



STATUTORY INSTRUMENTS.

S.I. No. 201 of 2012



VALUE-ADDED TAX (REFUND OF TAX) (FLAT-RATE FARMERS)
ORDER 2012

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I, MICHAEL NOONAN, Minister for Finance, in exercise of the powers conferred on me by section 103 (as amended by section 85(e) of the Finance Act 2012 (No. 9 of 2012)) of the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010), and having regard to the purposes of subsection (2A) of that section, hereby order as follows:

1. This Order may be cited as the Value-Added Tax (Refund of Tax) (Flat-rate Farmers) Order 2012.

2. In this Order—

“Act” means Value-Added Tax Consolidation Act 2010 (No. 31 of 2010);

“flat-rate farmer” has the meaning assigned to it by section 2 of the Act;

“qualifying equipment” means equipment comprising of—

- (a) a wind turbine system,
- (b) a photo-voltaic system, or
- (c) equipment ancillary to the systems referred to in paragraphs (a) and (b) required for storage of electricity or connection to the grid,

where the equipment—

- (i) is named on the Triple E Product Register, and
- (ii) the tax in relation to outlay on that equipment is incurred by the qualifying person on or after 1 January 2012;

“qualifying person” means a flat-rate farmer who has incurred tax in relation to outlay on—

- (a) the construction, extension, alteration or reconstruction of any building or structure which is designed for use solely or mainly in his or her farming business,
- (b) the fencing, drainage or reclamation of any land intended for use for the purposes of his or her farming business, or

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 15th June, 2012.*

- (c) the construction, erection or installation of qualifying equipment for the purpose of micro-generation of electricity for use solely or mainly in his or her farming business,

where such building, structure, land or qualifying equipment is for use in that farming business for a period of not less than one year commencing on the date the tax was incurred;

“registered person” means a flat-rate farmer who is an accountable person referred to in sections 9(4) and 12(3) of the Act and who is included on the register of accountable persons maintained by the Revenue Commissioners pursuant to section 65 of the Act;

“structure” includes a farmyard, a farm road and a concrete path adjacent to farm buildings;

“tax incurred” means—

- (a) tax charged by means of an invoice issued by an accountable person in accordance with section 66(1) of the Act,
- (b) tax chargeable for which the qualifying person is liable in respect of intra-Community acquisitions of goods, or
- (c) tax paid by the qualifying person in respect of the importation of goods;

“Triple E Product Register” means the public database maintained by the Sustainable Energy Authority of Ireland containing a list of products which comply with the energy efficiency criteria of that Authority;

“unregistered person” means a flat-rate farmer other than a registered person.

3. An unregistered person who establishes to the satisfaction of the Revenue Commissioners that he or she is a qualifying person, and who fulfils the conditions specified in Article 4, shall be entitled to be repaid the tax specified in Article 7.

4. The conditions to be fulfilled by an unregistered person are as follows:

- (a) he or she shall claim a repayment of the tax by completing such claim form as may be provided for that purpose by the Revenue Commissioners and certify the particulars shown on such claim form to be correct;
- (b) he or she shall produce—
 - (i) the invoices or other documents, issued or given to him or her for the purposes of Chapter 2 of Part 9 of the Act, or
 - (ii) the receipts for tax paid on goods imported,

showing the tax incurred by him or her which is the subject of the refund claim;

- (c) if requested to do so by the Revenue Commissioners, he or she shall produce the plans, specifications or other documentary evidence in relation to—
 - (i) the construction, extension, alteration or reconstruction of a building or structure which is designed for use solely or mainly for the purposes of his or her farming business,
 - (ii) the fencing, drainage or reclamation of any land intended for use for the purposes of his or her farming business, or
 - (iii) the construction, erection or installation of qualifying equipment for the purpose of micro-generation of electricity for use solely or mainly in his or her farming business,

in respect of which the claim for a refund of tax is being made;

and

- (d) he or she shall have complied with all the obligations imposed on him or her by the Act, the Income Tax Acts, the Corporation Tax Acts or the Capital Gains Tax Act, and any instruments made thereunder, in relation to—
 - (i) the payment or remittance of the taxes, interest and penalties required to be paid or remitted thereunder, and
 - (ii) the delivery of returns.

5. A registered person who is a qualifying person shall, subject to the conditions specified in Article 6, be entitled to reclaim the tax specified in Article 7 as if such tax were deductible tax under Chapter 1 of Part 8 of the Act, but such tax shall be deemed to have been refunded for the purposes of Article 9.

6. The conditions to be fulfilled by a registered person are as follows:

- (a) he or she shall reclaim the tax in the return which he or she is obliged to furnish in accordance with sections 76 and 77 of the Act and he or she shall certify the particulars shown on the relevant return form to be correct;
- (b) he or she shall retain all the documents referred to in Article 4(b) and (c) relevant to his or her claim as if they were records to be kept in accordance with Chapter 7 of Part 9 of the Act; and
- (c) he or she shall have complied with all the obligations imposed on him or her by the Act, the Income Tax Acts, the Corporation Tax Acts

or the Capital Gains Tax Act, and any instruments made thereunder, in relation to—

- (i) the payment or remittance of the taxes, interest and penalties required to be paid or remitted thereunder, and
- (ii) the delivery of returns.

7. The amount of tax to be repaid in accordance with Article 3 or reclaimed in accordance with Article 5 shall, subject to Article 8, be the tax incurred which the qualifying person shows to the satisfaction of the Revenue Commissioners to be referable solely to outlay which relates to—

- (a) the construction, extension, alteration or reconstruction of that part of the building or structure which was designed solely for the purposes of a farming business and has actually been put to use in such a business carried on by him or her,
- (b) the fencing, drainage or reclamation of any land which has actually been put to use in such a business carried on by him or her, or
- (c) the construction, erection or installation of qualifying equipment for the purpose of micro-generation of electricity for use solely or mainly in his or her farming business.

8. A claim for repayment of tax under Article 4(a) shall be made only in respect of outlay involving a total amount of tax of more than €125.

9. (1) In this Article—

“review period” means a period of one year commencing on the date on which the tax referred to in Article 7 was incurred;

“review date” means the 28th day following the last day of the review period.

(2) A person who receives a refund of tax under this order shall, after the review period but on or before the review date, carry out a review to establish whether conditions in the order relating to entitlement to a refund have been met and where that person has, during the review period—

- (a) disposed of the building or structure, or the land or the qualifying equipment referred to in Article 7, or
- (b) used the building or structure or the land or the qualifying equipment referred to in Article 7 mainly for purposes other than a farming business,

he or she shall be liable to repay to the Revenue Commissioners the amount of the tax which was refunded and to pay interest due in accordance with section 114A (inserted by section 92 of the Finance Act 2012) of the Act.

10. A person who is liable to repay an amount of tax, and to pay interest on that amount, in accordance with Article 9 shall not be liable to the penalty provided in section 115(7B) (inserted by section 93 of the Finance Act 2012) of the Act where the full amount of the tax and interest is paid to the Revenue Commissioners on or before the 28th day following the review date.

11. The Value-Added Tax (Refund of Tax) (No. 25) Order 1993 (S.I. No. 266 of 1993) is revoked.



GIVEN under my Official Seal,
12 June 2012.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Statutory Instrument and does not purport to be a legal interpretation.)

This Order replaces S.I. No. 266 of 1993. It retains the scheme provided for in that Order for the refund of VAT paid by farmers on the construction of farm buildings, fencing, drainage and reclamation of farmland. It further provides for the refund of VAT paid by farmers on qualifying equipment, purchased from 1 January 2012, for the purposes of micro-generation of electricity for use in a farm business. It also provides for the repayment of the VAT refunded under the order where conditions of the order have not been fulfilled and for interest and a penalty to apply in certain circumstances.

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