



HM CUSTOMS AND EXCISE
<http://www.hmce.gov.uk>

Notice 741

Place of supply of services

March 2002 - This notice has an update at the end of this document

This notice cancels and replaces Notice 741 (September 1998). Details of any changes to the previous version can be found in paragraph 1.1 of this notice.

Further help and advice

If you need general advice or more copies of Customs and Excise notices, please ring the **National Advice Service** on **0845 010 9000**. You can call between **8.00 am and 8.00 pm, Monday to Friday**.

If you have **hearing difficulties**, please ring the **Textphone** service on **0845 000 0200**.

If you would like to speak to someone in **Welsh**, please ring **0845 010 0300**, between **8.00 am and 6.00 pm, Monday to Friday**.

All calls are charged at the local rate within the UK. Charges may differ for mobile phones.

Other notices on this or related subjects:

Notice 700	Notice 701/36	Notice 723
Notice 700/1	Notice 701/41	Notice 725
Notice 700/2	Notice 703/1	Notice 742
Notice 700/9	Notice 706	Notice 744A
Notice 700/15	Notice 708	Notice 744B
Notice 701/29	Notice 709/5	Notice 744C
Notice 701/30	Notice 709/6	Notice 744D

Contents

1.	Introduction.....	6
1.1	What is this notice about?	6
1.2	E-Commerce and trading on the Internet	6
1.3	How to use this notice	6
1.4	The law	6
1.5	What is “place of supply”?	6
1.6	What does “place of supply” mean for UK suppliers?	6
1.7	What services are being supplied?	7
1.8	How do I determine the place of supply of services?	7
1.9	Why isn’t there just one place of supply rule for all services?	7
1.10	What about VAT liability?	7
1.11	Tour operators’ margin scheme	7
1.12	What are the territorial limits of the UK?	7
1.13	Can I recover input tax?	7
1.14	Can businesses recover VAT incurred in other member States?	8
1.15	Could I be liable to register for VAT in the UK?	8
1.16	Could I be liable to register for VAT in other member States?	8
1.17	Right of appeal	8
2.	Place of belonging.....	9
2.1	Why are “belonging” rules necessary?	9
2.2	When do I belong in the UK?	9
2.3	What does business establishment mean?	9
2.4	Examples of business establishment	9
2.5	What is a fixed establishment?	9
2.6	Examples of fixed establishment	9
2.7	What is usual place of residence?	10
2.8	Examples of usual place of residence	10
2.9	I have more than one establishment. Where do I belong?	10
2.10	Examples where a business has more than one establishment	11
2.11	What if I am unsure where my customer belongs?	11
2.12	Securities	11
3.	Services made where the supplier belongs.....	12
3.1	What is the basic rule for the place of supply of services?	12
3.2	How do I decide if services fall under the basic rule?	12
3.3	Why is it important to identify the exact nature of my services?	12
3.4	Examples of services supplied where the supplier belongs	12
3.5	Letting on hire of a means of transport.....	12
3.6	What are “means of transport”?	12
3.7	Examples of means of transport.....	13
3.8	Examples of goods which are not a means of transport	13
3.9	Digitised products	13
3.10	Digitised publications	13
3.11	Zero-rating of hired means of transport made in the UK	14
3.12	Can services within Schedule 5 paragraphs 1 to 8 fall under the basic rule?	14
4.	Services relating to land.....	15
4.1	What is the place of supply of services relating to land?	15
4.2	What is the VAT liability of supplies relating to UK land or property?	15
4.3	What is “land” for the purposes of this section?	15
4.4	What are land related services?	15
4.5	What if my services are <i>not</i> clearly land related?	15
4.6	Examples of land related services.....	15
4.7	Examples of services which are <i>not</i> land related	16
4.8	UK customers receiving services relating to UK land	16
4.9	Non-UK suppliers of services relating to UK land	16
4.10	Liability to register for VAT in other member States.....	16
5.	Services supplied where performed.....	17
5.1	What services are supplied where performed?	17
5.2	Training performed in the UK for overseas Governments?	18

5.3	Examples of services that are not supplied where performed	18
5.4	What about ancillary services?	18
5.5	Examples of ancillary services	18
5.6	Examples of services not included as ancillary services	18
5.7	Exhibition organising	19
5.8	Valuation of, or work carried out on, goods	19
5.9	What does “work carried out on goods” mean?	19
5.10	What are “goods”?	19
5.11	Examples of valuation services or work on goods	19
5.12	Examples of supplies which are not valuation services or work on goods	19
5.13	Does zero-rating apply for work on goods?	20
5.14	Previous concessionary zero-rating for valuation or work on goods	20
5.15	What about ancillary transport services?	20
5.16	UK customers receiving “where performed” services made in the UK	20
5.17	Non-UK suppliers of “where performed” services made in the UK	20
5.18	Could I be liable to register in other member States?	20
6.	Valuation of, or work carried out on, goods for EC VAT registered customers	21
6.1	What is the special rule?	21
6.2	When does this special rule apply?	21
6.3	Who accounts for VAT under this special rule?	21
6.4	How does this rule affect UK suppliers?	21
6.5	What if my customer is VAT registered in more than one member State?	21
6.6	UK customers receiving valuation of, or work on, goods physically carried out in a member State	21
6.7	Diagram 1 - Place of supply of valuation or work on goods	21
7.	Passenger transport	23
7.1	Place of supply of passenger transport	23
7.2	What are the special rules for sea and air passenger transport?	23
8.	Freight transport and related services	24
8.1	What does this section cover?	24
8.2	Diagram 2 - Intra-EC freight transport and associated services	24
9.	Charters	26
9.1	Charter party contracts	26
10.	Intermediaries	27
10.1	When am I an intermediary?	27
10.2	Are all intermediary services covered by this section?	27
10.3	What are the rules for intermediary services in this section?	27
10.4	How should I approach this section?	27
10.5	How do I decide where arranged supplies of services are made?	27
10.6	How do I decide where arranged supplies of goods are made?	27
10.7	What if I arrange a supply which is made outside the EC?	28
10.8	What if I arrange a supply which is made in a member State?	28
10.9	I am a UK intermediary arranging supplies made in the EC	28
10.10	What evidence is needed for my intermediary services to be made in my customer’s member State?	28
10.11	What if my customer is VAT registered in more than one member State?	28
10.12	Zero-rating of intermediary services made in the UK	28
10.13	UK customers receiving intermediary services where the arranged supply is made in the EC	29
10.14	Non-UK intermediaries arranging supplies made in the UK	29
10.15	Liability to register in other member States	29
10.16	Diagram 3 –Intermediary services	29
11.	Services made where the customer belongs	31
11.1	When do I need to refer to this section?	31
11.2	What do I need to know to decide if my services fall under this section?	31
11.3	When are my supplies made in my overseas customer’s country?	31
11.4	What if my customer belongs outside the EC?	31
11.5	What if my customer belongs in another member State?	31
11.6	How do I satisfy myself that this section applies?	31
11.7	When does this section not apply?	31
11.8	Examples	31
11.9	What about the special rules for hired goods?	32

11.10	What about the special rules for telecommunications services?.....	32
11.11	Zero-rating of intermediary services made in the UK.....	32
11.12	Diagram 4 - UK supplier of services in Schedule 5, paragraphs 1 to 8.....	32
12.	Schedule 5, Paragraphs 1 to 8	34
12.1	What kind of services are covered by this section?	34
12.2	Copyright etc (Paragraph 1 of Schedule 5,).....	34
12.3	Advertising (Paragraph 2 of Schedule 5,)	34
12.4	Consultants etc-(Paragraph 3 of Schedule 5)	35
12.5	Relinquishing rights etc (Paragraph 4 of Schedule 5).....	38
12.6	Finance and insurance etc (Paragraph 5 of Schedule 5).....	38
12.7	Staff (Paragraph 6 of Schedule 5)	39
12.8	Hired goods - except means of transport (Paragraph 7 of Schedule 5).....	39
12.9	Telecommunications – Paragraph 7A (of Schedule 5)	40
12.10	Intermediaries (Paragraph 8 of Schedule 5)	40
12.11	Why are paragraphs 9 and 10 of Schedule 5 not included in this section?	41
13.	Use of goods on hire.....	42
13.1	When do the extra rules for goods on hire apply?.....	42
13.2	What are the extra rules?	42
13.3	What do I need to know to decide whether these rules apply?	42
13.4	Does it always matter where hired goods are effectively used and enjoyed?	42
13.5	What does effective use and enjoyment of hired goods mean?	42
13.6	Use of hired goods other than a means of transport.....	42
13.7	Examples for hired goods other than a means of transport	42
13.8	Where can I find further assistance on these extra rules for the letting on hire of goods other than a means of transport?.....	43
13.9	Use of hired means of transport	43
13.10	Examples for hired means of transport	43
13.11	Must these special rules apply to a whole supply of hired goods?	43
13.12	UK customers receiving hired goods other than a means of transport from a non-EC supplier where the place of supply is the UK.....	43
13.13	UK customers receiving hired means of transport from a non-EC supplier where the place of supply is the UK	44
13.14	Non-UK suppliers of hired goods used in the UK.....	44
13.15	Liability to register in other member States	44
14.	Use of telecommunications services	45
14.1	When do the extra rules for telecommunications services apply?	45
14.2	What are the extra rules?	45
14.3	What do I need to know to decide whether the extra rules apply?.....	45
14.4	Does it always matter where telecommunications services are effectively used and enjoyed?	45
14.5	What does effective use and enjoyment of telecommunications services mean?	45
14.6	Examples	45
14.7	How do the extra rules apply to travellers?	46
14.8	Must these extra rules apply to a whole supply?.....	46
14.9	How do these extra rules affect UK suppliers?	46
14.10	UK customers receiving services covered by these extra rules.....	46
14.11	Non-UK supplier of services made in the UK under these extra rules.....	46
14.12	Liability to register in other member States	46
14.13	Decision tables for hired goods (except means of transport) and telecommunications services	46
15.	Reverse charge.....	47
15.1	Who needs to use this section?.....	47
15.2	What is the “reverse charge”?	47
15.3	Are there different situations where the reverse charge applies?	47
15.4	How does the reverse charge work?	47
15.5	What is the effect of the reverse charge?.....	47
15.6	Valuation of supplies covered by the reverse charge.....	47
15.7	Time of supply	48
15.8	Can the reverse charge apply to services made by UK suppliers?.....	48
15.9	International companies	48
15.10	UK VAT incurred by non-UK suppliers.....	48
15.11	Services within Paragraphs 1 to 8 of Schedule 5.....	48
15.12	Services with an EC simplification.....	48

15.13	Extension to other services supplied in the UK.....	49
16.	The law	51
16.1	What is this section for?	51
16.2	The VAT Act 1994 - Sections 7(1), 7(10), 7(11).....	51
16.3	The VAT Act 1994 – Section 8.....	51
16.4	The VAT Act 1994 - Section 9.	51
16.5	The VAT Act 1994 – Schedule 5.....	52
16.6	The Value Added Tax (Place of Supply of Services) Order 1992-SI 1992 No. 3121	52
17.	Territory of the European Community (EC).....	58
18.	Decision tables for telecommunications services and hired goods (other than a means of transport)	59
18.1	What does this section cover?	59
18.2	Table 1: Examples where the supplier belongs in the UK	60
18.3	Table 2: Examples where the supplier belongs in another member State	61
18.4	Table 3: Examples where the supplier belongs outside the EC	62
19.	Index	63

1. Introduction

1.1 What is this notice about?

This notice explains how to determine the place of supply of your services and who must account for any VAT. If you supply **services** which are liable to VAT, it will tell you in which country the tax (if any) is due to be paid. It also explains how to deal with supplies of services which you **receive** from outside the UK (United Kingdom).

This Notice has been restructured to improve readability. Additionally, the following amendments have been made to the content of the Notice:

- New paragraphs have been inserted at 3.9, 3.10 and 12.4.13 to give guidance on the treatment of digitised products and digitised publications.
- Sections 7 and 8 previously dealt with liability as well as the place of supply of passenger and freight transport and associated services. These sections now deal only with the place of supply of these services. For information concerning VAT liability you should refer to Notices 744A *Passenger Transport* and 744B *Freight Transport and associated services*.

1.2 E-Commerce and trading on the Internet

If you are involved in e-commerce you will find some guidance in this notice. Additionally there is more detailed information available on our Internet web site www.hmce.gov.uk under "*Trading on the Internet*".

1.3 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*. The guidance in this notice is not part of the law and does not override it. It reflects only the interpretation of the law and current practice by Customs and Excise.

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 1.8 of this section will help you identify which sections are appropriate to you. There is a contents list and also an index in section 19 which covers popular areas. You should take care to read the beginning of appropriate sections and remember that lists of examples are not exhaustive.

1.4 The law

UK VAT law is contained in:

- the Value Added Tax Act 1994 which is referred to in this notice as the VAT Act; and
- 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.

Extracts from the VAT Act and the Order are in section 16.

1.5 What is "place of supply"?

For VAT purposes, **place of supply** is the place where a supply is treated as being supplied, or made. This is the place where it is liable to any VAT. 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.

1.6 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 Customs and Excise regardless of where your customer belongs. If the place of supply of your services is another member State, you or your customer will be liable to account for any VAT due to the tax authorities of that country.

Where the place of supply of your services is outside the UK, you should ensure that your records demonstrate that your supplies are eligible for such treatment.

1.7 What services are being supplied?

It is essential that you think carefully about the nature of any services that you supply (or receive). Sometimes a shorthand or colloquial description does not reflect what is really being supplied. You must have a clear understanding of the nature of services before you can identify the appropriate place of supply rule.

1.8 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 3), **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 4
Services involving physical performance. e.g., ancillary transport, artistic, cultural, education and training, exhibitions, conferences, meetings, entertainment, sporting, valuation/ work on goods	Section 5
Valuation of, or work on, goods for an EC VAT registered customer where the goods are subsequently removed to another country	Section 6 and diagram at 6.7
Passenger transport	Section 7
Freight transport	Section 8
Certain intermediary services	Section 10 and diagram at 10.16
Services listed in paragraphs 1 to 8 of Schedule 5 of the VAT Act, which are mainly "intellectual" in character	Sections 11 and 12

Note: If you grant 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.

1.9 Why isn't there just one place of supply rule for all services?

Services vary and different rules are necessary to ensure that VAT is paid in the appropriate place and that the possibility of supplies being taxed more than once, or not at all, is avoided.

1.10 What about 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 for VAT at a reduced rate.

1.11 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*.

1.12 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 17.

1.13 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 such 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*.

1.14 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 European Community for EC and non-EC traders*.

1.15 Could I be liable to register for VAT in the UK?

If you supply services whose place of supply is in the UK, you may be liable to register for VAT in the UK (subject to the current registration threshold). Information about registering for VAT in the UK is given in Notice 700/1 *Should I be registered for VAT?*

1.16 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.

Further information about registering for VAT in other EC member States is given in Notice 725 *VAT: The Single Market*.

1.17 Right of appeal

If you disagree with any decision made by Customs and Excise 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 belonging

The law on place of belonging is in the VAT Act, Section 9 (reproduced in paragraph 16.4).

2.1 Why are “belonging” rules necessary?

In certain situations the place where a supplier or customer belongs determines where services are made and who accounts for any VAT due (see sections 3, 10 and 14). As both suppliers and customers can be located in more than one country, rules are needed to ensure that the most appropriate place is identified.

2.2 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 2.3) in the UK and no **fixed establishment** (see paragraph 2.5) 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 supplies;
- 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 supplies; or
- you have no business or fixed establishment anywhere, but your usual **place of residence** (see paragraph 2.7) is the UK.

2.3 What does business establishment mean?

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.

2.4 Examples of business establishment

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

2.5 What is a fixed establishment?

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

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

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

Remember, 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 2.9).

2.6 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.

- An overseas television company sends staff and equipment to the UK to film for a week. The temporary presence of human and technical resources does not create a fixed establishment in the UK.
- 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.

2.7 What is usual place of residence?

If you have no business or other fixed establishment in any country and your business is a limited company or other corporate body, it belongs 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.

2.8 Examples of usual place of residence

- A company incorporated in Bermuda has no business or fixed establishment anywhere in the world but its board of directors 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.

2.9 I have more than one establishment. Where do I belong?

If you, as either the supplier or the recipient of services, 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.

When deciding 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; or
- 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.

However, where an establishment is actually providing or receiving the supply of services, it is normally that establishment which is most directly connected with the supply, even if the contractual position is different.

2.10 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 provide French speaking staff for the bank's international desk in London. The French supplier has a fixed establishment in the UK created by a branch, which provides staff to other customers. The French establishment deals directly with the bank without any involvement by the UK branch. The staff are supplied from 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 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 UK company second staff to a customer which has its business establishment in the UK and a fixed establishment in the USA, created by its branch. The supplier is contracted by the UK establishment 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.

2.11 What if I am unsure where my customer belongs?

You should refer to paragraphs 2.9 and 2.10 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 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.

Remember, it is up to you as the supplier to find out at which establishment your customer receives your supplies. If you have established the facts about your customer but are still unsure about where your services are received, you should ask our National Advice Service for guidance.

2.12 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 12.6.4).

3. Services made where the supplier belongs

The law on services supplied where the supplier belongs is in the VAT Act, Section 7(10) (reproduced in paragraph 16.2).

3.1 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 2).

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 the basic rule is the primary rule, it **only** applies to supplies of services **not covered** by the special rules in any of the other sections.

If you provide bought-in supplies of hired means of transport for the direct benefit of a traveller see paragraph 1.11.

3.2 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 **special** rules.

3.3 Why is it important to identify the exact nature of my services?

- It is essential to 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 rules 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.

3.4 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 12 for consultancy, accountancy, legal or financial services).
- Clerical or secretarial services, or the provision of office facilities.
- Archiving services, involving the maintenance of documents and records.
- Entertainment services not covered by any other sections in this notice. For services relating to a live performance, see section 5. See section 12 for services within paragraphs 1 to 8 of Schedule 5 to the VAT Act. Examples of entertainment services which often fall under the basic rule include: production assistant, hairdresser and make-up artist for films or television.
- Veterinary services.
- Broadcasting to subscribers.

3.5 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. However, there are extra rules for all hired goods, depending on where they are used and enjoyed (see section 13). 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. For the letting on hire of other goods, see section 12.

3.6 What are “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.

3.7 Examples of means of transport

- Ships, boats, yachts, hovercraft, barges or dracones (bulk liquid barges).
- Aircraft.
- Cars, trucks, lorries.
- Touring caravans and trailers.
- Motorcycles, cycles.
- Rolling stock.

3.8 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 5).

3.9 Digitised products

3.9.1 What is a digitised product?

A product, the content of which is transferred electronically.

Examples of digitised products include:

- photographs;
- software - "off the shelf" or customised;
- music - similar to conventional CDs or cassette tapes;
- films; videos; games; and
- books; magazines; newspapers.

The transfer of data such as this is often called a "download".

3.9.2 VAT Treatment

In line with international agreements supplies of digitised products are "not goods" in respect of customs duties and VAT.

For VAT and duty purposes, all supplies of digitised products are treated as **services**. This means that customs duties are not chargeable in the EC.

3.9.3 Where do I account for VAT on digitised products?

As with all supplies, it is the nature of what is being provided that determines the treatment for VAT. Many digitised products fall under the basic rule. However the proper place of supply for these services will depend on the exact nature of the services provided; whether or not your customer is in business and your customer's location. Certain digitised products fall within the exceptions to the basic rule. For example:

- the right to publish a picture which is digitally downloaded to the customer. This falls within the rules for copyrights, licences and similar rights. See sections 11 and 12;
- the production of customised, digitised software falls within the rules for certain "expert" services. See sections 11 and 12; and
- digitised newspapers fall within the rules for information. See sections 11 and 12.

3.10 Digitised publications

3.10.1 What is a digitised publication?

It is text and/or images produced in an electronic form capable of being transmitted electronically, or "downloaded". Typically this will be over the Internet or a mobile telecommunications network, and read either on a PC or a hand held device, such as a mobile phone or "reader".

Digitised publications are typically referred to as e-books, e-journals and e-newspapers.

3.10.2 What is the place of supply of digitised publications?

The place of supply of a digitised publication depends upon the nature of its content.

- Where the content is essentially **fiction**, such as a novel, the place of supply is always **where the supplier belongs**.
- Where the content is essentially **non-fiction**, such as biographies or academic articles, it is treated as a supply of information and different place of supply rules apply. (See paragraph 12.4.13).

3.11 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*.

3.12 Can services within Schedule 5 paragraphs 1 to 8 fall under the basic rule?

Yes, but only when supplied to customers belonging in the same member State as the supplier, or to non-business customers belonging in the EC. There are extra rules for telecommunications services and the letting on hire of goods, depending on where they are used and enjoyed (see sections 13, 14 and 18).

4. Services relating to land

The law on land related services is in Article 5 of the Order (reproduced in paragraph 16.6).

4.1 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 1.11.

4.2 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 Notices 708 *Buildings and construction* and 742 *Land and Property*.

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

It 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”.

4.4 What are land related services?

These 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, surveyors, engineers and other services relating to land.

4.5 What if my services are *not* clearly land related?

This 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 12).

4.6 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 5 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, 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 5 and 12 where 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.

4.7 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 5).
- The hiring out of civil engineering plant on its own, which is the hire of goods; or the secondment of staff to a building site, which is a supply of staff (see section 12).
- The legal administration of a deceased person's estate which happens to include property. These are lawyers' services (see section 12).
- Advice or information relating to land prices or property markets as they do not relate to specific sites (see section 12).
- 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 12).
- Provision of a recording studio where technicians are included as part of the supply. These are engineering services (see section 12).
- 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 12).

4.8 UK customers receiving services relating to UK land

If you are a UK VAT registered recipient of these services you may be required to account for the reverse charge where your supplier belongs outside the UK (see section 15.13).

4.9 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, 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 1.15).

4.10 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 1.16).

5. Services supplied where performed

The law on “where performed” services is in Article 15 of the Order (reproduced in paragraph 16.6).

5.1 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 6 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 1.11.

5.1.1 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. Also, if it is consideration for a supply, the nature of your supply must be determined see Notice 701/41 *Sponsorship*. For example, sponsorship may be payment for product endorsement or publicity appearances which may be advertising services (see section 12).
- 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. However, if your scientific services include a recommendation or conclusion based on those results they will comprise consultancy services (see section 12). If your services are connected with oil/gas/ mineral exploration or exploitation and relate to specific sites of land or the seabed, your services relate to land (see section 4).
- Services of an actor or singer performing before a **live** audience.
- Services of an oral interpreter at an event, such as a meeting. For other forms of translation see section 12.
- The right to participate in an exhibition or the provision of an undefined site for a stand at an exhibition. See Section 4 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*. The following interpretations determine 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).

5.2 Training performed in the UK for overseas Governments?

An extra-statutory concession applies to non-exempt training services supplied in the UK to overseas Governments for the purposes of their sovereign activities. 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 see Notice 723 *Refunds of VAT in the European Community for EC and non-EC traders*. Eligible supplies may be zero-rated provided the supplier retains a statement from the foreign Government concerned, or its accredited representative, certifying that the trainees are employed in furtherance of its sovereign activities.

5.3 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 12).
- Scientific services which include a recommendation or conclusion. These are consultancy or information (see section 12); or, if connected with oil/gas/mineral exploration or exploitation of specific sites of land or the seabed, they are land related (see section 4).
- Entertainment services which do not involve performance before a live audience. The nature of your services will determine which other section applies.
- Written translation services or interpreters' services which do not take place at an event. These are consultancy services (see section 12).
- The provision of a defined site for a stand at an exhibition, which is land related (see section 4).
- The hire of goods without any additional services, even if the customer uses those goods at an exhibition or concert (see section 12).
- Veterinary services. These services fall under the basic rule (see section 3).

5.4 What about 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.

5.5 Examples of ancillary services

- Services of a co-ordinator in administering arrangements for a sporting event on behalf of a promoter.
- Services ancillary to live entertainment such as make-up or hairdressing services or the services of a prompter.
- Services of lighting or sound technicians at a concert. This covers the hire of equipment included as part of the same supply. Where equipment is hired separately, see section 12.

5.6 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 12).
- Services ancillary to non-live entertainment such as make-up or hairdressing services in making films or television programmes. These may be consultancy (see section 12) or fall under the basic rule (see section 3).
- The simple hiring of equipment for use at a concert, without the services of technicians or operators (see section 12).
- Certain services which may be described as "exhibition organising" (see paragraph 5.7).

5.7 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 supplier is described. For example:

- if you own an exhibition, your services will not be ancillary exhibition services as they would not be of organising the event, but 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);
- 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.

5.7.1 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.

5.8 Valuation of, or work carried out on, goods

Valuations of, or work on, another person’s goods are supplied where those services are physically carried out.

However with effect from 1 January 1996, a further provision was introduced. 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 6).

5.9 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).

5.10 What are “goods”?

“Goods” include all forms of moveable tangible property, covering both finished commodities and raw materials but does not include immovable property such as permanently installed goods and fixtures (see paragraph 4.3).

5.11 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 12).

5.12 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 12).
- Valuation of, or work carried out on, land or property (see section 4).

- Veterinary services (see section 3).
- Testing and analysis of goods. The physical work simply provides data for the required analysis (see section 12).

5.13 Does zero-rating apply for work on goods?

Certain supplies of work on goods (but not valuation of goods), for export, are zero-rated when made in the UK see Notice 744D *International services: zero-rating*. There are also zero-ratings for certain processing services relating to zero-rated goods.

5.14 Previous concessionary zero-rating for valuation or work on goods

A previous concessionary zero-rating for valuation of, or work carried out on goods, when supplied to overseas businesses was withdrawn after 31 December 1995.

5.15 What about ancillary transport services?

See section 8 for guidance on ancillary transport services.

5.16 UK customers receiving “where performed” services made in the UK

If you are a UK VAT registered recipient of these services you may be required to account for the reverse charge where your supplier belongs outside the UK (see paragraph 15.13).

5.17 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, 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 1.15).

5.18 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 1.16).

6. Valuation of, or work carried out on, goods for EC VAT registered customers

The law on these special rules is in Article 14(aa) of the Order (reproduced in paragraph 16.6).

6.1 What is the special rule?

The place of supply of valuation of, or work carried out on, goods moves to a VAT registered customer's member State where:

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

6.2 When does this special rule apply?

The special rule only applies to valuation or work on goods physically carried out in the EC (including the UK) where all the above conditions are met. In all other cases, such supplies are made where they are performed (see paragraph 5.9).

6.3 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. However, if they are in the same member State, the supplier accounts for any VAT due.

6.4 How does this rule affect UK suppliers?

If you perform these services in the EC and the goods leave the country of performance, you are not required to account for any EC VAT if your customer gives you a VAT registration number from another member State. Your customer will account for any VAT due in that member State.

If you perform these services in the EC and the goods leave the country of performance, you are required to account for any UK VAT due if your customer gives you a UK VAT registration number.

6.5 What if my customer is VAT registered in more than one member State?

Your customer should use the VAT registration number that is most appropriate to the supply.

6.6 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:

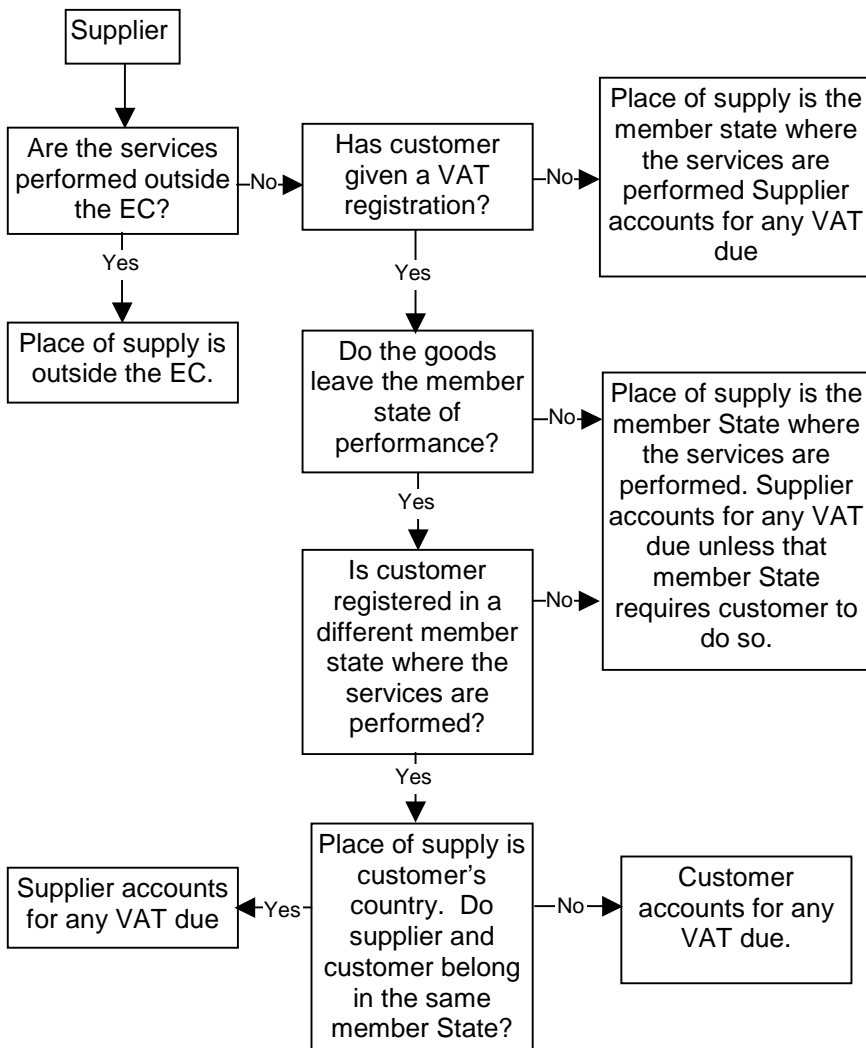
- the goods subsequently leave the member State where those services were performed; and
- your supplier belongs outside the UK (see paragraph 15.12).

6.7 Diagram 1 - Place of supply of valuation or work on goods

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

Diagram 1

Place of supply of valuation or work on goods



7. Passenger transport

The law on place of supply of passenger transport is in Articles 6, 7 and 8 of the Order (reproduced in paragraph 16.6).

7.1 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 7.2.

To the extent that such transport takes place outside the UK, it is outside the scope of UK VAT, except where paragraph 7.2 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 1.11.

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

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.

8. Freight transport and related services

The law on freight transport and related services is in Articles 6, 7 and 9 to 14 of the Order (reproduced in paragraph 16.6).

8.1 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 place of departure of the goods; unless: your customer is VAT registered in your member State – in which case you must account for the VAT due; or your customer is VAT registered in different member State to you – in which case your customer accounts for the VAT due there.
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 service are physically performed; unless: your customer is VAT registered in your member state – in which case you must account for the VAT due; or your customer is VAT registered in different member state to you – in which case your customer accounts for the VAT due there.
making arrangements for intra-EC freight transport	the place of departure of the goods; unless: your customer is VAT registered in your member state – in which case you must account for the VAT due; or your customer is VAT registered in different member state to you – in which case your customer accounts for the VAT due there.
Making arrangements for related ancillary services.	where the services are physically performed; unless: your customer is VAT registered in your member state – in which case you must account for the VAT due; or your customer is VAT registered in different member State to you – in which case your customer accounts for the VAT due there

Where can I find guidance on the rules for other intermediary services relating to freight transport?

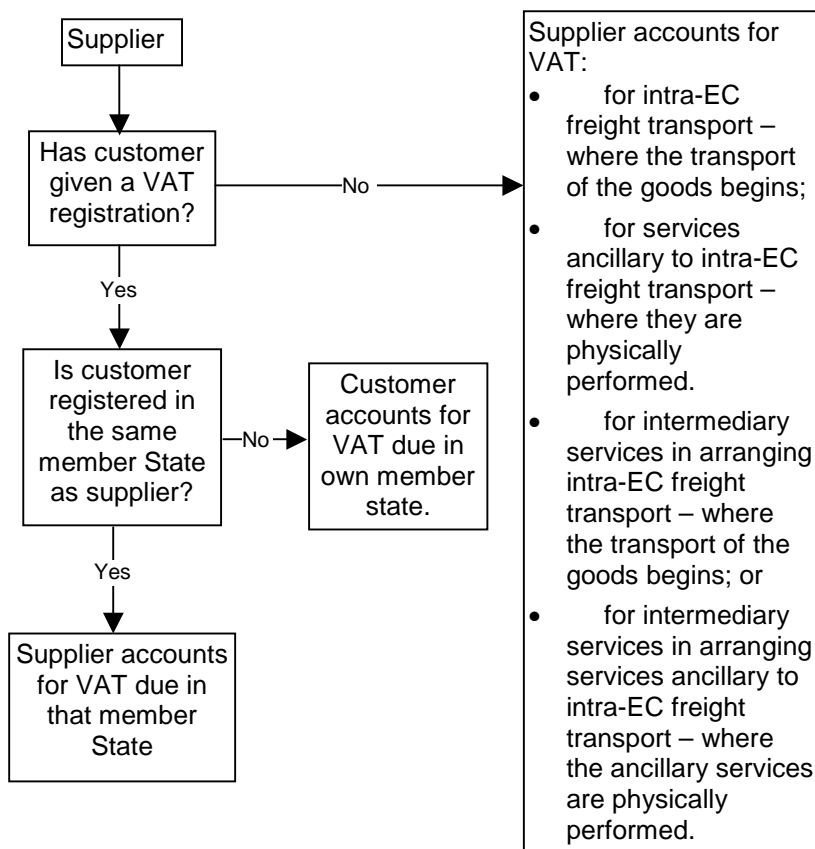
Section 10 covers intermediary services in making arrangements for other transport related services.

8.2 Diagram 2 - Intra-EC freight transport and associated services

This diagram which will help you to decide the place of supply of intra-EC freight transport and associated services and whether you or your customer must account for VAT. (However, it does not apply to services relating to domestic and international freight transport).

Diagram 2

Intra-EC freight transport and associated services



9. Charters

9.1 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.

- 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 3).
- If 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. Intermediaries

The law on intermediary services covered by this section is in Articles 13 and 14 of the Order (reproduced in paragraph 16.6).

10.1 When am I an intermediary?

You are an intermediary for the purpose 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).

10.2 Are all intermediary services covered by this section?

No, certain intermediary services have their own rules. There are special intermediary rules for arranging a supply of:

- services of estate agents in arranging supplies of land or property (see section 4);
- intra-EC freight transport or related ancillary services (see section 8); and
- services in Schedule 5, paragraphs 1 to 8 (see section 12).

10.3 What are the rules for intermediary services in this section?

The place of supply of your intermediary services depends on:

- where the underlying arranged supply is made; and
- (where this is in the EC) whether your customer is EC VAT registered.

10.4 How should I approach this section?

You should ask yourself the following question:

Where is the supply made that I am making arrangements for?

If the arranged supply is made outside the EC, the place of supply of your intermediary services is also outside the EC (see paragraph 10.7). However, if the arranged supply is made in the EC, there are additional provisions to determine whether you or your customer accounts for any VAT due and in which member State. You should therefore ask yourself these further questions:

- Who is my customer?
- Is my customer EC VAT registered?
- In which member State are they registered?

10.5 How do I decide where arranged supplies of services are made?

You can establish their place of supply by referring to the appropriate section of this notice:

Type of arranged supply	For further information see:
Hired means of transport	Sections 3 and 13
Land related services	Section 4
"where performed" services	Section 5
Passenger transport, domestic or international freight transport	Sections 7 and 8
Other services	Section 3

10.6 How do I decide where arranged supplies of goods are made?

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 supply of goods imported by the supplier is made in the member State of importation;

- the supply of goods imported by the customer is made outside the EC;
- the supply of installed or assembled goods is made where they are installed or assembled.

10.7 What if I arrange a supply which is made outside the EC?

Your supply is also made outside the EC, and will not be subject to EC VAT.

10.8 What if I arrange a supply which is made in a member State?

- Your supply is made in the same member State as the supply which you arrange.
- However, if your customer is EC VAT registered for the purpose of receiving the supply, your supply is made where your customer is registered. If your customer is registered in your own member State, you must account for any VAT due. If your customer is VAT registered in another member State, your customer accounts for any VAT due there.

10.9 I am a UK intermediary arranging supplies made in the EC

10.9.1 If your customer is not identified as being EC VAT registered

Your supply is made in the member State where the arranged supply is made (regardless of where your customer may belong). You are required to account for any VAT due in that member State.

Example:

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

10.9.2 If your customer is VAT registered in the UK

Your supply is made in the UK and you must account for any VAT due.

Example:

If you arrange a supply of goods made in France, and obtain your customer's UK VAT registration number, your service is made in the UK. You must charge UK VAT at the standard rate (but where the goods are for export to outside the EC, see paragraph 10.12 and Notice 744D *International services: zero-rating*).

10.9.3 If your customer is VAT registered in another Member State

Your supply is made in your customer's member State and your customer will account for any VAT in their own member State.

Examples:

- If you arrange a supply of goods made in France, and your customer gives you a French VAT registration number, your service is made in France and your customer will account for any VAT in France.
- If you arrange a supply of goods made in France, and your customer gives you a German VAT registration number, your service is made in Germany and your customer will account for any VAT in Germany.

10.10 What evidence is needed for my intermediary services to be made in my customer's member State?

For your supply to be made in your customer's member State, your customer must provide you with a valid VAT registration number which you must quote on your invoice.

10.11 What if my customer is VAT registered in more than one member State?

Your customer should use the VAT registration number that is most appropriate to the arranged supply.

10.12 Zero-rating of intermediary services made in the UK

Some supplies by intermediaries are zero-rated when supplied in the UK. However, unlike the place of supply rules in this section, zero-rating only applies to the actual making of arrangements for eligible supplies and does not include services which simply facilitate them. See Notices:

- 744A *Passenger transport*;
- 744B *Freight transport and associated services*;

- 744C *Ships, aircraft and associated services;*
- 744D *International services: zero-rating; and*
- 709/6 *Travel agents and tour operators.*

10.13 UK customers receiving intermediary services where the arranged supply is made in the EC

If you are a UK VAT registered recipient of these services, you may be required to account for the reverse charge where your supplier belongs outside the UK (see paragraph 15.12).

10.14 Non-UK intermediaries arranging supplies made in the UK

If you arrange a supply which is made 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 1.15).

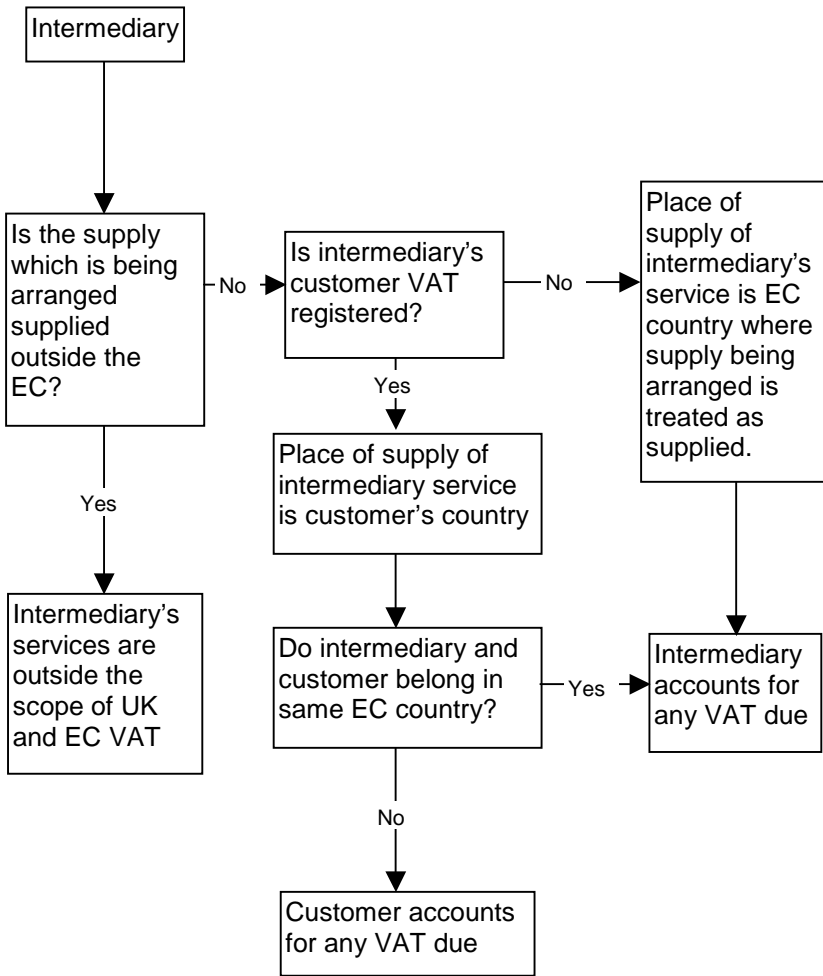
10.15 Liability to register in other member States

If you supply services of arranging a supply which is made 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 1.16).

10.16 Diagram 3 –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.

Intermediary services (except services in paragraph 8 of Schedule 5 or arranging intra-EC freight transport and related ancillary services)



11. Services made where the customer belongs

The law on services supplied in a customer's country is in Article 16 of the Order (reproduced in paragraph 16.6).

11.1 When do I need to refer to this section?

If you belong in the UK and supply services in section 12. If you are unsure whether you belong in the UK, see section 2.

11.2 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 12;
- 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 2).

11.3 When are my supplies made in my overseas customer's country?

If you supply any of the services in section 12 to a person who belongs:

- outside the EC; **or**
- in another member State and who receives your services for business purposes;

your services are supplied in the country where your customer belongs. Otherwise, your services are supplied in the UK (see section 3). There are extra rules for the letting on hire of goods and telecommunications services (see sections 13, 14 and 18).

11.4 What if my customer belongs outside the EC?

If you supply these services to any person who belongs outside the EC, your services are supplied in your customer's country. The place of supply of your services is outside the EC.

11.5 What if my customer belongs in another member State?

If 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 3).

11.6 How do I satisfy myself 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. Such evidence 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.

11.7 When does this section not apply?

Your supplies of these services are made in the UK if:

- you cannot determine where your customer belongs;
- your customer belongs in the UK; or
- your customer belongs in another member State but does not receive your services for business purposes. Examples of such customers are; persons in their private or non-business capacity; and government bodies, municipal authorities or similar bodies, of other member States, (unless the services are specifically received for the purposes of a business activity).

11.8 Examples

- If you supply accountancy services to a private individual who belongs in the Channel Islands, the place of supply of your service is outside the EC. This is because your customer belongs outside the EC.

- If you supply legal services to a private individual who belongs in the Republic of Ireland, the place of supply of your service 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.
- If you supply advertising services to a business in France, the place of supply of your service is France. This is because your customer belongs in another member State and receives your supply for business purposes. Your customer is required to account for any VAT due in France.
- If you assign the rights in a cinematographic film to a UK distribution company, the place of supply of your service is the UK, and you must account for the VAT due. This because your customer does not belong outside the UK.

11.9 What about the special rules for hired goods?

See section 13 if you supply the letting on hire of goods which 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.

11.10 What about the special rules for telecommunications services?

See section 14 if you supply telecommunications services which 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.

11.11 Zero-rating of intermediary services made in the UK

When supplied in the UK, the making of arrangements for supplies of services which are themselves made outside the EC are zero-rated. This does not include banking, financial and insurance services which are exempt in the UK see Notice 744D *International services: zero-rating*.

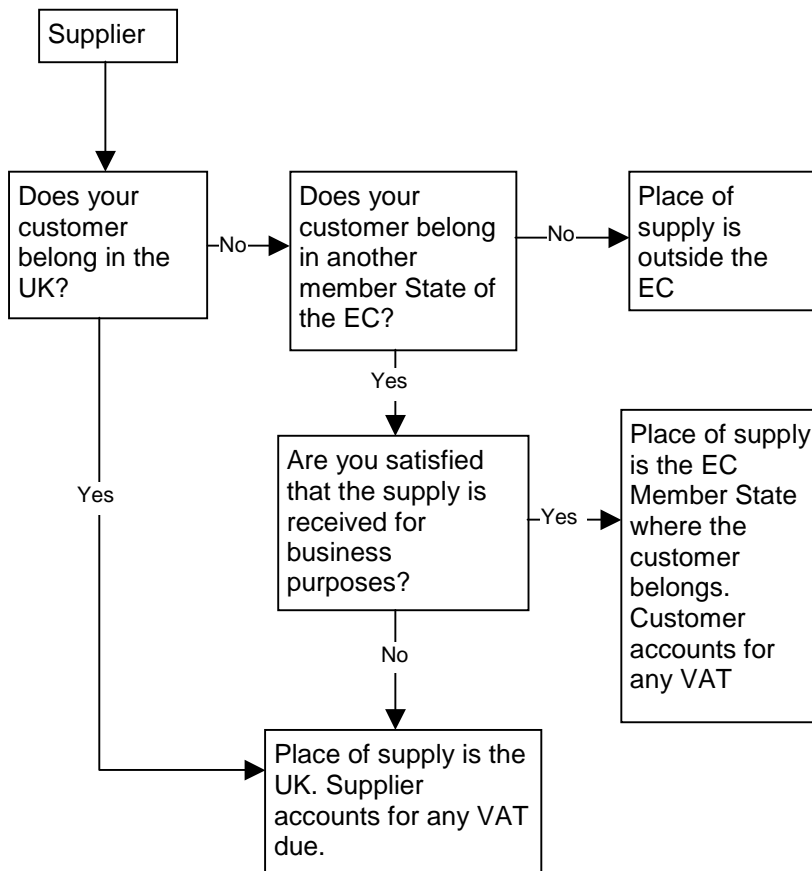
Remember, you only need to consider whether zero-rating applies if the place of supply of these intermediary services is the UK.

11.12 Diagram 4 - UK supplier of services in Schedule 5, paragraphs 1 to 8

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 hired goods and telecommunications services. For assistance on such services, see the tables in section 18.

Diagram 4:

UK supplier of services in paragraphs 1-8 of Schedule 5 (see Section 12) (See tables in Section 18 for hired goods and telecommunications services).



12. Schedule 5, Paragraphs 1 to 8

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 (reproduced in paragraph 16.5).

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 11.

When they are received by UK customers, see paragraph 15.11.

12.1 What kind of services are covered by this section?

Services which have been identified as inappropriate for treatment under the basic rule or any of the other rules explained in this notice. A common feature is that their place of performance is indeterminate or variable. They are easily undertaken in a different place to where a supplier has established a business and are often intellectual in nature.

12.2 Copyright etc (Paragraph 1 of Schedule 5,)

12.2.1 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.

12.2.2 Examples of services within paragraph 1

- The assignment of rights in a cinematographic film to a distribution company.
- 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.

12.2.3 Examples of exclusions from paragraph 1 of Schedule 5

- 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 4).

12.3 Advertising (Paragraph 2 of Schedule 5,)

12.3.1 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.

12.3.2 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.
- Web site advertising.

12.3.3 Examples of exclusions from advertising services

- The provision of space or stands at a trade fair or exhibition (see sections 4 and 5).
- Organising a cocktail party for an advertising company where the event is part of a promotional campaign for the advertising company's own client. Although the advertising company's services to its own customer are advertising services, those of the event co-ordinator are not (see section 5).

12.4 Consultants etc-(Paragraph 3 of Schedule 5)

12.4.1 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, the provision of information and certain digitised publications are also covered. It does not matter how supplies of paragraph 3 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 (see section 4).

If you are in doubt about whether a service falls within a particular part of this paragraph, you should read other parts to provide a context.

12.4.2 What are services of consultants and consultancy bureaux?

This covers 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 5 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, including 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 5).

12.4.3 Examples of exclusions from services of consultants and consultancy bureaux?

- Services of consultants and consultancy bureaux are excluded from paragraph 3 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. Clerical or secretarial services, the provision of office facilities and archiving services are not consultancy services.
- Services provided by a consultant which are outside the supplier's habitual area of expertise, such as gardening carried out by a financial adviser.

12.4.4 What are services of engineers?

They 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.

12.4.5 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 4).
- Services carried out by an engineer which consist wholly or mainly of physical work on goods, including installation of goods (see section 5).

12.4.6 What are services of lawyers and accountants?

They 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 4). 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.

12.4.7 Examples of exclusions from services of lawyers and accountants

- Services consisting primarily of work which directly relates to land or property (see section 4), such as:
 - property management,
 - conveyancing, or
 - obtaining planning consent.
- Clerical or secretarial services, which includes the keeping of financial records.

12.4.8 What are similar services?

They 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 4);
- 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 2);
- 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** (see paragraph 12.2.1) ; and
- services described as management services which comprise the exercise of corporate or strategic guidance over the running of another (usually associated) company.

12.4.9 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 4).

Loss adjusting services in relation to claims on land or property (see section 4) and services provided by a loss adjuster which are simply the valuation of goods (see section 5).

12.4.10 What is data processing?

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

12.4.11 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 4).
- Simple re-formatting where there is no change to the meaning of the content.

12.4.12 What is provision of information?

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

- tourist information;
- weather forecasts;
- information supplied by a private enquiry agent;
- telephone helpdesk services (such as for computer software);
- satellite navigational and locational services;
- provision of on-line information; and
- digitised publications where the content is essentially non-fiction.

12.4.13 What about digitised publications?

Paragraph 3.10 explains what digitised publications are. Where the content of such publications is essentially **non-fiction**, they are treated as a supply of information. Some examples of non-fiction include:

- academic articles;
- arts and crafts;
- biographies;
- educational material;
- encyclopaedias;
- history;
- maps;
- news services;
- religion; and
- travel guides

Please note that this list is neither definitive nor exhaustive.

12.4.14 Examples of exclusions from provision of information

- The delivery or transmission of another person's information by whatever means. See section 8 for transporting goods and for electronic delivery see paragraph 12.9.
- Information relating to specific land or property (see section 4).

12.4.15 Does it matter which part of paragraph 3 applies to a service?

No. It is not necessary to determine which part within paragraph 3 best describes a supply of services as the place of supply will be the same.

12.5 Relinquishing rights etc (Paragraph 4 of Schedule 5)

12.5.1 What types of services fall under 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 12.2.1).

12.5.2 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.

12.6 Finance and insurance etc (Paragraph 5 of Schedule 5)

12.6.1 What types of services fall under 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 701/29 *Finance and Securities*.

12.6.2 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.

12.6.3 Examples of exclusions from banking, financial and insurance services

- Services of physical safe custody - other than those in paragraph 12.6.2.
- Rent collection services (see section 4).

12.6.4 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 the Notice 701/29 *Finance & Securities*.

12.7 Staff (Paragraph 6 of Schedule 5)

12.7.1 What types of services fall under 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. For example:

- 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; but
- 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 3).

12.7.2 Examples of supplies 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.

12.7.3 Examples of exclusions from supplies of staff

The supply by a freelance 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 12.10).

12.8 Hired goods - except means of transport (Paragraph 7 of Schedule 5)

12.8.1 What types of services fall under 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 3). Goods include all forms of moveable property but not land and property or equipment and machinery installed as a fixture. However, this paragraph does not cover supplies which include the services of an operator or technician. The place of supply of such services depends on the nature of the services provided.

12.8.2 Examples of services within paragraph 7

- The hire of mobile telephone handsets (but see paragraph 12.9 if the supply is of telecommunications services).
- The hire of freight containers (but see paragraph 12.8.5 for special rules).
- The hire of computer and office equipment.
- The hire of exhibition stand furniture and equipment without any other services.

12.8.3 Examples of exclusions from paragraph 7

- The hire of exhibition stand space (see sections 4 and 5).
- The hire of a means of transport - including the leasing or hiring out of cars (see section 3).

12.8.4 Extra rules for goods on hire

In addition to the rules in sections 11 and 15, covering supplies made to overseas customers and supplies received into the UK by businesses, there are extra rules for the letting on hire of goods, depending on where they are used and enjoyed (see sections 13 and 18).

12.8.5 Zero-rating for container exports

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

12.9 Telecommunications – Paragraph 7A (of Schedule 5)

12.9.1 What types of services fall within paragraph 7A?

With effect from 1 July 1997, telecommunications services were added to the services covered by this section. Telecommunications services means 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 12.4.12).

12.9.2 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.
- E-mail 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.

12.9.3 Examples of exclusions from telecommunications services

- Supplies of information ordered and delivered through the Internet (see paragraph 12.4.12).
- Travel information accessed by telephone (see paragraph 12.4.12).
- Granting copyright to use transmitted material (see paragraph 12.2.1).
- Processing of data (see paragraph 12.4.10).
- Broadcasting to subscribers (see section 3).

12.9.4 What about Internet services?

Access to the Internet and World Wide Web, the provision of e-mail 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;
- 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.

12.9.5 Extra rules for telecommunication services

In addition to the rules in sections 11 and 15, covering supplies made to overseas customers and supplies received into the UK by businesses, there are extra rules for telecommunications services, depending on where they are used and enjoyed (see sections 14 and 18).

12.10 Intermediaries (Paragraph 8 of Schedule 5)

12.10.1 What types of services fall under 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*, 701/29 *Finance* and *Securities*.

12.10.2 Examples of intermediary services

- Stockbroking services.
- Insurance broking services.
- Patent, copyright and similar agents.
- Advertising agents.

12.10.3 Examples of exclusions from intermediary services

Making arrangements for supplies other than those covered by this section:

- for estate agents' services in arranging supplies of land or property, see section 4,
- for arranging intra-EC freight transport or related ancillary services, see section 8 ;
- for arranging all other supplies, see section 10; or
- services of only facilitating another supply, such as simple introduction.

12.11 Why are paragraphs 9 and 10 of Schedule 5 not included in this section?

This section only details these services covered by sections 11 and 15.11.

Paragraphs 9 and 10 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 sections 15.12 and 15.13).

13. Use of goods on hire

The law on use and enjoyment of the letting on hire of goods is in Articles 17 and 18 of the Order (reproduced in paragraph 16.6).

13.1 When do the extra rules for goods on hire apply?

They 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.

13.2 What are the extra rules?

In situations covered by paragraph 13.1, the place of supply of the letting on hire of all goods is where the effective use and enjoyment of the services takes place.

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

The place of supply of hired goods depends on:

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

13.4 Does it always matter where hired goods are effectively used and enjoyed?

No. It only matters in the situations described in paragraph 13.1. For example:

- where the place of supply is the UK (because either the supplier or the customer belongs in the UK) it does not matter if the services are used in another member State; and
- where the place of supply is another member State (because either the supplier or the customer belongs there) it does not matter if the services are used in the UK.

13.5 What does effective use and enjoyment of hired goods mean?

Effective use and enjoyment takes place where the customer actually uses the goods. In practice, this will be where the goods are physically located, irrespective of contract, payment or beneficial interest.

13.6 Use of hired goods other than a means of transport

- If the place of supply of your services would be the UK, under sections 11 or 3, and the goods are used outside the EC during the hiring period, your services are supplied outside the EC to the extent that the use takes place outside the EC. You will need to retain evidence to substantiate such use.
- If the place of supply of your services would be outside the EC, under sections 11 or 3, and the goods are used in the UK during the hiring period, your services are supplied in the UK to the extent that the use takes place in the UK.

These special rules came into effect from 18 March 1998. Before that date there were no extra rules about where such hired goods were used.

13.7 Examples for hired goods other than a 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 in the UK and the place of supply would otherwise have been outside the EC (see section 3).
- 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 in the UK and the place of supply would otherwise have been outside the EC (see section 11).
- 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 only in the USA. This is because the goods are used outside the EC and the place of supply would otherwise have been the UK (see section 3).

- A company belonging in Switzerland hires fax machines from a supplier in the USA. The fax machines are partly used 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 in the UK and the place of supply would otherwise have been outside the EC (see section 11).

13.8 Where can I find further assistance on these extra rules for the letting on hire of goods other than a means of transport?

Tables in section 18 contain guidance for all suppliers to help in deciding where services of this kind are supplied.

13.9 Use of hired means of transport

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

13.9.1 Use of hired means of transport before 1 July 1997

These extra rules came into effect from 1 July 1997. Before that date there were different rules about where hired means of transport were used. These were as follows:

If you (as lessor) belonged in the UK and hired out a means of transport which was used outside the EC for the whole duration of the hiring period, the place of supply of your service was outside the UK (and the EC). This was provided that the means of transport was either exported from the EC, by you, or was already outside the EC at the time of hire.

Similarly, if you (as lessor) belonged outside the EC and hired out a means of transport which was used in the UK for the whole duration of the hiring period, the place of supply of your service was the UK. You were required to account to Customs and Excise for VAT due on that supply.

13.10 Examples for hired means of transport

- If you belong in the UK and hire out a means of transport, for use within the EC, the place of supply of your services is the UK.
- If you belong in the UK and hire out a means of transport which is used outside the EC throughout the hiring period, the place of supply of your services is outside the EC.
- If you belong in the UK and hire out a means of transport which is used partly within and partly outside the EC during the hiring period, the place of supply of your services is the UK to the extent that the means of transport is used in the EC.
- If you belong outside the EC and hire out a means of transport which is used within the UK for the whole duration of the hiring period, the place of supply of your services is the UK.
- If you belong outside the EC and hire out a means of transport which is used partly within the UK during the hiring period, the place of supply of your services is the UK to the extent that the means of transport is used in the UK.

13.11 Must these special rules apply to a whole supply of hired goods?

No. They apply only to the extent that the conditions in paragraph 13.1 are met.

13.12 UK customers receiving hired goods other than a 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:

- you belong outside the EC for the purposes of receiving the supply (see section 15.11 if you belong in the UK for the purposes of receiving such a supply);
- you use the services in the UK; and
- your supplier belongs outside the UK (see section 15.13).

13.13 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 section 15.13).

13.14 Non-UK suppliers of hired goods used in the UK

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. If you are not already registered in the UK, you may be liable to register (see paragraph 1.15).

13.15 Liability to register in other member States

If you supply the letting on hire of any goods where the place of supply would be outside the EC, under sections 3 or 11, 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 1.16).

14. Use of telecommunications services

The law on the special rules for telecommunications services is in Articles 17 and 18 of the Order (reproduced in paragraph 16.6).

These extra rules for telecommunications services came into effect from 1 July 1997. Telecommunications services are defined in paragraph 12.9.

14.1 When do the extra rules for telecommunications services apply?

They 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.

14.2 What are the extra rules?

Where the extra rules apply, the place of supply of telecommunications services is where the effective use and enjoyment of the services takes place.

14.3 What do I need to know to decide whether the extra rules apply?

The place of supply of telecommunications services depends on:

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

14.4 Does it always matter where telecommunications services are effectively used and enjoyed?

No. It only matters in the situations described in paragraph 14.1. For example:

- where the place of supply is the UK (because either the supplier or the customer belongs in the UK) it does not matter if the services are used in another member State; *or*
- where the place of supply is another member State (because either the supplier or the customer belongs there) it does not matter if the services are used in the UK.

14.5 What does effective use and enjoyment of telecommunications services mean?

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

14.6 Examples

- 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 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 3).
- The Japanese headquarters of an international company obtains telecommunications services for its London branch. The services are actually used at the London branch. The place of supply is the UK because effective use and enjoyment takes place in the UK and the services would otherwise be supplied outside the EC (see section 11).
- 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 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 3).
- 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 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 3).

- 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 11).

14.7 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
- Customs are 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 that occurs outside the EC.

14.8 Must these extra rules apply to a whole supply?

No. They apply only to the **extent** that the conditions in paragraph 14.1 are met.

14.9 How do these extra rules affect UK suppliers?

If your customer belongs in the UK, you are not required to account for UK VAT to the extent that your customer uses your services outside the EC.

- If your non-business customer belongs in another member State, you are not required to account for UK VAT to the extent that your customer uses your services outside the EC.
- If your customer belongs outside the EC, you are required to account for UK VAT to the extent that your customer uses your services in the UK.
- If your customer belongs outside the EC and your customer uses your services in another member State, those services are made in that member State (see paragraph 14.12).

14.10 UK customers receiving services covered by these extra rules

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

- you belong outside the EC for the purposes of receiving the supply (see paragraph 15.11 if you belong in the UK for the purposes of receiving such a supply);
- you use the services in the UK; and
- your supplier belongs outside the UK (see section 15.13).

14.11 Non-UK supplier of services made in the UK under these extra rules

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 VAT due on your services where they are effectively used and enjoyed in the UK. If you are not already registered in the UK, you may be liable to register (see paragraph 1.15).

14.12 Liability to register in other member States

If you supply telecommunications services where the place of supply would be outside the EC, under sections 11 or 3, 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 1.16).

14.13 Decision tables for hired goods (except means of transport) and telecommunications services

Tables in section 18 contain further guidance for all suppliers to help in deciding the place of supply of telecommunications services and hired goods (except means of transport).

15. Reverse charge

The law on the reverse charge is in the VAT Act, Section 8 (reproduced in paragraph 16.3).

15.1 Who needs to use this section?

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

Types of services	Dealt with in:
Services in the VAT Act Schedule 5, paragraphs 1 to 8	(15.11)
Valuation or work on goods where the goods leave the member State of performance; services relating to intra-EC freight transport; or intermediary services	(15.12)
Any other services supplied in the UK	(15.13)

15.2 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.

15.3 Are there different situations where the reverse charge applies?

Yes. There are three different situations where the procedure applies. This section is broken down into the following parts:

- Paragraph 15.11 - Services within paragraphs 1 to 8 of Schedule 5;
- Paragraph 15.12 - Services with an EC simplification; and
- Paragraph 15.13 - Extension to other services supplied in the UK.

Remember, it is important to refer to the appropriate part because there are different conditions for each situation.

15.4 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 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**.

15.5 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 one from outside the UK.

15.6 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 or 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.

15.7 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.

15.8 Can the reverse charge apply to services made by UK suppliers?

No. It does not apply to supplies where the supplier belongs in the UK. It only applies where services are made in the UK by suppliers belonging overseas. Services which, under the place of supply rules, are supplied in another country are, by definition, outside the scope of UK VAT. Such services can only be subject to tax in that country.

15.9 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.

15.10 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 European Community for EC and non-EC traders*.

15.11 Services within Paragraphs 1 to 8 of Schedule 5

15.11.1 When does the reverse charge apply to these services?

It applies if you belong in the UK and receive any services covered by section 12 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).

If you are unsure whether you belong in the UK, see section 2.

15.11.2 What if I receive exempt or zero-rated services?

The reverse charge does not apply to exempt services. If you receive services that are zero-rated, there is no output tax due and no input tax to recover. However, you should complete boxes 6 and 7 of your VAT return for zero-rated services.

15.11.3 What if I am not already UK VAT registered and import these services?

The value of any supplies covered by the preceding paragraph which you receive for use in your business 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.

15.11.4 What if the reverse charge does not apply to these services?

There is no UK VAT due on such supplies. However, see paragraph 15.13 if you receive supplies of the letting on hire of goods, other than a means of transport or telecommunications services which are made in the UK under the extra rules in sections 13 and 14.

15.11.5 Group treatment

Where services covered by section 12 (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*.

15.12 Services with an EC simplification

15.12.1 What services are covered by EC simplifications?

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 6);
- intra-EC freight transport services and related ancillary services (see section 8);
- arranging intra-EC freight transport services and related ancillary services, (see section 8); and

- most intermediary services supplied in the EC (see section 10).

15.12.2 When does the reverse charge apply to these services?

It applies if you use a UK VAT registration number and receive a supply covered by the previous paragraph where:

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

15.12.3 What if I receive exempt or zero-rated services?

The reverse charge does not apply to exempt services. If you receive services that are zero-rated, the reverse charge has no effect as there is no output tax due and no input tax to recover. However, you should complete boxes 6 and 7 of your VAT return for zero-rated services.

15.12.4 What if I don't give a UK VAT registration number?

Your supplier will account for any VAT due in the appropriate member State. However, if you are already UK VAT registered and the place of supply of the services is the UK, see paragraph 15.13.

15.12.5 What if I 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.

15.12.6 What if I am VAT registered in more than one member State?

You are not required to account for the reverse charge in the UK under the previous paragraph if your VAT registration number in another member State is more appropriate to the supply.

15.12.7 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.

15.13 Extension to other services supplied in the UK

15.13.1 What services are covered by the extension to the reverse charge?

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

- services relating to land and property;
- services supplied where performed;
- passenger transport;
- freight transport services not covered by Section 15.13;
- services covered by the extra rules for hired goods; and
- services covered by the extra rules for telecommunications services.

15.13.2 When does the extension to the reverse charge apply?

It applies if you are UK VAT registered and receive services listed in the previous paragraph which are supplied in the UK where:

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

15.13.3 Should I give my UK VAT registration number?

Yes, you should give it to your supplier as evidence that they are not liable to account for any UK VAT due.

15.13.4 What if I receive exempt or zero-rated services?

The reverse charge does not apply to exempt services. If you receive services that are zero-rated, the reverse charge has no effect as there is no output tax due and no input tax to recover. However, you should complete boxes 6 and 7 of your VAT return for zero-rated services.

15.13.5 What if I 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.

15.13.6 What if I am 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.

15.13.7 What if I am a non-UK supplier of services covered by the extension to the reverse charge?

The existence of the reverse charge procedure for these services does not prevent you from registering for VAT in the UK under the normal rules, if you wish to do so. If you do register, you must invoice UK VAT in the normal way. Your customer will not then be required to account for VAT under the reverse charge procedure.

15.13.8 What if I am a non-UK supplier of these services but my 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 1.15).

16. The law

16.1 What is this section for?

The paragraphs in this section are extracts from the relevant pieces of legislation which determine the place of supply of services.

16.2 The VAT Act 1994 - Sections 7(1), 7(10), 7(11).

7. Place of Supply.

7(1) This section shall apply (subject to sections 14 and 18 below) for determining, for the purposes of this Act, whether goods or services are supplied in the United Kingdom.

7(10) A supply of services shall be treated as made -

- (a) in the United Kingdom if the supplier belongs in the United Kingdom; and
- (a) in another country (and not in the United Kingdom), if the supplier belongs in that other country.

7(11) The Treasury may by order provide, in relation to goods or services generally or to particular goods or services specified in the order, for varying the rules for determining where a supply of goods or services is made.

16.3 The VAT Act 1994 – Section 8.

8. Reverse charge on supplies received from abroad.

8(1) Subject to subsection (3) below, where relevant services are –

- (a) supplied by a person who belongs in a country other than the United Kingdom, and
- (b) received by a person ("the recipient") who belongs in the United Kingdom for the purposes of any business carried on by him,

then all the same consequences shall follow under this Act (and particularly so much as charges VAT on a supply and entitles a taxable person to credit for input tax) as if the recipient had himself supplied the services in the United Kingdom in the course or furtherance of his business, and that supply were a taxable supply.

8(2) In this section "relevant services" means services of any of the descriptions specified in Schedule 5, not being services within any of the descriptions specified in Schedule 9.

8(3) Supplies which are treated as made by the recipient under subsection (1) above are not to be taken into account as supplies made by him when determining any allowance of input tax in his case under section 26(1).

8(4) In applying subsection (1) above, the supply of services treated as made by the recipient shall be assumed to have been made at a time to be determined in accordance with regulations prescribing rules for attributing a time of supply in cases within that subsection.

8(5) The Treasury may by order add to, or vary, Schedule 5.

8(6) The power of the Treasury by order to add to or vary Schedule 5 shall include power, where any services whose place of supply is determined by an order under section 7(11) above are added to that Schedule, to provide that subsection (1) above shall have effect in relation to those services as if a person belongs in the United Kingdom for the purposes of paragraph (b) of that subsection if, and only if, he is a taxable person.

16.4 The VAT Act 1994 - Section 9.

9. Place where supplier or recipient of services belongs.

9(1) Subsection (2) below shall apply for determining, in relation to any supply of services, whether the supplier belongs in one country or another and subsections (3) and (4) below shall apply (subject to any provision made under section 8(6)) for determining, in relation to any supply of services, whether the recipient belongs in one country or another.

9(2) The supplier of services shall be treated as belonging in a country if -

- (a) he has there a business establishment or some other fixed establishment and no such establishment elsewhere; or
- (b) he has no such establishment (there or elsewhere) but his usual place of residence is there; or

(c) he has such establishments both in that country and elsewhere and the establishment of his which is most directly concerned with the supply is there.

9(3) If the supply of services is made to an individual and received by him otherwise than for the purposes of any business carried on by him, he shall be treated as belonging in whatever country he has his usual place of residence.

9(4) Where subsection (3) above does not apply, the person to whom the supply is made shall be treated as belonging in a country if -

- (a) either of the conditions mentioned in paragraphs (a) and (b) of subsection (2) above is satisfied; or
- (b) he has such establishments as are mentioned in subsection (2) above both in that country and elsewhere and the establishment of his at which, or for the purposes of which, the services are most directly used or to be used is in that country.

9(5) For the purposes of this section (but not for any other purposes) -

- (a) a person carrying on a business through a branch or agency in any country shall be treated as having a business establishment there; and
- (b) "usual place of residence", in relation to a body corporate, means the place where it is legally constituted.

16.5 The VAT Act 1994 – Schedule 5

Services supplied where received.

1. Transfers and assignments of copyright, patents, licences, trademarks and similar rights.
2. Advertising services.
3. 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).
4. 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.
5. Banking, financial and insurance services (including reinsurance, but not including the provision of safe deposit facilities).
6. The supply of staff.
7. The letting on hire of goods other than means of transport.
- 7A. 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 the transfer or assignment of the right to use capacity for such transmission, emission or reception.
8. The services rendered by one person to another in procuring for the other any of the services mentioned in paragraphs 1 to 7A above.
9. Any services not of a description specified in paragraphs 1 to 7 and 8 above when supplied to a recipient who is registered under this Act.
10. Section 8(1) shall have effect in relation to any service -
 - (a) which are of a description specified in paragraph 9 above; and
 - (b) whose place of supply is determined by an order under section 7(11) to be in the United Kingdom, as if the recipient belonged in the United Kingdom for the purposes of section 8(1)(b).

16.6 The Value Added Tax (Place of Supply of Services) Order 1992-SI 1992 No. 3121

as amended by:

Value Added Tax (Place of Supply of Services) (Amendment) Orders 1995, 1996, 1997, and 1998.

[SI 1995 No. 3038, SI 1996 No. 2992, SI 1997 No. 1524, and SI 1998 No. 763]

PART I PRELIMINARY

Citation and commencement

1. This Order may be cited as the Value Added Tax (Place of Supply of Services) Order 1992 and shall come into force on 1st January 1993.

Interpretation**2.** In this Order-

“the Act” means the Value Added Tax Act 1994;

“ancillary transport services” means loading, unloading, handling and similar activities;

“intra-Community transport of goods” means the transportation of goods which begins in one member State and ends in a different member State;

“pleasure cruise” includes a cruise wholly or partly for the purposes of education or training;

“registration number” means an identifying number assigned to a person by a member State for the purposes of value added tax in that member State.

Revocation**3.** The Value Added Tax (Place of Supply) Order 1984 is hereby revoked.

PART II
RULES FOR DETERMINING PLACE OF SUPPLY OF SERVICES

4. The rules for determining where a supply of goods or of services is made shall be varied in accordance with the following provisions of this Order.**Services relating to land****5.** Where a supply of services consists of -

- (a) the grant, assignment or surrender of-
 - (i) any interest in or right over land;
 - (ii) a personal right to call for or be granted any interest in or right over land; or
 - (iii) a licence to occupy land or any other contractual right exercisable over or in relation to land;
- (b) any works of construction, demolition, conversion, reconstruction, alteration, enlargement, repair or maintenance of a building or civil engineering work;
- (c) services such as are supplied by estate agents, auctioneers, architects, surveyors, engineers and others involved in matters relating to land,

it shall be treated as made where the land in connection with which the supply is made is situated.

Transport**6.** Subject to articles 7 and 10 below, services consisting of the transportation of passengers or goods shall be treated as supplied in the country in which the transportation takes place, and only to the extent that it takes place in that country.**7.** For the purposes of article 6 above, there shall be treated as taking place wholly in a country any transportation which takes place partly outside the territorial jurisdiction of that country where -

- (a) it takes place in the course of a journey between two points in that country, whether or not as part of a longer journey involving travel to or from another country; and
- (b) the means of transport used does not put in or land in another country in the course of the journey between those two points.

8. Any -

- (a) goods or services provided as part of a pleasure cruise; or
- (b) services consisting of the transportation of any luggage or motor vehicle accompanying (in either case) a passenger,

shall be treated as supplied in the same place as the transportation of the passenger is treated as supplied (whether or not they would otherwise be treated as supplied separately); and, for the purpose of this article, a pleasure cruise shall be treated as the transportation of passengers.

9. Subject to article 14 below, where a supply consists of ancillary transport services, it shall be treated as made where those services are physically performed.**10.** Subject to article 14 below, where a supply of services consists of the intra-Community transport of goods, it shall be treated as made in the member State in which the transportation of the goods begins.

Services of intermediaries

11. Subject to article 14 below, where services consist of the making of arrangements for the intra-Community transport of goods or of any other activity intended to facilitate the making of such a supply, they shall be treated as supplied in the member State where the transportation of the goods begins.

12. Subject to article 14 below, where services consist of the making of arrangements for the supply by or to another person of ancillary transport services in connection with the intra-Community transport of goods or of any other activity intended to facilitate the making of such a supply, they shall be treated as supplied in the member State where the ancillary transport services are physically performed.

13. Subject to article 14 below, where services consist of the making of arrangements for a supply by or to another person or of any other activity intended to facilitate the making of such a supply, being a supply which is not of a description within articles 9 or 10 above or 16 below, those services shall be treated as supplied in the same place as the supply by or to that other person is treated as made.

Use of customer's registration number

14. Where a supply of services -

(a) falls within articles 10 to 13 above;

(aa) consists of the valuation of, or work carried out on, any goods which are then dispatched or transported out of the member State where those services were physically carried out; or

(b) consists of ancillary transport services provided in connection with the intra-Community transport of goods,

and the recipient of those services makes use, for the purpose of the supply, of a registration number, then, notwithstanding any provision of this Order to the contrary, the supply shall be treated as made in the member State which issued the registration number if, and only if, the supply would otherwise be treated as taking place in a different member State.

Services supplied where performed

15. Where a supply of services consists of -

- (a) cultural, artistic, sporting, scientific, educational or entertainment services;
- (b) services relating to exhibitions, conferences or meetings;
- (c) services ancillary to, including those of organising, any supply of a description within paragraph (a) or (b) above; or
- (d) the valuation of, or work carried out on, any goods, save as provided by Article 14 above,

it shall be treated as made where the services are physically carried out.

Services supplied where received

16. Where a supply consists of any services of a description specified in any of paragraphs 1 to 8 of Schedule 5 to the Act, and the recipient of that supply -

- (a) belongs in a country, other than the Isle of Man, which is not a member State; or
- (b) is a person who belongs in a member State, but in a country other than that in which the supplier belongs, and who -
 - (i) receives the supply for the purpose of a business carried on by him; and
 - (ii) is not treated as having himself supplied the services by virtue of section 8 of the Act,

it shall be treated as made where the recipient belongs.

17. Where a supply of services consists of -

- (a) the letting on hire of any means of transport; or
- (b) services described in paragraph 7 or 7A of Schedule 5(a) to the Act,

and those services would be treated, apart from this article, as supplied in the United Kingdom, they shall not be treated as supplied in the United Kingdom to the extent that the effective use and enjoyment of the services takes place outside the member States.

18. Where a supply of services consists of -

- (a) the letting on hire of any means of transport; or
- (b) services described in paragraph 7 or 7A of Schedule 5 to the Act,

and those services would be treated, apart from this article, as supplied in a place outside the member States, they shall be treated as supplied in the United Kingdom to the extent that the effective use and enjoyment of the services takes place in the United Kingdom.

Articles 19 and 20 are omitted.

21.(1) The place of supply of a right to services shall be the same as the place of supply of the services to which the right relates (whether or not the right is exercised).

21.(2) The reference to a right in paragraph (1) above shall include 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.

17. Territory of the European Community (EC)

(referred to in paragraph 1.12)

The following countries and territories are within the VAT territory of the EC:

- Austria;
- Belgium;
- Denmark, except the Faroe Islands and Greenland;
- Finland;
- France, including Monaco;
- Germany, except Busingen and the Island of Heligoland;
- Greece;
- The Republic of Ireland;
- Italy, except the communes of Livigno and Campione d'Italia and the Italian waters of Lake Lugano;
- Luxembourg;
- The Netherlands;
- Portugal, including the Azores and Madeira;
- Spain, including the Balearic Islands but excluding Ceuta and Melilla;
- Sweden; and
- United Kingdom, including the Isle of Man.

The following territories are outside the VAT territory of the EC:

- Andorra;
- The Åland Islands (Finland);
- The Channel Islands and Gibraltar;
- The Republic of San Marino;
- The Canary Islands (Spain);
- The overseas departments of France (Guadeloupe, Martinique, Reunion, St Pierre and Miquelon, and French Guiana); and
- Mount Athos, also known as Agion Poros (Greece).

Cyprus, Malta and the Vatican City are not part of the EC.

18. Decision tables for telecommunications services and hired goods (other than a means of transport)

(referred to in paragraphs 3.12, 11.3, 12.8.4, 12.9.5 and 13.8)

18.1 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.

Table 1	in paragraph 18.2 - gives examples where the supplier belongs in the UK
Table 2	in paragraph 18.3 - gives examples where the supplier belongs in another member State
Table 3	in paragraph 18.4 – gives examples where the supplier belongs outside the EC

18.2 Table 1: Examples where the supplier belongs in the UK

Customer belongs... (see Section 2)	UK VAT position is that**	Extra rules: use and enjoyment provisions (see Sections 13 & 14)
in the UK	services are supplied in the UK and the supplier accounts for any UK VAT due	Services used 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 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 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 extra rules shown in the last column apply**

18.3 Table 2: Examples where the supplier belongs in another member State

Customer belongs... (see Section 2)	UK VAT position is that**	Extra rules: use and enjoyment provisions (see Sections 13 and 14)
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 15)	Services used 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 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

**** This is the correct VAT treatment unless the extra rules shown in the last column apply**

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

Customer belongs... (see Section 2)	UK VAT position**	Extra rules: use and enjoyment provisions (See Sections 13 and 14)
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 15)	Services used 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 – <i>use and enjoyment provisions are likely to apply</i>	Services used 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 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 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

** This is the correct VAT treatment unless the extra rules shown in the last column apply

19. 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.

Subject	Sub-heading within subject	Paragraph/section reference
Accountants		12.4.6
Advertising services		12.3
Advisory services		12.4.2
Agency		2.5
Agents – <i>see Intermediaries</i>		
Analysis of test results		12.4.2
Architects		4.6
Banking		12.6
Basic rule		Sec 3
Belonging		Sec 2
Broadcasting to subscribers		3.4
Business establishment		2.3
Charters		Sec 9
Clerical services		3.4
Communications – <i>see telecommunications</i>		
Computer software		12.2.2, 12.4.2
Conferences		5.1
Construction		4.4, 4.6
Consultants		12.4
Copyright		12.2
Data processing		12.4.10
Debt collection		12.6.2
Design services		12.4.8
Digitised products		3.9
Digitised publications		3.10
E-commerce		1.2
Education services		5.1.1
E-books – <i>see digitised publications</i>		
E-mail		12.9.2
Engineering consultancy		12.4.4
Entertainment services		3.2, 3.4, 5.1, 5.1.1, 5.5, 12.2.2, 12.4.4, 12.4.8
Estate agents		4.4, 4.6
European Community, definition of		1.12, Sec 17
Exhibitions	- exhibition services	5.1.1
	- defined stand sites	4.6

Subject	Sub-heading within subject	Paragraph/section reference
	- undefined stand sites	5.1.1
	- organising	5.7
Financial services		12.6
Fiscal agents		12.4.8
Fixed establishment		2.5
Freight transport		Sec 8
Goods on hire	- means of transport	3.5, Sec 13
	- other	12.8, Sec 13
Goodwill		12.2.3
Hotel accommodation		4.6
Information	- provision of	12.4.12
	- transmission of	12.9.2
Insurance		12.6
Input tax		1.13
Intermediaries	- freight transport	Sec 8,
	- Schedule 5	Sec 11, 12.10
	- other	Sec 10
Internet services		12.9.4
Interpreter's services	- at an event	5.1.1
Isle of Man – definition		1.12
Land		4
Lawyers		12.4.6
Licences		12.2.1
Loss adjusters		12.4.8
Management services		3.2,3.4, 12.4.6, 12.4.8
Market research		12.4.2
Means of transport – definition of		3.6
Meetings		5.1
Outside the scope		1.5
Passenger transport		7
Patents		12.2.1
Place of supply		1.5
Promotions and publicity		12.3.1, 12.3.2
Property management		4.6
Reinsurance		12.6.2
Rent collection		4.6
Research and development		12.4.2
Residence	- usual place of	2.7
Reverse charge		Sec 15
Schedule 5, paragraphs 1 to 8		12
Scientific services		5.1.1

Subject	Sub-heading within subject	Paragraph/section reference
Secretarial services		3.4
Securities		2.12, 12.6.4
Sporting services		5.1, 5.1.1
Staff		12.7
Stockbroking		12.10.2
Surveyors		4.4, 4.6, 12.4.8
Surveys of land		4.4, 4.6
Telecommunications		12.9, Sec 14
Testing of goods		12.4.2
Tour operators		1.11
Trademarks		12.2.1
Training	- general	5.1.1
	-for overseas Governments	5.2
Translation		12.4.2
Transmission services		12.9.1
Transport – <i>see freight transport & passenger transport</i>		
UK – definition of		1.12
Usual place of residence		2.7
Valuation services		5.8, Sec 6
Veterinary services		3.4
Work on goods		5.8, Sec 6

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 Customs and Excise
E-Commerce and International Services Team
New King's Beam House
22 Upper Ground
London SE1 9PJ**

If you have a complaint or suggestion

If you have a complaint about our service, or a suggestion on how we can improve it, you should contact your local office or the port or airport. You will find the phone number under "Customs and Excise - complaints and suggestions" in your local phone book. Ask for a copy of our code of practice on complaints (Notice 1000). You will find further information on our website at <http://www.hmce.gov.uk>. If we cannot settle your complaint to your satisfaction, you can then ask the Adjudicator to look into it.

The Adjudicator, whose services are free, is an impartial referee whose recommendations are independent.

The address is:

**The Adjudicator's Office
Haymarket House
28 Haymarket
LONDON
SW1Y 4SP**

**Phone: (020) 7930 2292
Fax: (020) 7930 2298
E-mail: adjudicators@gtnet.gov.uk
Internet: <http://www.adjudicatorsoffice.gov.uk/index.htm>**

Notice 741 issued March 2002
Update 1 issued April 2004

From 1 May 2004 the total number of EC Member States will rise to 25. This update includes the details of the new Member States.

Section 17 *Delete the existing section and replace with:*

'Section 17 (referred to in paragraph 1.12)

The following countries and territories are within the VAT territory of the EC:

- Austria;
- Belgium;
- Cyprus*;
- Czech Republic
- Denmark, except the Faroe Islands and Greenland;
- Estonia;
- Finland;
- France, including Monaco;
- Germany, except Busingen and the Island of Heligoland;
- Greece;
- Hungary;
- The Republic of Ireland;
- Italy, except the communes of Livigno and Campione d'Italia and the Italian waters of Lake Lugano;
- Latvia;
- Lithuania;
- Luxembourg;
- Malta;
- The Netherlands;
- Poland;

- Portugal, including the Azores and Madeira;
- Slovakia;
- Slovenia;
- Spain, including the Balearic Islands but excluding Ceuta and Melilla;
- Sweden; and
- United Kingdom, including the Isle of Man.

*The European Commission has advised that whilst the entire island of Cyprus will join the EU on 1 May 2004, as the situation stands at present, the application of the EU aquis shall be suspended in those areas of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

The following territories are outside the VAT territory of the EC:

- Andorra;
- The Åland Islands (Finland);
- The Channel Islands and Gibraltar;
- The Republic of San Marino;
- The Canary Islands (Spain);
- The overseas departments of France (Guadeloupe, Martinique, Reunion, St Pierre and Miquelon, and French Guiana); and
- Mount Athos, also known as Agion Oros (Greece).

The Vatican City is not part of the EC.'