist of plant and machinery.

Plant and machinery is an eligible asset under the Section 110 legislation and certain related companies hold such assets, typically leased to generate a return for investors, such as portfolios of aircraft, railcars, shipping assets and equipment. Accordingly, from 1 March 2023 where such companies receive services from a corporate administrator, investment

manager or servicer, those services may now become chargeable to VAT.

If those services are received from within Ireland, such as corporate administration services from an Irish corporate service provider, the Section 110 company may have to pay VAT on its fees.

If, on the other hand, those services are received from outside Ireland, for example investment management services received from US or UK managers, the Section 110 company will be required to operate the 'reverse charge' mechanism and account for VAT on fees to Irish Revenue.

Whether this constitutes an absolute cost to the section 110 company will depend on its VAT recovery position. For example, if the company itself makes taxable or zero rated supplies of leasing services then the company will be able to recover VAT.

The VAT exemption for the management of Section 110 companies holding other forms of qualifying assets, including financial assets and commodities, is not impacted by the proposed change. However, it is currently not clear whether the exemption will apply where the assets of the Section 110 company comprise a mix of financial assets and plant and machinery.

The provisions in Finance Bill 2022 will be reviewed in the Irish legislature during the coming weeks. The provisions may be

amended further. The final form of Finance Bill 2022 will be known in early December.

It is important that investors and managers assess the impact of this measure for any companies that may be affected, and if you would like to discuss this measure or the Finance Bill 2022 generally, please get in touch with your usual Maples Group contact or the persons listed below.

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