Introduction

A VAT system was introduced in Ireland on 1 November 1972. Since that date, VAT has evolved into a complex tax, full of intricacies and pitfalls. In recent times, VAT has very much become a focus area for the Revenue Commissioners. VAT compliance, in particular, is coming under much closer scrutiny of late, with businesses encountering an increased level of interaction with Revenue in this regard. This can range from VAT return aspect queries to full Revenue audits. Revenue’s intensified focus on this area is reflected in the penalties of €432,000 imposed in 2015 for failure by taxpayers to submit VAT returns,¹ which has almost doubled since 2010.

VAT is a tax on transactions rather than on profits or income, and businesses act as unpaid tax collectors in respect of VAT. As the tax is applied to turnover rather than profit, failure to operate

---

¹ Revenue Commissioners, Annual Report 2015.
VAT correctly can have huge ramifications for businesses. This article considers the VAT compliance obligations of a business through the medium of a fictional company, Leggo Ltd, focusing in particular on the common pitfalls and areas that tend to cause difficulties in practice.

Leggo Ltd is owned and run by the Leggo family. Although the circumstances outlined in this case study are fictional, the VAT compliance pitfalls dealt with below are ones commonly encountered by businesses.

Leggo Ltd started to trade in late 2014, making picture frames. The business premises is in Dublin. As well as manufacturing, the company purchases stock from outside Ireland and distributes frames to the retail trade. It also purchases various services from both within and outside Ireland. VAT is not a significant cost to the business, but because it is engaged in a VATable activity, it is a compliance burden.

**VAT Compliance Obligations**

**VAT 3 returns**

As is the case for most businesses, Leggo Ltd is required to file VAT 3 returns on a bi-monthly basis by the 23rd day of the month following the end of the period to which the return relates. Leggo Ltd is required to file VAT 3 returns online through the Revenue Online Service (ROS), and any VAT liability must also be paid through ROS.

Leggo Ltd is very conscious to ensure that VAT 3 returns are filed on time and that any payment due is made on time, as the company is fully aware that there is otherwise a risk of interest and penalties being imposed by Revenue and of its risk profile being raised on Revenue’s systems. Leggo Ltd maintains a compliance calendar for this purpose.

The VAT 3 return records the total value of transactions carried out by Leggo Ltd in a bi-monthly period and contains the boxes set at below in Table 1 for completion.

Revenue recently conducted a VAT audit of Leggo Ltd in respect of its 2015 trading/financial year and identified a number of issues regarding VAT compliance.

**Supporting VAT Documentation**

Leggo Ltd reclaimed VAT on a variety of overhead expenses in the January/February 2015 period. Revenue identified that three purchase invoices from its supplier, Lenny Ltd, do not include

<table>
<thead>
<tr>
<th>VAT 3 return box</th>
<th>Values entered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Box T1: VAT on Sales</td>
<td>Total VAT charged by Leggo Ltd on sales to customers. This figure also includes VAT on all purchases of goods/services by Leggo Ltd from abroad.</td>
</tr>
<tr>
<td>Box T2: VAT on Purchases</td>
<td>Total VAT incurred by Leggo Ltd on purchases. This figure also includes VAT on purchases of goods/services by Leggo Ltd from abroad.</td>
</tr>
<tr>
<td>Box T3: VAT Payable</td>
<td>If VAT on Sales is greater than VAT on Purchases.</td>
</tr>
<tr>
<td>Box T4: VAT Repayable</td>
<td>If VAT on Sales is less than VAT on Purchases.</td>
</tr>
<tr>
<td>Box E1: Intra-EU supplies of goods</td>
<td>Total value of goods sold by Leggo Ltd to customers in other EU countries.</td>
</tr>
<tr>
<td>Box E2: Intra-EU acquisitions of goods</td>
<td>Total value of goods purchased by Leggo Ltd from suppliers in other EU countries.</td>
</tr>
<tr>
<td>Box ES1: Intra-EU supplies of services</td>
<td>Total value of services supplied by Leggo Ltd to customers in other EU countries.</td>
</tr>
<tr>
<td>Box ES2: Intra-EU acquisitions of services</td>
<td>Total value of services received by Leggo Ltd from suppliers in other EU countries.</td>
</tr>
</tbody>
</table>
reference to Leggo Ltd as the customer. These invoices do not therefore satisfy the legislative requirements of a valid VAT invoice, and as a result the VAT on them has been incorrectly reclaimed. The key requirements of a valid VAT invoice are:

› supplier’s name, address and VAT number,
› customer’s name and address,
› date of invoice,
› sequential invoice number,
› VAT rate/s applying to the supply,
› amount of VAT stated in Euro,
› quantity and nature of the goods/services supplied,
› description of the goods/services supplied and
› if the supply is subject to reverse-charge rules, a reference to the “reverse charge” and the customer’s VAT number

Where any one of the legislative requirements of a valid VAT invoice is missing, Revenue is entitled to impose penalties on the supplier and to disallow VAT recovery on the invoice. Leggo Ltd is required to ask the supplier to reissue these invoices with the relevant details included.

**VAT non-deductible items**

During the May/June 2015 period, Leggo Ltd leased a car for a staff member and purchased a dishwasher for one of the company directors. Revenue identified that the VAT on the leasing costs of the car and on the purchase of the dishwasher were incorrectly reclaimed through Leggo Ltd’s VAT 3 return. Only VAT on costs incurred for business purposes can be reclaimed. For that reason, VAT is not reclaimable on the purchase of the dishwasher because this purchase was not incurred for the purposes of the business of Leggo Ltd. VAT legislation also sets out a list of expenses on which VAT cannot be reclaimed even where the expense relates to the business (food/drink, cars, petrol, accommodation other than “qualifying accommodation”, entertainment, personal services for directors/employees). VAT is therefore not reclaimable on the leasing of the car because, even though it is a legitimate expense of the business, it is specifically disallowed under VAT legislation. Revenue is entitled to disallow VAT recovery on these invoices. Leggo Ltd must submit an amended VAT 3 return for the May/June 2015 period to rectify this.

**Accounting for reverse charge VAT**

Materials and legal services were acquired by Leggo Ltd from suppliers located within the EU during 2015. Leggo Ltd was not charged Irish VAT on the acquisition of the materials or services and therefore assumed that these invoices were not to be included in the VAT 3 returns for the periods. During the audit, Revenue noticed that these invoices had not been included in the VAT 3 returns. Businesses acquiring goods or services in Ireland from abroad must self-account for Irish VAT as appropriate on the reverse-charge basis. This requires the completion of both Box T1 and Box T2 on the VAT 3 return for Leggo Ltd and is therefore VAT cash-flow neutral, because Leggo Ltd is engaged in fully Vatable activities. As Leggo Ltd has not accounted for VAT on the reverse-charge basis in respect of these purchases, the VAT 3 returns for the relevant periods have been completed incorrectly. Leggo Ltd is required to submit amended VAT 3 returns for the periods to correct this. Although these purchases were not included in Boxes T1 and T2 of the VAT 3 returns by Leggo Ltd, the net values of the purchases were included in Box E2 (total value of goods acquired from other EU countries) and Box ES2 (total value of services acquired from other EU countries). Businesses often fail to complete the statistical boxes of the VAT 3 return – namely, E1, E2, ES1 and ES2 – and this can result in queries from Revenue.

**Adjustment of input VAT**

Revenue detected during the audit that Leggo Ltd had included a supplier’s invoice in the January/February 2015 VAT return but had not paid the invoice at the time of the audit, which was more than one year after the invoice date. Revenue referred Leggo Ltd to the requirement for a taxpayer to pay back input VAT deducted on purchases where a supplier is not paid within six months of the taxable period. As a period of time greater than six months had expired after the January/February 2015 period with the invoice remaining unpaid, this should have given rise to an adjustment of input VAT in the July/August 2015 VAT return. Leggo Ltd is obliged to correct this by submitting an amended VAT 3 return for the January/February 2015 period.

**Statistical VAT returns: Intrastat and VIES**

Leggo Ltd is registered for Intrastat Arrivals returns in respect of goods acquired from other EU countries. It has been registered since March 2015 (when the company breached the threshold) but has so far failed to file any Intrastat returns. Leggo Ltd is required to file Intrastat returns on a monthly basis, by the 23rd of the month following the end of the month to which the return relates.
During its audit, Revenue identified that there were Intrastat returns outstanding for Leggo Ltd. Although no VAT liability arises in respect of these returns, Revenue can impose penalties of €1,265 per return for failure to file them. Revenue can also delay the payment of VAT refunds where there are other tax returns outstanding or unpaid liabilities under other tax heads. Leggo Ltd is therefore required to file all outstanding Intrastat returns as a matter of priority and to ensure that compliance in this area is up to date going forward. Businesses should also be mindful that the figures included in Boxes E1 and E2 of the VAT 3 return should reconcile with the Intrastat returns, as discrepancies can give rise to enquiries from Revenue.

Leggo Ltd completes VIES returns in respect of goods supplied to business customers in other EU countries. Leggo Ltd has been filing VIES returns on a quarterly basis since 2015, by the 23rd of the month following the end of the quarter to which the return relates. Leggo Ltd is cautious to ensure that the figures included on the VIES returns reconcile with the figures included in Box E1 (net value of goods supplied to other EU countries) of the VAT 3 return.

VAT Return of Trading Details
Leggo Ltd is obliged to submit a VAT Return of Trading Details (RTD) on an annual basis, following the end of the annual VAT accounting period, which is 31 December. The VAT RTD form provides fields for a breakdown of the VAT-exclusive value of the supply of goods and services, imports and deductible inputs at the various rates applicable during the year. This includes all Irish, intra-EU and other transactions.

Leggo Ltd is acutely aware of the implications of not filing the VAT RTD, such as triggering Revenue audits and delaying the issue of VAT refunds and tax clearance certificates. At present, when a taxpayer files a claim for a repayment/refund of credit under any tax head and there is an outstanding VAT RTD with a due date within the previous 12 months, that repayment/refund will be automatically withheld. As a result, Leggo Ltd was careful to ensure that the VAT RTD for the 2015 accounting period was filed on time (before 23rd January 2016).

Given the discrepancies identified in the VAT returns during the Revenue audit (as outlined above), the VAT RTD for the 2015 accounting period requires correction. Leggo Ltd was unsure how to go about doing this; however, having been referred to eBrief No. 50/2016 by the Revenue Inspector, Leggo Ltd learned that recent redevelopment of the VAT RTD functionality means that RTDs submitted through ROS can now be subsequently amended online.

Other improvements to the VAT RTD that Leggo Ltd became aware of are that the VAT RTD is included in the list of outstanding returns on ROS, making it easier to identify where an RTD is outstanding; a validation check against the VAT 3 returns where a “nil” RTD is submitted; and an update to the “ROS Returns” screen to display the correct dates for the VAT RTD period.

Conclusion
Having identified the VAT compliance issues outlined above, Revenue requested that Leggo Ltd submit amended VAT 3 returns for the VAT periods in which errors were identified and submit all outstanding Intrastat returns. Leggo Ltd is currently in discussions with the Revenue Inspector regarding penalties and interest that may be imposed.

Revenue is entitled to impose a wide range of penalties under Irish VAT legislation, and although in the past these were rarely imposed in practice, there has been a recent increase in their imposition. Leggo Ltd is at risk of incurring a penalty of €4,000 per incorrect VAT 3 return filed. Revenue could also seek to impose a penalty of €1,265 per outstanding Intrastat return.

Set out above are a number of the common difficulties that businesses encounter in dealing with VAT compliance. By being aware of these pitfalls – the risk of errors can be significantly reduced.

Revenue eBrief No. 50/2016, “Recent Enhancements to VAT Return of Trading Details (RTD) in ROS”.

Read more on taxfind VAT update for the corporate sector, Seminar, Janette Maxwell, June 2016