

IFA Submission to the Revenue Commissioner on refund of VAT expenditure on capital items by unregistered farmers via VAT 58 form

Submitted in February 2024

IFA refer to our meeting of January 23rd with representative from the Revenue Commissioners on the non-registered farmer VAT refund issue. First, I wish to note as you outlined at that meeting that drafting gates, new installations of milking parlours, automatic (hydraulic) scraping systems, first installations of bulk milk tanks and meal bins connected to feeding systems are all fully VAT refundable.

As outlined at the meeting, IFA are of the position that there are other items which are integral to the functioning of farm buildings and structures that should also be refundable.

The following items were mentioned at the meeting:

- Bulk milk tanks
- Automatic calf feeders
- Meal bins
- Cubicle and slat mats

As agreed, IFA are now making the following submission as to their inclusion for a refund to non-registered farmers, we include pictures to show that they are an integral part of the building's structure. Subsequent to the meeting we have been made aware of issues relating to the refund of VAT for the installation of water systems and water troughs. This is also covered in this submission.

Milk Bulk Tank

The milk bulk tank is a necessary piece of equipment for a dairy enterprise. A building which is named the "dairy" is specially designed to accommodate the bulk tank. The tank itself cannot be easily removed and has a life span of 20 plus years. While the bulk tank is equipment in nature, the tank is permanently fixed in place within the building it is housed in. Considerable time, effort and expense would be involved removing it. The tank would only be disassembled and separated from the building once its useful life has ended. In most instances due to the tank size once installed a concrete wall will be erected with an access door. To remove the tank either the wall will need to be knocked or the roof removed.



Installation of bulk milk tank prior to roofing of dairy



Bulk milk tank in dairy, cannot be removed without knocking wall or removing roof.

Paragraph 89 of Explanatory notes on EU VAT place of supply rules on services connected with immovable property that enter into force in 2017 (Article 13b explanatory note) states: *“Therefore, to be considered as immovable property, what needs to be checked is whether in the absence of those elements (i.e. if they were to be removed) the nature of the building or construction would in itself be changed in a way that it could not be used according to the function it was designed for.”*

and

Article 94 states *Therefore, a suitable test would be the following: an item installed in a building or construction would be considered as making up an integral part of the building or construction when it contributes to making the building or construction complete according to the features ordinarily associated with a building or construction and according to the function to be given to that building or construction.”*

Without the bulk milk tank, the dairy building would serve no purpose, so it is an integral part of the building and without it the building could not be used for the function it was built.

Further paragraph 105 of same explanatory notes states *“..items permanently installed’ in a building or construction do not necessarily imply that those items are attached to the building or construction by means of a tab, clip or any other type of link. An industrial machine which, by its characteristics (dimension, weight, and so on), is installed permanently in a plant could for example cause destruction to (part of) the plant when removed (for example if it were necessary to remove the roof, or to demolish a wall in order to extract the machine).”*

As stated above, in the majority of dairies the bulk tank is built into the building and to remove it would mean removing a wall or roof.

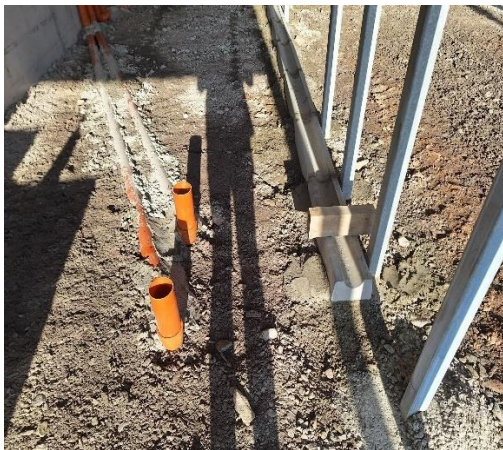
Automatic calf feeders

You will note from the pictures provided that calf feeders are plumbed and wired in place within the calf rearing shed. This is completed by specialized installers. The shed itself will be wired and plumbed to accommodate the use of the feeders. While the feeders can be unplumbed and removed, the shed itself is structurally adapted to accommodate the use of the feeds. The work involved in constructing/adapting the shed to accommodate the feeders is what transforms the shed into a calf rearing unit.

As outlined earlier, Paragraph 89 of Explanatory notes on EU VAT place of supply rules on services connected with immovable property that enter into force in 2017 (Article 13b explanatory note) states: *“Therefore, to be considered as immovable property, what needs to be checked is whether in the absence of those elements (i.e. if they were to be removed) the nature of the building or construction would in itself be changed in a way that it could not be used according to the function it was designed for.”*

The removal of the automatic calf feeders from a calf rearing unit designed for such would mean the building is not complete and would not serve the purpose it was designed for.

Further the removal of the feeder would require professionals to complete such a task as these are not only plumbed, wired and fixed in place but the technology that make up these units means a qualified technician would be required for such a task.



Works required to incorporate auto calf feeder into a building, video also shared with cover email.



Auto calf feeder in use

When we speak of automatic calf feeders it is a complex system fitted into a purposely designed building. This differs from other calf feeding equipment which are mobile and therefore ineligible for VAT refund such as the equipment outlined in the pictures below:



Meal bins

You will note from the pictures provided that meal bins are more akin to a structure as opposed to a piece of equipment. The bins are specially designed structures to allow for the ease of filling and storing meal for cattle. Historically, a building may have been constructed for this purpose. In recent times, these large storage units, which are installed by specialist installers, on custom-made foundations have replaced the need for a building to store meal.

The bins are fixed in place and once assembled, can only be moved by use of heavy machinery while incurring the risk of potential damage or destruction of the structure. The fact that a bin is connected to a feed system such as to an auger feeding into a milking parlour should not determine whether the VAT is reclaimable or not. The cost, size, construction, and professional expertise required to install a meal bin is the same, whether connected to a feeding system or not.



Installation of fixed meal bin, specialized truck required to ensure meal bin is not structurally damaged. If damaged in any way during installation, then it is no longer useful as will allow moisture to enter the storage vessel.

Cubicle and slat mats

Cubicle and slat mats are fixed in place, usually with screws and/or bolts. Once fixed in place they are difficult to remove and are only taken up once they have come to the end of their useful life (circa 10 plus years). The mats are fixed in place within the building and remain so until they are no longer useful. These mats form part of the structure of the facility they are installed in and are an integral part of making the building usable.

In addition to the paragraphs mentioned previously on the explanatory note around Article 13b paragraph 111 would also apply here “...whether the removal of the item would cause certain damage to the item itself can be an extra indicator, for instance if once removed, the item needs to be repaired, has no value or serves no purpose or not the same purpose anymore.” In most instances the removal of such mats happens at the end of their useful life so would hold no value for the purpose they were originally intended and only value they may retain if any is their scrap value.



Installation of slat mats



Cubicle mats installed



Slat mats in use



Cubicle mats in use

Water systems

Water systems are an integral part of land infrastructure where livestock are grazing. In many instances the installation of these systems is part of land reclamation that may also include the laying of new roadways and installation of new fences to stock proof and subdivide the land. The installation of a water system is a major undertaking and usually involves the laying of pipes by mechanical means. The pipes are usually buried underground to protect against damage from weather, machinery, and animals. In addition, large water troughs will be installed at intervals to provide water for drinking by the cattle. Once installed the removal of the pipe work is nearly impossible and the water troughs due to their size remain in place for their useful life; moving these troughs can result in breakage or cracks leading to water leakage.

Again, relevant paragraphs from the explanatory note on Article 13b mentioned above apply to water systems and water troughs, including paragraph 111, whereby even if it was possible to remove such a system the cost and damage would make it an unfeasible undertaking.



Installing water pipes on farm



Connecting water pipes to trough



Water trough on farm

Conclusion

IFA are satisfied that the above items should be eligible for Vat refund under the VAT 58 refund process. Bulk tanks, calf feeders, meal bins and livestock mats form part of the structural work of the building and are installed at significant expense by professional installers. In addition, the building within which they are installed needs to be structurally altered or designed to accommodate the items. Removal in most instances renders the building not fit for the purpose it was designed and

built for. Similarly, with the water system and troughs, removal is not a realistic option given the permanency of installation. Attempted removal would cost significantly more than the resale value would realise and the potential damage done would render the pipes and troughs unusable.

Accordingly, IFA firmly believes that non-VAT registered farmers should be entitled to reclaim VAT on these items under the VAT 58 system. We are available to meet to further discuss this issue prior to the publication of a detailed guidance note on this matter.

Yours Sincerely

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