

FINANCE ACT 2016

VALUE-ADDED TAX

NOTES FOR GUIDANCE

Issued by VAT Policy and Legislation Branch, 28 December 2016

45. Interpretation (Part 3)

This section defines the Principal Act as the Value-Added Tax Consolidation Act 2010 for the purposes of Part 3 of the Act. This is a conventional provision in Finance Acts. It allows abbreviated terms to be used for references to previous legislation and thus facilitates drafting and subsequent reading of the legislation. For example, the term “Principal Act” used in Part 3 of this Act refers to the Value-Added Tax Consolidation Act 2010.

46. Amendment of section 61 of the VAT Consolidation Act (apportionment for dual-use inputs)

Summary

This section amends section 61 of the VAT Consolidation Act in order to align the provisions in relation to apportionment of deductibility of dual-use inputs more closely with the VAT Directive.

Details

Paragraphs (a) and (b) amend section 61(4), (5) and (6) of the VAT Consolidation Act. The amendments provide that the turnover method is the primary method of apportionment but, where that does not correctly reflect the taxable use of dual-use inputs or have due regard to the range of the person’s activities, an alternative method of apportionment must be used.

In practice, the turnover method is the usual method applied for apportionment of dual-use inputs as, for most businesses, that method correctly reflects the extent of the use of the inputs for taxable and non-taxable activities. Where the turnover method does not correctly reflect use of those inputs or have due regard to the range of the activities of the business, that method must not be used and any alternative method which does so must be applied. This will continue to be the case following the amendment of this section in order to align it to the VAT Directive. The requirements in regulations relating to an annual review of the estimated apportionment and adjustment of the deductible amount, where necessary, will also continue to apply.

Commencement

This section has effect from the date of passing of the Finance Act (25 December 2016).

47. Flat-rate scheme for farmers

Summary

This section amends section 86 of, and inserts a new section 86A into, the VAT Consolidation Act.

Section 86 provides for special provisions for tax invoiced by flat-rate farmers. The amendment confirms the Budget increase in the farmers’ flat-rate addition from 5.2% to 5.4%.

The new section 86A provides for the restriction of the flat-rate addition. It is an enabling provision which gives the Minister for Finance the power to make an order

to provide that the flat-rate addition payment is not applicable in respect of specified agricultural activities in certain circumstances.

Consequential amendments are made to sections 68 and 115.

Details

Increase in the farmers' flat-rate addition

The flat-rate scheme is a simplified and practical method of applying VAT to farming. It compensates unregistered farmers, on an overall basis, for the VAT charged to them on their purchases of goods and services. The scheme reduces administrative burdens as it provides that such farmers can remain outside the normal VAT system thereby avoiding the obligations of registration and returns. The flat-rate scheme sets out a percentage amount, known as the flat-rate addition, which unregistered farmers apply to their prices when selling to VAT-registered businesses (co-ops, meat factories, etc.). The VAT-registered business treats the flat-rate amount as a normal business input in its periodic VAT return.

From 1 January 2017, the flat-rate addition paid to unregistered farmers is increased to 5.4%.

Livestock rate

The livestock rate, which is the VAT rate charged by VAT-registered farmers and other businesses on the supply of livestock remains unchanged at 4.8%.

Restriction of flat-rate addition

The new section 86A provides the Minister with the power to make an order excluding particular agricultural goods or agricultural services, as specified in that order, from the flat-rate addition scheme. The power can be exercised where Revenue has carried out a review and the Minister is satisfied that, because of the business structures, contractual arrangements or models in place in a particular sector, the application of the flat-rate addition within that sector has resulted in, and would otherwise continue to result in, systematic over compensation of flat-rate farmers in the sector.

Implications of an order made under section 86A

Where such an order is in force, an invoice, settlement voucher or other document showing the flat-rate addition cannot be issued by or on behalf of a flat-rate farmer in respect of supplies of agricultural activities specified in the order. A flat-rate farmer who is supplying produce or services of a kind specified in an order and is also supplying other agricultural produce or services not specified in an order will continue to be entitled to receive the flat-rate addition in respect of the produce or services not specified in the order.

Any farmer who is no longer entitled to receive the flat-rate addition can elect to register for VAT in order to recover VAT on their inputs. A farmer who elects to register for VAT is obliged to account for VAT on taxable supplies at the appropriate VAT rate.

A person who issues an invoice or other document indicating a flat-rate addition amount in respect of supplies of goods or services covered by an order made under section 86A will be liable to a penalty of €4,000.

The restriction of the flat-rate addition payments will have no impact on a flat-rate farmer's entitlements to recover VAT paid in respect of expenditure on items such as farm buildings and structures, including qualifying equipment for the purposes of micro-generation of electricity, and land drainage under the Value-Added Tax (Refund of Tax) (Flat-rate Farmers) Order 2012. However, if a farmer elects to

register for VAT, recovery of VAT incurred on such expenditure would be claimed through the VAT return under normal VAT rules and not by way of the refund order.

Details of amendments made by section 47 of the Finance Act 2016

Subsection 1(a) inserts a new subsection (6) into section 68 of the VAT Consolidation Act which provides that an invoice, settlement voucher or other document showing the flat-rate addition cannot be issued by or on behalf of a flat-rate farmer in respect of supplies of agricultural produce or services specified in an order made under section 86A.

Subsection 1(b) amends subsections (1) and (2) of section 86 of the VAT Consolidation Act. It also inserts a new subsection (1A).

The amendment to subsection (1) provides for the increase in the farmers' flat-rate addition from 5.2% to 5.4%. Subsection (1A) provides that the issue of an invoice by a flat-rate farmer can only apply in respect of agricultural produce or an agricultural service of a kind not specified in an order made under section 86A.

The amendment to subsection (2) provides that a flat-rate farmer is not entitled to payment of the flat-rate addition in respect of the supply of agricultural produce or an agricultural service which is the subject of an order made under section 86A.

Subsection 1(c) inserts a new section 86A into the VAT Consolidation Act, which deals with restriction of flat-rate addition. Section 86A gives the Minister power to make an order to exclude particular agricultural produce or agricultural services, as specified in that order, from the flat-rate addition scheme.

Subsection 1(d) inserts a new subsection (3A) into section 115 of the VAT Consolidation Act which provides for a penalty of €4,000 where an invoice or other document is issued showing the flat-rate addition in respect of supplies of agricultural produce or services of a kind specified in an order made under section 86A.

Subsection 2 provides the effective implementation date.

Commencement

This section has effect from 1 January 2017.