

Value-Added Tax Information Leaflet No. 1/04

VAT Issues for Milk Production Partnerships

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VAT Issues for Milk Production Partnerships

Introduction

1. The purpose of this information leaflet is to outline the principal features of the Value-Added Tax (VAT) system as it relates to farmers establishing and registering a Milk Production Partnership under regulation 8 of the European Communities (Milk Quota) Regulations 2000.
2. Any farmers thinking about establishing a Milk Production Partnership might find it useful to read this information leaflet in conjunction with Revenue's information leaflet, *Taxation Issues for Milk Production Partnerships*, which deals with the Income Tax, Capital Gains Tax, Capital Acquisitions Tax and Stamp Duty issues.

For VAT purposes, who is a farmer?

3. For VAT purposes, a 'farmer' is a person who engages in agricultural production activities on land he/she owns or occupies in the State.
4. Generally speaking, for VAT purposes, 'agricultural production' refers to the production of agricultural goods (e.g. crop production; general stock farming; poultry farming; forestry; and fisheries) and/or the supply of agricultural services (e.g. sowing and planting; crop spraying; harvesting; stock minding, rearing and fattening; and tree felling).

Milk Production Partnership - for VAT purposes, a separate farming entity to the individual partners

5. On the basis that the Milk Production Partnership is a registered farm partnership under regulation 8 of the European Communities (Milk Quota) Regulations 2000, it is Revenue's view that, for VAT purposes:
 - the partnership may be regarded as being a farmer, and
 - it is a separate entity to the individuals who came together to establish that partnership.

Milk Production Partnership - obligation to register for VAT

6. As a separate farming entity to the individual partners, the partnership is obliged to register for VAT if its turnover from certain supplies exceeds, or is likely to exceed, the relevant threshold for those supplies in a continuous twelve month period.
7. The supplies in question, together with the relevant turnover thresholds are as follows:
 - (a) supplies of agricultural services (other than insemination services, stock minding or stock rearing) which exceed, or are likely to exceed, €25,500
 - (b) supplies of livestock semen, other than to other farmers licensed as an A.I. centre, or to a person over whom the farmer exercises control, which exceed, or are likely to exceed, €51,000
 - (c) supplies of retail horticultural products which exceed, or are likely to exceed, €51,000

Note: Where the partnership's supplies consist of the services referred to in (a), as well as the goods referred to in (b) or (c), the relevant threshold is €25,500.

- (d) intra-Community acquisitions¹ which exceed, or are likely to exceed, €41,000
 - (e) Fourth Schedule services², regardless of their value
 - (f) supplies of taxable goods, other than agricultural goods, which exceed or are likely to exceed €51,000
 - (g) supplies of taxable services, other than agricultural services, which exceed or are likely to exceed €25,500.
- 1 'Intra-Community acquisitions' are goods purchased from VAT-registered traders in other EU Member States. For further details about intra-Community acquisitions in relation to farming activities, see Revenue's information leaflet, *Farmers and Intra-EU Transactions* (VAT no. 12/01).
- 2 'Fourth Schedule services' are certain services which are received from abroad and which are included in the list of services provided in the Fourth Schedule to the VAT Act, 1972. Examples of such services which might be received from abroad in the course of farming activities are: accountancy services; legal services; engineering/architectural consultancy services; telecommunications services; and hire of machinery and equipment. For further details, see Revenue's information leaflet, *Fourth Schedule Services* (VAT no. 2/04).

8. If the partnership is obliged to register in respect of its Fourth Schedule services (paragraph (e) refers), it must also account for VAT in respect of its intra-Community acquisitions (paragraph (d) refers), regardless of the value of the intra-Community acquisitions.
9. If the partnership is obliged to register in respect of either its intra-Community acquisitions or its Fourth Schedule services, such registration is effectively 'ring-fenced' to the intra-Community acquisitions and/or the Fourth Schedule services. The partnership is not obliged to register in respect of its farming activities.
10. Racehorse training services are taxable services (paragraph (g) refers). However, the minding and rearing of horses is regarded as a farming activity. If the partnership is obliged to register in respect of its racehorse training services, such registration is effectively 'ring-fenced' to the training element of these services and the partnership is not obliged to register in respect of the farming element. Revenue will accept, as a general but not invariable rule, that where the partnership is minding and rearing racehorses, as well as training them, that approximately ten per cent of the total turnover relates to the training element.
11. Of course, where the partnership is obliged to register for VAT in respect of supplies of any other goods or services, as outlined in paragraphs (a), (b), (c), (f) and (g) above, the partnership must account for VAT in respect of all of its activities, including farming and racehorse training.

Milk Production Partnership - option to register for VAT

12. A partnership which is not obliged to register for VAT may opt to do so.
13. If a partnership which has opted to register for VAT wishes subsequently to cancel its registration, it may do so by arrangement with its local Revenue district. However, this may give rise to recovery by Revenue of all or some of the net VAT repaid to the partnership during the period for which it opted to register.

Transfer of ownership of movable assets, such as livestock, machinery and feedstuff

14. Teagasc indicates that it is normal to transfer ownership of assets such as livestock, machinery and feedstuff from the individual partners to the partnership³. For VAT purposes, the transfer of ownership of such goods would fall into one of four scenarios, as follows:

- (i) Transfer from a farmer who is not, nor obliged to be, VAT-registered to a VAT-registered farming partnership
- (ii) Transfer from a farmer who is not, nor obliged to be, VAT-registered to a farming partnership which is not, nor obliged to be, VAT-registered

In the above two scenarios, as the farmer is not, nor obliged to be, VAT-registered, the transfer would not be liable to VAT.

- (iii) Transfer from a VAT-registered farmer to a VAT-registered farming partnership

In this scenario, in the circumstances of the arrangements for the Milk Production Partnerships, the transfer of ownership of these goods may be regarded as being in connection with the transfer of the farming business from the individual farmer to the farming partnership. On this basis, this transfer may be deemed not to be a supply of goods, in accordance with section 3(5)(b)(iii) of the VAT Act, 1972. The effect of this is that the transfer of ownership of these goods would not be liable to VAT.

- (iv) Transfer from a VAT-registered farmer to a farming partnership which is not, nor obliged to be, VAT registered

In this scenario, the transfer of these goods may be liable to VAT.

3 *Partnerships and Farming*, Teagasc: Dublin, July 2004, p.6

Licensing of the use of immovable assets, such as farm-land and farm-buildings, and intangible assets, such as milk quotas

15. Teagasc indicates that in most farm partnerships, immovable assets such as farm-land and farm-buildings, and intangible assets, such as milk quotas, remain in the ownership of the individual partners and a licence for their use is granted to the partnership, for the purposes of the carrying on by the partnership of its farming business⁴.
16. On the basis that the licence for use of such immovable assets and intangible assets is granted by one of the individual partners to the partnership, or to another partner on a personal basis - with the qualification that this 'personal basis' relates only to that person's position as a partner carrying on the business of farming within the farming partnership - then, in the circumstances of the arrangements for setting up the Milk Production Partnerships, the initial granting of the licence for the use of these assets may be regarded as being in connection with the transfer of the farming business from the individual farmer to the farming partnership. On this basis, the granting of the licence may be deemed not to be a supply of services, in accordance with section 5(8) of the VAT Act 1972. The effect of this is that the granting of the licence would not be liable to VAT.
17. However, subsequent to the setting up of the partnership, should one of the individual partners acquire additional assets, such as land or milk quotas, and should that partner grant a licence to the partnership for the use of these additional assets, this licence may be liable to VAT.
18. In the course of exercising its right to use the farm-land and farm-buildings, should a VAT-registered partnership carry out substantial⁵ amounts of extension, alteration or demolition work to this property, the property may be regarded as being developed, for VAT purposes. Consequently, any subsequent disposal of this property by its owner or occupier may be liable to VAT.

4 *Partnerships and Farming*, Teagasc: Dublin, July 2004, p.6.

5 'Substantial', in this context, means expenditure in excess of ten per cent of the sale value of the property in question, or €300,000, whichever is the lesser. For further details in relation to property transactions, see Revenue's guide, *VAT and Property Transactions*.

'Flat-rate addition'

19. Farmers who are not registered for VAT are not entitled to recover the VAT charged to them on their farming expenses (e.g. farm machinery, electricity etc). Generally speaking, such farmers are compensated for these VAT charges by means of a flat-rate amount (currently 4.4 per cent) which is added to the prices at which they sell their products and services to other VAT-registered persons (e.g. marts, agricultural co-operatives and meat factories). This compensatory amount is referred to as a 'flat-rate addition'. Farmers who are not registered for VAT, thus who are entitled to the payment of this flat-rate addition, are referred to as 'flat-rate farmers'.

For example

A flat-rate farmer sells a quantity of milk produced from his/her dairy herd to a VAT-registered agricultural co-operative for €1,000.

The flat-rate addition at 4.4 per cent is €44.

The farmer charges the co-operative €1,044.

20. In the practical administration of the tax, there are special arrangements in relation to sales of livestock⁶. Flat-rate farmers are required to sign declaration forms confirming their status as flat-rate farmers entitled to payment of the flat-rate addition on sales of livestock. A declaration form must be provided on a once-off basis by each flat-rate farmer to each VAT-registered person (e.g. mart, meat factory, abattoir) to whom that farmer sells livestock.
21. Where a Milk Production Partnership is a flat-rate farmer, it is obliged to provide a completed declaration form to each VAT-registered person (e.g. mart, meat factory, abattoir) to whom the partnership sells livestock. Any declaration forms signed previously by an individual partner, in his/her capacity as a separate flat-rate farmer, are of no relevance to the partnership.

6 'Livestock' refers to live cattle, horses, sheep, goats, pigs and deer.

VAT refunds on farm buildings and land drainage works

22. Generally speaking, a flat-rate farmer is entitled to a refund of VAT incurred by him/her in respect of expenditure on farm buildings and land drainage works for the purposes of his/her farming business.
23. Claims for refund must be completed on the appropriate form (Form VAT 58). Single claims amounting to less than €125 are not admissible. However, such claims may be represented with other claims from the same claimant once the combined value of the total claim exceeds €125.
24. Where the flat-rate farmer is registered for VAT in respect of intra-Community acquisitions and/or Fourth Schedule services only, he/she is still entitled to a refund of VAT incurred in respect of such works. However, rather than making a separate claim for refund, the refund must be claimed as a deduction from the amount of VAT payable by that farmer with his/her periodic VAT return.
25. Where a Milk Production Partnership is a flat-rate farmer, it is entitled to make claims for refund. However, for the claim to be valid, the expenditure on farm buildings and land drainage works must have been carried out for the purposes of its farming business and the documentation supporting the claim (e.g. invoices and receipts) must be made out in the name and for the account of the partnership. Any documentation in the name and for the account of one of the individual partners, in his/her capacity as a separate entity to the partnership, is of no relevance to the partnership.

Further information

26. For further information on the VAT issues referred to in this information leaflet, you might like to read the following publications:

Guide to Value-Added Tax, January 2003

VAT and Property Transactions

VAT no. 12/01: *Farmers and Intra-EU Transactions*

VAT no. 18/01: *Repayments to Unregistered Persons*

VAT no. 23/01: *Agricultural Services*

VAT no. 24/01: *Horticultural Retailers*

VAT no. 1/02: *Transfer of a Business or Part Thereof*

VAT no. 2/04: *Fourth Schedule Services*

27. These publications are available on Revenue's website at www.revenue.ie. Paper copies of these leaflets may be obtained from Revenue's Forms and Leaflets Services by phoning our Lo-Call number: 1890 30 67 06 (This service is available on a 24 hour basis, 7 days a week. All calls are charged at local rates).
28. For further information on any VAT matter, whether a general enquiry or an enquiry relating to a specific transaction, you should contact your local Revenue district. Contact details for all Revenue districts are provided in the attached appendix.

Issued by:

**VAT Interpretation Branch
Indirect Taxes Division
Revenue Legislation Services
Revenue Commissioners
Dublin Castle
Dublin 2**

October 2004

Appendix - Revenue District Contact Points

Appendix

Revenue District Contact Points

Region	Regional Office & Districts	Address	Telephone	Fax	E-mail	
Dublin	Regional Office	Apollo House Tara Street Dublin 2	01 - 633 0890	01 - 633 0607	dublinregoff@revenue.ie	
	City Centre (Dublin city postal areas 1 & 2)	14/15 Upper O'Connell Street Dublin 1	01 - 865 5000	01 - 874 6079	dublincitycentre@revenue.ie	
	South City (Dublin City south of the Liffey excluding postal area 2)	85/93 Lower Mount Street Dublin 2	01 - 647 4000	01 - 661 6510	dublinsouthcity@revenue.ie	
	North City (Dublin City north of the Liffey excluding postal area 1)	14/15 Upper O'Connell Street Dublin 1	01 - 865 5000	01 - 874 6079	dublinnorthcity@revenue.ie	
	South County (Local Authority Area)	Plaza Complex Beigard Road Tallaght Dublin 24	01 - 427 4200	01 - 634 1882	dublinsouthcounty@revenue.ie	
	Fingal (Local Authority Area)	Block D Ashtown Gate Navan Road Dublin 15	1890 678 456	01 - 827 7080	dublinfoingal@revenue.ie	
	Dún Laoghaire/Rathdown (Local Authority Area)	Lansdowne House Lansdowne Road Dublin 4	01 - 631 6700	01 - 632 9618	dunircus@revenue.ie	

Region	Regional Office & Districts	Address	Telephone	Fax	E-mail
South West	Regional Office	Government Offices Sullivan's Quay Cork	021 - 432 5000	021 - 432 5488	swregoffice@revenue.ie
	Cork East (includes City Centre, North City and North County east of the Malloy Road)	Government Offices Sullivan's Quay Cork	021 - 432 5000	021 - 4321 0600	swregoffice@revenue.ie
	Cork South West (includes South City and South County)	Government Offices Sullivan's Quay Cork	021 - 432 5000	021 - 4321 0600	corksouthwest@revenue.ie
	Cork North West (includes rest of City and County)	Government Offices Sullivan's Quay Cork	021 - 432 5000	021 - 4321 0600	corknorthwest@revenue.ie
	Clare	River House Charlotte's Quay Limerick	061 - 212 700	061 - 417 863	claredistrict@revenue.ie
	Limerick	River House Charlotte's Quay Limerick	061 - 212 700	061 - 417 863	limtax@revenue.ie
	Kerry	Government Offices Spa Road Tralee Co. Kerry	066 - 718 3100	066 - 712 1895	kerrydistrict@revenue.ie

Region	Regional Office & Districts	Address	Telephone	Fax	E-mail
Border Midlands West	Regional Office	Custom House Flood Street Galway	091 - 536 300	091 - 536 385	galway@revenue.ie
	Galway County	Hibernian House Eyre Square Galway	091 - 536 300	091 - 566 352	galwaycounty@revenue.ie
	Galway/Roscommon (includes Galway City and Co. Roscommon)	Hibernian House Eyre Square Galway	091 - 536 300	091 - 566 352	galwayroscommon@revenue.ie
	Mayo	Michael Davitt House Castlebar Co. Mayo	094 - 903 7000	094 - 902 4221	mayo@revenue.ie
	Sligo (includes counties Sligo, Leitrim and Longford)	Government Offices Cranmore Road Sligo	071 - 914 8600	071 - 914 3987	sligo@revenue.ie
	Donegal	Government Offices High Road Letterkenny Co. Donegal	074 - 916 9400	074 - 912 775	donegal@revenue.ie
	Westmeath/Offaly	Government Offices Pearse Street Athlone Co. Westmeath	0906 - 421 800	0906 - 492 699	westmeathoffaly@revenue.ie
	Louth	Government Offices Millennium Centre Dundalk Co. Louth	042 - 935 3700	042 - 935 3385	louth@revenue.ie
	Cavan/Monaghan	Government Offices Millennium Centre Dundalk Co. Louth	042 - 835 3700	042 - 935 3780	cavanmonaghan@revenue.ie

Region	Regional Office & Districts	Address	Telephone	Fax	E-mail
East & South East	Regional Office	Government Offices The Glen Waterford	051 - 862 700	051 - 877 483	wfordtax@revenue.ie
	Tipperary	Government Offices Stradavoher Thurles Co. Tipperary	0504 - 28 700	0504 - 21 475	thurles@revenue.ie
	Kilkenny (includes counties Kilkenny, Carlow and Laois)	Government Offices Hebron Road Kilkenny	056 - 7783700	056 - 776 0888	kilkenny@revenue.ie
	Waterford	Government Offices The Glen Waterford	051 - 862 700	051 - 877 483	waterford@revenue.ie
	Wexford	Government Offices Anne Street Wexford	053 - 63 300	053 - 22 045	wexford@revenue.ie
	Kildare, Meath & Wicklow	Grattan House Lower Mount Street Customer Service Dublin 2	01 - 427 4200		kmw@revenue.ie
	Wicklow Audit/Compliance	4 Claremont Road Sanctymount Dublin 4	01 - 631 6500	01 - 660 6768	wicklow@revenue.ie
	Kildare Audit/Compliance	Plaza Complex Belgard Road Tallaght Dublin 24	01 - 647 0700	01 - 634 1882 01 - 634 1880	kildare@revenue.ie
	Meath Audit/Compliance	Block D Ashtown Gate Navan Road Dublin 15	01 - 827 7000	01 - 827 7480	meath@revenue.ie

Other Revenue Contact Points

Large Cases Division	Business Units	Address	Telephone	Fax	E-mail
	Food	Francis Street Sarsfield House Limerick	061 - 488 400	061 - 401 011	lccfoodindustry@revenue.ie
	All other units	Seintia Centre Nassau Street Dublin 2	01 - 647 0710	01 - 671 6668	largecasesdiv@revenue.ie
	VAT Repayments (registered) (re VAT repayments to persons who are registered for VAT)	Accountant General's Branch, River House, Charlotte's Quay, Limerick	061 212700 Lo-Call: 1890 25 26 25	065 - 684 1366	regvat@revenue.ie
	VAT Repayments (unregistered) (re VAT repayments to persons who are not registered for VAT)	Government Offices, Kilrush Road, Ennis, Co. Clare	065 - 684 9000	065 - 684 9248	unregvat@revenue.ie