Petrol Retailers: Payments Received Under "Exclusivity" Agreements

Part 04-01-14

This document should be read in conjunction with Chapter 1 of Part 4 of the Taxes Consolidation Act 1997

Document last reviewed July 2021

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

Executive Summary

This manual outlines how sums received by petrol retailers from petrol distributing companies under "exclusivity" agreements should be dealt with.

1. Annual contributions towards revenue expenditure

Where the agreement provides for annual contributions towards revenue expenditure by the retailer each annual contribution should be treated as a trading receipt in the retailer's hands whether or not they obtain a lump sum receipt e.g. by way of a loan or advance in respect of the annual contributions.

2. Stated lump sum payment for a specified capital purpose

A sum received by a petrol retailer under an "exclusivity" agreement which provides that a stated lump sum payment is to be made to him, and the payment is for a specified capital purpose and covers the whole period of the tie, it should be treated as a capital receipt in the retailer's hands, whether or not a proportionate part of the lump sum receipt is to be refunded if the agreement does not run its full course.

3. Annual contribution towards specified revenue outlay

Where an "exclusivity" agreement provides for payment of an annual sum (even though the retailer may obtain a lump sum receipt e.g. by way of loan or advance) as a contribution towards specified revenue outlay, or towards other items to be mutually agreed between the parties which, in the event, prove to be revenue outlay, such annual sum should be treated as a trading receipt in the hands of the retailer, to the extent that the allowance was made towards such revenue outlay. The balance of the annual sum should be treated as a capital receipt provided that it is not calculated as a rebate on purchases.

Periodically credits under a tie or "exclusivity" agreement made to a retailer during the continuance of the tie and in extinguishment of a loan or advance should be dealt with in the same manner i.e. they should be treated as capital receipts to the extent to which the loan or advance was made towards capital expenditure, again provided that the periodical credits are not calculated as rebates on purchases.

4. Agreement replaced before its term runs out

It frequently happens that a tie or “exclusivity” agreement is replaced by a later agreement before its term is run out, and in such a case the whole of the payments provided by the earlier agreement will not be made or, if made, as in the case of a lump sum payment or advance, may be repayable in part by the retailer. In that event the instructions in 1, 2 and 3 above should be applied, as appropriate, to the payments actually retained under the successive agreements and not to the amounts originally provided for.

In particular, if an agreement provides for straight rebates on gallonage, care should be taken to see that the gross rebates are brought in as trading receipts of the period for which they are due, including any part used to repay amounts overdrawn under earlier agreements.

5. Cases not already covered

Any case which is not covered by the foregoing should be submitted to Revenue Technical Services see Tax and Duty Manual [1] before being set down for hearing by the Appeal Commissioners.

[1] Tax and Duty Manual 37-00-00a