

## National Co-op Farm Relief Service Operators

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## 1 Introduction

The National Co-op Farm Relief Services (FRS) provide a wide range of services, primarily to the farming community. The tax treatment of these services varies depending on the nature of the engagement.

The following sets out the tax treatment that applies in different scenarios.

## 2 Operators who provide labour only

For taxation purposes, these operators are employees and are within the PAYE system of tax deduction.

When determining the applicable PRSI class of a labour only operator, consideration must be given to the nature of the engagement. The Code of Practice on Determining Employment Status (the Code) which was updated in 2021 by an interdepartmental working group comprising the Department of Social Protection, Revenue and the Workplace Relations Commission (WRC), provides guidance in this regard.

Following the Supreme Court judgement in the Karshan (Midlands) Ltd t/a Domino's Pizza case [2023] IESC 24, the Code is currently being updated. Revenue are working with colleagues in the Department of Social Protection and the Workplace Relations Commission to update the content in the Code to reflect the judgement, which is available on the Court Service [website](#).

Following the issuing of the judgement, Revenue issued a press release, which is available on the Revenue [website](#). Separately to the updating of the Code, Revenue will shortly issue guidelines on the judgement and its impact on the employment status of individuals for tax purposes.

The PRSI Class applied to the engagement is always subject to the individual operator's right to seek a decision from the Scope Section of the Department of Social Protection regarding his or her insurability status. The Department of Social Protection may also investigate the class of PRSI applied to any individual worker.

On 1 January 2003, an arrangement was put in place whereby Class S PRSI could initially be returned for such workers. However, labour only operators were subject to Class A PRSI if they worked for the same farm for 12 months or more. An individual worker could at any time seek a decision from the Department of Social Protection in relation to the appropriate class of PRSI payable on their behalf.

Clarifications in the area of employment status since then, which are reflected in the Code of Practice on Determining Employment Status, mean that the duration of an engagement should not be the sole factor in determining employment status. The insurability of all operators should be determined on the basis of the specific terms

and conditions of the engagement and the application of the Code to these terms and conditions.

### 3 Operators who provide equipment only

Operators who provide equipment only are entitled to payment for the hire of equipment gross (without deduction of PAYE/PRSI/USC). Payment is made gross to the operator by the FRS office on receipt of an invoice for the hire cost. The normal rules apply in relation to returning these payments on Form 46G annually. Invoices relating to the hire costs must be retained by the appropriate FRS office and may be examined in the event of an audit. These records must be kept for six years.

### 4 Operators who provide equipment in addition to labour

#### 4.1 VAT registered operators

Where an operator is VAT registered, the issue of whether that operator is a self-employed contractor needs to be considered. Where the operator is genuinely a self-employed contractor i.e. is engaged on a bona fide contract for services, payment of the entire sum due will be made by the appropriate FRS office, without PAYE/PRSI/USC deductions, on production of an invoice. The invoice must show the operator's VAT number and the VAT due in respect of the transaction. The normal rules apply in relation to returning these payments on Form 46G annually.

#### 4.2 Operators not registered for VAT

In these cases, the entire payment is subject to PAYE/PRSI/USC deductions. Operators may contact their local Revenue office to claim expenses in relation to the equipment provided, if they so wish. Credit for these expenses may, as appropriate, be incorporated in the notice of determination of tax credits and standard rate cut off point issued.

### 5 Expenses

In the case of operators who provide labour only, it is Revenue's view that a contract of service exists, i.e. that they are employees. In the case of travel expenses, they are allowable only where an operator is **necessarily** obliged to incur such expenses "**in the performance**" of his or her employment duties. Expenses incurred in travel to and from work are not allowable.