

## Farmers & Intra-EU Transactions

This document should be read in conjunction with sections 75 and 86A of the VAT Consolidation Act 2010 (VATCA 2010)

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## 1. Introduction

This document sets out the VAT arrangements that apply to intra-EU transactions involving farmers.

## 2. Definition of farmer for VAT purposes

For VAT purposes a farmer means a person who engages in at least one of the agricultural production activities in the State listed in appendix 1 and whose supplies consist exclusively of either or both

1. agricultural produce (other than bovine semen and nursery stock - see appendix 1), or
2. agricultural services (other than agricultural contracting services - see appendix 2), or

whose supplies consist exclusively of either or both agricultural produce (but see (a) above) and/or agricultural services (but see (b) above) and of one or more of the following:-

- machinery, plant or equipment which s/he has used for his/her farming activity;
- racehorse training services for which the annual turnover does not exceed and is not likely to exceed €37,500;
- goods, other than those referred to above, for which the annual turnover does not exceed and is not likely to exceed €75,000 or services, other than those referred to above, for which the annual turnover does not exceed and is not likely to exceed €37,500.

In brief therefore, a person who engages in agricultural production, and whose turnover from non-agricultural activities does not exceed the appropriate annual threshold, is a flat-rate farmer i.e. a farmer who is not obliged to register for VAT in respect of his/her farming activities.

## 3. Obligation to register

A farmer is obliged to register where:-

1. his/her annual turnover from agricultural contracting activities other than insemination services, stock minding and stock rearing exceeds or is likely to exceed €37,500.
2. his/her annual turnover from sales of bovine semen other than to other farmers licensed as an A.I. centre or supplies to a person over whom the farmer exercises control, exceeds or is likely to exceed €75,000.
3. his/her annual turnover from retail sales of horticultural products exceeds or is likely to exceed €75,000.
4. his/her annual turnover from supplies of agricultural services, other than insemination services, stock minding or rearing, and either or both bovine semen or nursery stock exceeds or is likely to exceed €37,500.

5. s/he is in receipt of services which are taxable where received (New Intra-Community VAT Rules on Place of Supply For Services).
6. his/her annual turnover from sales of bovine semen and retail sales of nursery stock exceeds or is likely to exceed €75,000.
7. his/her annual turnover from intra-Community acquisitions exceeds or is likely to exceed €41,000.
8. his/her annual turnover from taxable goods or services, other than any exclusions mentioned above exceeds or is likely to exceed the appropriate thresholds.

## 4. Option to register

A farmer who is not obliged to register may elect to do so.

If a farmer is obliged to register under paragraph 3.5 or 3.7 above such registration is effectively 'ring fenced' to the intra-Community acquisitions or services which are taxable where received (New Intra-Community VAT Rules on Place of Supply For Services). S/he is not obliged to register in respect of his/her farming activities.

Where s/he registers in respect of racehorse training this registration may also be isolated and s/he is not required to register in respect of his/her farming activities. In general Revenue will accept that where a racehorse trainer is also a farmer, that the training element is only 10 per cent of the total turnover.

## 5. Flat-rate farmers

A flat-rate farmer is a farmer who is not registered for VAT in respect of his/her farming activities. In order to compensate for VAT paid on supplies to him/her, such a farmer is entitled to a flat-rate addition (at present 5.2%) to the prices at which his/her agricultural produce or agricultural services are supplied to VAT-registered persons including marts, agricultural co-operatives and meat factories. A flat-rate farmer is also entitled to reclaim VAT incurred in respect of the construction, extension, alteration or reconstruction of farm buildings, and land drainage, from the VAT Repayment (Unregistered) Section.

Flat-rate farmers have no Irish VAT liability in respect of purchases of goods in other Member States provided the €41,000 threshold is not exceeded. Instead, VAT is charged in the Member State of purchase at the rate applicable there. **Farmers who exceed the acquisitions threshold** are liable to Irish VAT regardless of whether or not they have paid VAT in the Member State of purchase. Therefore, to avoid double taxation, farmers whose purchases in other Member States exceed or are likely to exceed €41,000 per annum must register and account for VAT here.

## 6. Sales of agricultural produce by flat-rate farmers to persons who are registered for VAT in other Member States

The flat-rate addition which applies to supplies of agricultural produce within the State also applies to supplies made to VAT-registered traders in other Member States.

The VAT-registered person in the other Member State who buys the goods should, in order to obtain a refund of the flat-rate addition, be in possession of an invoice showing separately the purchase price of the goods and the flat-rate addition. This invoice, which is normally prepared by the purchaser, must be signed by the flat-rate farmer who must retain a copy of the invoice. A flat-rate farmer who is registered in respect of intra-Community acquisitions and/or because of services which are taxable where received (New Intra-Community VAT Rules on Place of Supply For Services)(see paragraph 4.2) should treat such sales in the same way and should not include his/her VAT number on the invoice. The purchaser of the goods in the other Member State may reclaim the flat-rate addition. See Repayments to Unregistered Persons for procedures for claiming repayment.

## **7. 'Distance sales'**

Special rules apply in the case of 'distance sales'. Distance sales are where a supplier in one EU Member State sells goods to a person in another Member State who is not an accountable person for VAT and the supplier is responsible for the delivery of the goods. Farmers should be aware of these rules because the practical effect is that they may have to register for VAT in another Member State.

Briefly, the position is that a flat-rate farmer who makes distance sales in excess of an annual threshold to another Member State is obliged to register for and charge VAT in that other Member State. Under EU VAT arrangements, Member States are required to adopt a distance sales threshold of either €35,000 (or the equivalent in national currency) or €100,000 (or equivalent). Farmers should contact the tax authorities in the other EU Member States to establish the appropriate limit there.

## **8. Purchases by flat-rate farmers of goods from other Member States**

A flat-rate farmer who is obliged to register for and pay VAT in respect of intra-Community acquisitions (and certain services received from abroad, if any - see paragraph 9) can, (unless s/he elects to be accountable in respect of all his/her activities) retain flat-rate farmer status in all other respects. Even if his/her acquisitions do not exceed the €41,000 threshold a farmer may opt to register in respect of intra-Community acquisitions (see paragraph 4.2).

A flat-rate farmer who is registered in respect of intra-Community acquisitions may purchase goods in other Member States free of VAT, subject to the normal Single Market rules, by quoting his/her VAT number to the supplier. The farmer is obliged to pay Irish VAT on such acquisitions through the periodic VAT return. A farmer registered in this way will not have any entitlement to recovery of VAT paid (but see paragraphs 5.1 and 10).

## **9. Services (including Intra-Community goods transport) received from abroad**

A flat-rate farmer receiving services (including Intra-Community goods transport) which are taxable where received is also required to register for VAT in respect of these services regardless of their cost to him/her. See New Intra-Community VAT Rules on Place of Supply for Services. There is no threshold in respect of such services. The requirement to register in respect of such services does not affect the farmer's flat-rate status but it does make him/her liable to VAT in respect of intra-Community acquisitions of goods, even if the €41,000 threshold is not exceeded (see paragraphs 8.1 and 8.2).

## **10. Refunds on farm building work, etc.**

Under an existing Refund Order, a flat-rate farmer may recover the VAT paid by him/her in respect of farm buildings and structures and land drainage by completing claim form VAT 58 and returning it, with the supporting invoices, to VAT Repayments Section (see contact details in paragraph 6.2). Where a flat-rate farmer is registered for VAT in respect of intra-Community acquisitions and/or certain services received from abroad (see paragraphs 8 and 9) s/he is still entitled to a refund under the Order. However this refund must be claimed as a deduction through periodic VAT returns and not by means of the VAT 58 form.

## **11. Livestock brought into the State from another Member State**

Temporary importation schemes apply in relation to imports from non-Community countries but livestock brought into the State from other Member States are normally treated as intra-Community acquisitions which are liable to VAT in the State once the threshold is exceeded (see paragraphs 8 and 9). This will not be the case, however, in the circumstances set out in paragraph 11.2.

Where livestock are brought into the State from another Member State for the purpose of having a service or treatment carried out on them (e.g. veterinary services) an intra-Community acquisition does not arise. Instead the service is liable to Irish VAT. In addition, an intra-Community acquisition does not arise in relation to livestock brought into the State where the livestock would qualify for temporary importation without payment of VAT if they were imported into the State from outside the EU. This normally means that transfer of ownership does not take place and that the livestock remain in the State for less than two years.

## **12. Livestock sent from the State temporarily to another Member State**

The principles set down in paragraphs 11.1 and 11.2 apply in reverse with regard to livestock sent temporarily from the State to another Member State. In the case of such temporary transfers, the person who dispatches the livestock from the State must maintain

a record showing details of the goods and the name, address and VAT number (if any) of the person to whom they are sent.

### 13. New means of transport

There are special rules concerning the intra-Community acquisition of new means of transport. The person acquiring the new means of transport must always account for VAT in the Member State of destination of the goods.

Definitions of 'new means of transport' for VAT purposes.

Means of Transport	Specification	Definition
Motor Vehicle	over 48 cc or over 7.2. kw power	6 months old or less, or travelled 6,000 km or less
Boat	over 7.5 metres in length	3 months old or less, or sailed for 100 hrs. or less
Aircraft	over 1,550 kg take-off weight	3 months old or less, or flown for 40 hrs. or less

If a flat-rate farmer acquires a new motor vehicle in another Member State, VAT must be paid on this vehicle at the time of its registration in the State. In the case of intra-Community acquisitions of new boats and aircraft, the VAT due must be paid to the local Collector of Customs & Excise on arrival of the boat or aircraft in the State. However, the acquisition of a new means of transport will not affect the flat-rate status of the farmer and the value of the new means of transport will not be included in the value of intra-Community acquisitions for the purpose of determining whether a farmer is required to register for VAT in respect of those acquisitions.

Agricultural plant and machinery, including tractors, are not regarded as a new means of transport for VAT purposes and are taxed under the normal rules for intra-Community transactions i.e. acquisitions of plant and machinery are treated as intra-Community acquisitions for the purpose of determining whether a farmer must register (see paragraph 8).

## Appendix 1

Article 295 and Annex VII of Council Directive No. 2006/112/EC of 28 November 2006 - List of agricultural production activities

- **Crop Production**

1. General agriculture, including viticulture.
2. Growing of fruit (including olives) and of vegetables, flowers and ornamental plants, both in the open and under glass.
3. Production of mushrooms, spices, seeds and propagating materials; nurseries.

- **Stock Farming together with Cultivation**

1. General stock farming
2. Poultry farming
3. Rabbit farming
4. Beekeeping
5. Silkworm farming
6. Snail farming

- **Forestry**

- **Fisheries**

1. Fresh-water fishing
2. Fish farming
3. Breeding of mussels, oysters and other molluscs and crustaceans
4. Frog farming

Where a farmer, processes, using means normally employed in an agricultural, forestry or fisheries undertaking, products deriving essentially from his agricultural production, such processing shall also be regarded as agricultural production.

## Appendix 2

Article 295 and Annex VIII of Council Directive No. 2006/112/EC of 28 November 2006 - list of agricultural services

Supplies of agricultural services which normally play a part in agricultural production shall be considered the supply of agricultural services, and include the following in particular:

- field work, reaping and mowing, threshing, baling, collecting, harvesting, sowing and planting.
- packing and preparation for market, for example drying, cleaning, grinding, disinfecting and ensilage of agricultural products.
- storage of agricultural products.
- stock minding, rearing and fattening.
- hiring out, for agricultural purposes, of equipment normally used in agricultural, forestry or fisheries undertakings.
- technical assistance.
- destruction of weeds and pests, dusting and spraying crops and land.
- operation of irrigation and drainage equipment.
- lopping, tree felling and other forestry services.