

## Farmers and the taxation of certain farm payments

### Part 23-01-10

All Single Payment Scheme entitlements held by farmers expired on 31 December 2014. Under the revised Common Agricultural Policy 2014 – 2020, the Single Payment Scheme was replaced by the Basic Payment Scheme with effect from 1 January 2015.

This manual contains an extract from Tax Briefing 61 which deals with the tax treatment of transactions relating to the Single Payment Scheme for farmers prior to 1 January 2015. Please refer to separate [Part 23-01-35](#) for detail on the taxation implications of payments received under the Basic Payment Scheme with effect from 1 January 2015.

## Tax implications of the Single Payment Scheme

### Extract from Tax Briefing 61

#### 1.1 The Scheme

European Council Regulation 1782/2003 established a scheme under the Common Agricultural Policy to significantly amend the availability of Subsidies/ Direct Aid to farmers within the EU. The new scheme, known as the Single Payment Scheme, is a move away from subsidies based on production.

This article refers only to the main features of the scheme and their tax significance. Persons requiring a more in-depth knowledge of the scheme are referred to Regulation 1782/2003 which may be viewed on-line at <http://europa.eu.int> or to an Explanatory Guide issued by the Department of Agriculture, Fisheries & Food and available on that Department's website at [www.agriculture.gov.ie](http://www.agriculture.gov.ie).

References in this article to legislation are to the Taxes Consolidation Act, 1997, as amended, unless otherwise stated.

[Paragraphs 2.11, 3.7, 4.2, and 5.1 below reflect the position as amended by the *Sections 12, 70, 109, 118 Finance Act 2006*; this legislation is effective for the year 2005.]

#### 1.2 Subsidies Replaced

For years 2005 and onwards, the Single Payment Scheme replaces the subsidies set out below: -

- Arable Aid Scheme
- Seed Production Aid Scheme
- Special Beef Premium (1st & 2nd age)
- Special Beef Premium (Bulls)
- Suckler Cow Premium
- Ewe Premium
- Supplementary Ewe Premium (Rural World)
- Slaughter Premium
- Extensification Payments
- National Envelope Top-Ups (relating to Ewe Premium, Dry Heifer, Calved Heifer & Slaughtered Heifers)
- Dried Fodder Scheme is 50% decoupled from 1 January, 2005
- Dairy Premium is decoupled from 31 March, 2005.

Although other support schemes will continue (e.g. Disadvantaged areas, Installation Aid, Afforestation Premium and Rural Environment Protection Scheme), the Single Payment Scheme will be the main EU support for farmers from 2005 until, at least, 2012.

### **1.3 Annual in nature**

Each single payment covers a calendar year and will involve the Department of Agriculture & Food issuing a cheque to each eligible farmer as soon as possible after 1 December in that year. For example, cheques in respect of the year 2005 will be issued in December, 2005, although in cases where complications arise, the cheque may not issue until early the following year.

### **1.4 Payment Entitlement**

Before receiving a payment under the scheme, each farmer must establish a payment entitlement. In most cases, this involved farmers making an application to the Department of Agriculture & Food by 15 May, 2005. Upon proper application, payment entitlements were, in general, given to farmers who actively farmed during all or any of the three reference years 2000, 2001 and 2002 and who received livestock premia and/ or arable aid payments at that time.

### **1.5 Single Payment**

Having acquired a payment entitlement, a farmer becomes entitled to a single payment for each year if he or she complies with the terms of the scheme in respect of that year. Two significant sets of conditions must be complied with.

#### **1.5.1 The Eligibility Condition**

Each payment entitlement held by the farmer must be matched with an eligible hectare of land that is at the farmer's disposal for a minimum consecutive period of 10 months.

#### **1.5.2 The Cross- Compliance Conditions**

These include a range of Statutory Management Requirements (i.e. compliance with a range of EU Regulations) and compliance with Good Agricultural and Environmental Conditions as set by national Governments. They cover issues such as animal and plant health and welfare and good farming and environmental practices.

### **1.6 Inspections**

The Department of Agriculture & Food will carry out inspections to assess compliance with Eligibility and Cross-Compliance conditions. Farmers not in compliance could lose some or all of their single payment, normally by deduction from the payment for the year in question.

### **1.7 The term "Farmer"**

The EU definition of "farmer" allows persons to claim single payment even though they may not be engaged in the trade of "farming", as that term is defined for tax purposes. The [Appendix](#) to this article contains a comparative analysis of the terms "farming" and "farmer" as they apply for tax purposes and for the purposes of the single payment scheme respectively.

## Income Tax Issues

### 2.1 Receipt as Income

The single payment is liable to tax as income. It will be taxed under Schedule D, either Case I or Case IV, depending on circumstances.

### 2.2 Annual Payment

Each single payment is paid in respect of a full calendar year, but the earnings basis of accounting might require income to be recognised in years either prior to or following the year of receipt (see 2.15 & 2.16).

### 2.3 Basis of Accounting

For simplicity, however, Revenue will allow single payments to be accounted for on either of the following basis:

#### 2.3.1 Receipts Basis.

The single payment may be recognised as a receipt pertaining to the date the cheque is issued by the Department of Agriculture & Food.

**For example:**

If accounts are made up to September annually, the single payment for the year 2005, if paid on 20 December, 2005, will form a receipt of the year ended 30th September, 2006 (the 2006 tax year).

#### 2.3.2 Annual Basis.

The single payment may be recognised as a receipt accrued over the year (January to December) in respect of which it was paid.

**For example:**

Accounts are made up to 30 September annually. The single payment for the year 2005, regardless of when it is paid, will form a receipt 9/12 of which will fall into the year ended 30 September, 2005 (2005 tax year) and 3/12 of which will fall into the year 30 September, 2006 (2006 tax year).

Revenue will accept either the Receipts Basis or the Annual Basis, as outlined above, provided taxpayers apply the basis consistently, commencing in the year 2005 (or on commencement of farming) and there is no significant loss of revenue over that which would arise if the accounts were prepared on a full earnings basis. Where the use of the receipts basis would result in no single payment being recognised in a 12 month basis period (e.g. where the issue of the single payment cheque is delayed until after the year-end), the returns of that and subsequent periods may be submitted on the Annual Basis. Revenue reserves the right to carry out reviews if persons change the basis on which their accounts are prepared.

Where a farmer makes up accounts for a period in excess of 12 months, such that an apportionment is required to determine the profits of any year of assessment, single payment should not be apportioned in a manner inconsistent with that applied to other income.

## 2.4 Criteria for Payment

In general, persons will receive a single payment because they meet the criteria of

- Holding a payment entitlement; and
- Holding land (or animals in the rare cases of Special Condition Entitlements) in accordance with specified conditions (see Eligibility Conditions at 1.5.1 and Cross Compliance Conditions at 1.5.2).

## 2.5 A Receipt of Farming

The vast majority of recipients will meet these criteria due to being engaged in the trade of farming, as that term is understood for income tax purposes. Their single payment receipts will be taxed under Case I as receipts of the trade of farming.

## 2.6 Other Trades

Some persons may be engaged in other trading activities involving the holding of land in accordance with the specified conditions of the single payment scheme. If those persons hold payment entitlements and receive single payments, then those payments will be treated as trading receipts of the particular trade in relation to which the land is held e.g. dealers in animals.

## 2.7 Forestry

Although land under afforestation may continue to be used to meet obligatory setaside requirements and may even have given rise to the occupier receiving setaside entitlements, land under afforestation cannot be used to meet eligibility requirements and no single payment will be made by virtue of the occupation of such land. Accordingly, the question of exemption from income tax under Section 232 TCA 1997 does not arise in relation to the single payment.

## 2.8 Miscellaneous Income

There may be persons who will hold a payment entitlement and receive a single payment while not engaged in a trading activity. Unless the non-trading status is temporary or transitory (e.g. a farmer moving from one farm to another), such receipts will be taxed under Case IV as miscellaneous income. Indeed, a Case IV charge may arise in the case of a person carrying on a trade, if the receipt of the single payment does not arise from the trade.

## 2.9 Cessations of farming trade

The decoupling of single payments from production may result in more farmers altering their farming activity in response to market signals and conditions. Revenue will have regard to this when considering whether cessation provisions, with their reviews and revisions should be applied in cases of temporary cessations or transition between activities. Although each case will be treated on its own merits, the following indicators would support the view that a continuing basis of assessment should apply:-

- Agricultural market conditions have prompted a change in direction to another type of farming

- Steps have been taken or preparations made to engage in that alternative farming activity
- The appropriate farming assets e.g. plant and machinery, have been retained
- The farmer has decided to suspend a seasonal activity for one season due to poor market conditions.

In general, if the farm is put to a non-farm use or let out, farming activity will be taken to have ceased. Also, the absence of trade income or expenditure over the course of a full tax year will imply a cessation.

### **2.10 Exempt Activities**

The fact that a recipient of a single payment carries on a trade or activity, the profits or gains of which may otherwise be wholly or partly exempt from tax does not confer any exempt status on the single payment (e.g. Stallion services (Section 231 TCA 1997) or Greyhound services, (Section 233 TCA 1997)). The facts of each case will determine whether the single payment is treated as Case I trading income or Case IV miscellaneous income.

### **2.11 Income from Leasing Payment Entitlement**

Payment entitlements linked to the requirement to occupy land may only be leased from one person to another if the lease also transfers an interest in land.

In these circumstances, income received in respect of the land will be taxed under Case V, while income received in respect of the payment entitlement will be taxed under Case IV as miscellaneous income. Even if agreements between lessors and lessees do not apportion the amounts payable in respect of land and in respect of payment entitlement, the lessor will be obliged to identify the amount received for payment entitlement separately when making a tax return. The relief available to certain farmers under Section 664, which allows them to lease out farmland with certain income being exempt, was extended by Finance Act 2006 to cover income under qualifying leases relating to single payment for years 2005 and later.

Accordingly, there is no need to apportion receipts under such leases between amounts paid in respect of land and amounts paid in respect of payment entitlement.

Certain Special Condition Entitlements (e.g. those paid by reference to animals slaughtered rather than to land) may be leased without land. Income from such leasing will be assessable under Case IV.

### **2.12 Acquiring a Payment Entitlement**

The cost of acquiring a payment entitlement will not be allowed as a deduction for income tax purposes, being expenditure of a capital nature. Capital allowances are not available.

### **2.13 Interest on borrowings**

Where a single payment is treated as a Case I trading receipt, interest paid on a loan taken out on an arms length basis wholly and exclusively for the purpose of acquiring the payment entitlement that gave rise to that single payment will, in accordance with normal practice, be allowable as a trading expense.

### **2.14 Payment Entitlement treated as a Premium**

Where the terms of a lease require the payment of a premium to a lessor, a portion of the premium is treated as a receipt of rent and taxed under Section 98 TCA 1997 as Case V income.

Where the terms of a lease stipulate that a lessor is to receive payment entitlement in place of rent or for no consideration or at an undervalue, the payment entitlement may be treated as the payment of a premium for the purposes of Section 98 TCA 1997. That section contains a formula for calculating the portion of the premium to be taxed as Case V.

### **2.15 Eligibility Conditions & Accounting on an Earnings Basis**

To receive a single payment for any year, a person must match each payment entitlement with an eligible hectare of land at his or her disposal for a period of 10 consecutive months; the Eligibility Period. An eligibility period may commence any time between 1 September prior to the year of claim and 30 April within the year of claim. If a farmer does not select an eligibility period, the Department of Agriculture & Food will set his or her eligibility period as 1 February to 30 November. Although payment of the single payment will normally take place in December, in strictness, the payment is dependent on satisfying the eligibility conditions over a full 10 month period which may not have expired by December.

From an accounting perspective, it can be argued that accounting on an earnings basis requires that the single payment should not be recognised in the profit and loss account until the conditions for its receipt have been complied with. Taking this view would require that:

- If the accounts year ends within and prior to the end of a 10 month eligibility period, any single payment received within the accounts year by reference to that eligibility period should be carried forward in the balance sheet as deferred income/ creditor.
- If a 10 month eligibility period ends within the accounts year, the single payment should be recognised in the profit and loss account, bearing in mind the calendar year period in respect of which the single payment is paid.

The examples at 2.16 show how single payment and income would be affected in these circumstances.

Where this treatment is applied, any farmer engaged in seasonal activities, with two eligibility periods related to the same year of claim (e.g. for different crop-types), will be required to apportion the single payment to identify amounts received by reference to each eligibility period.

Taxpayers who submit accounts on an earnings basis, where the end of the eligibility period is regarded as a trigger for income recognition, will not be permitted to change their system of accounting to either of the simplified systems outlined at 2.3.

### **2.16 Examples**

These examples demonstrate the significance of accounts year-end and eligibility period in the context of income recognition in accounts prepared on an earnings basis. In these examples, it is assumed that eligibility conditions and cross-

compliance conditions are not breached and a single payment of €1,200 is received. It is immaterial whether the single payment is received before or after the accounts year-end.

**Example 1**

Farmer X makes up accounts to 31 December annually. His 10 month eligibility period ends on 31 August. His profit and loss account recognises the full single payment of €1,200.

**Example 2**

Farmer Y makes up accounts to 30 November annually. His 10 month eligibility period for 2005 ends on 31 January, 2006. His profit and loss account for the 2005 Tax Return recognises no single payment as the eligibility period had not ended by 30 November, 2005.

The following year, farmer Y's eligibility period for 2006 ends on 31 January, 2007. His profit and loss account for the 2006 Tax Return recognises the single payment of €1,200 paid for 2005.

**Example 3**

Farmer Z (like farmer Y) makes up accounts to 30 November annually. His 10 month eligibility period for 2005 ends on 31 January, 2006. His profit and loss account for the 2005 Tax Return recognises no single payment.

The following year, farmer Z changes his 10 month eligibility period so that for 2006, the eligibility period ends on 30 November, 2006. His profit and loss account for the 2006 Tax Return recognises both the single payment of €1,200 paid for 2005 and €1,100 of the single payment paid for 2006 (eleven twelfths, but not the one twelfth paid for December, 2006 ).

**2.17 Cross-Compliance Conditions (see 1.5.2)**

These conditions must be met throughout the 10 month eligibility period (see 1.5.1 and 2.15) and also for any period which might exist between the end of the eligibility period and 31 December in the year of claim. As these conditions are not unduly onerous and the inspection program of the Department of Agriculture & Food will impact on only a small sample of land users, income recognition should not be delayed on account of continuing cross-compliance obligations at the end of an accounting period, unless an inspection has taken place and the outcome of that inspection is unknown when accounts are being prepared.

**2.18 Modulation**

Under the terms of the scheme, all single payments will be calculated subject to a modulation deduction at source (3% in 2005, 4% in 2006 and 5% thereafter). The modulation deduction on the first €5,000 of the single payment, or up to the amount paid if the single payment is less than €5,000 will be refunded to the farmer in the year following the year of claim, by means of a separate cheque issued by the Department of Agriculture & Food. These amounts will be small and may be accounted for on receipt.



**2.19 Partnerships**

Where a single payment is paid to a partner, in, for example, a farming partnership, and the partnership agreement dictates that the single payment is not to be included in the income of the partnership, the single payment will be a source or part of a source of income from farming of the partner, notwithstanding that the partner received the single payment might not be engaged in farming activity outside the partnership. In these situations, the single payment will be assessed under Case I rather than Case IV.

**2.20 Finance Act, 2005, Section 29**

As the single payment scheme is to replace a range of subsidies, some of which were payable in arrears, a farmer who receives a subsidy in 2005 under any of the schemes listed in Section 29 and who also receives a single payment for 2005, so that both amounts would be taxable in 2005, can elect to spread the subsidy over three years, 2005, 2006 & 2007. This will spread the amount that would otherwise have been subject to tax for the year 2005.

To avail of this facility, some or all of the single payment paid for the year 2005 must be brought into the 2005 income tax return.

**Capital Gains Tax Issues****3.1 Payment Entitlement is an Asset**

Payment entitlement is a chargeable asset for capital gains purposes. Once acquired it may be disposed of by way of sale, gift etc. Accordingly, gains arising from transactions in payment entitlement will be chargeable to CGT in the normal manner.

**3.2 The origin of Payment Entitlement**

Payment entitlement came into existence on 1 January 2005 by virtue of EU regulations. It did not exist before that date.

Transactions carried out before 1 January 2005 involving a disposal of a future entitlement to payment entitlement will be treated as a disposal of an asset in the form of a right to future payment entitlement rather than a disposal of payment entitlement itself.

**3.3 Payment Entitlement is not part of the land**

Payment entitlement does not form part of the land for capital gains purposes. As it is a separate asset, not derived from any pre-existing asset, its base cost is nil in relation to an original claimant.

**3.4 Payment Entitlement is not a Wasting Asset**

Payment entitlement is not a wasting asset within the meaning of Section 560 TCA, 1997. A wasting asset is one with a predictable life of less than 50 years at the time of acquisition.

### **3.5 Consolidation of Entitlements**

The single payment scheme contains a procedure to allow for consolidation of payment entitlements in certain circumstances. If availed of, this results in a farmer holding a smaller number of entitlements but each of a higher unit value. Where payment entitlements having no base cost are consolidated, their consolidation should not be treated as a disposal for capital gains purposes. In these circumstances, the newly acquired consolidated entitlements will be treated as having been acquired on the date of acquisition of the old entitlements (normally 1 January, 2005) at no base cost.

### **3.6 Business Assets**

Whether payment entitlement is a business asset for capital gains purposes will depend on the facts of each case. The simple receipt of single payment is not evidence that a person is carrying on a trade for tax purposes. Broadly, if the income from payment entitlement is charged to income tax as the profits of a trade carried on by the recipient then payment entitlement is likely to be a business asset for capital gains purposes.

A right to future payment entitlement existing before 1 January 2005 is a non-business asset for capital gains purposes. Composite transactions involving the disposal of farming land and a right to future payment entitlement entered into before 1 January 2005 must be treated as separate disposals in relation to the land and the right to future payment entitlement for the purposes of calculating chargeable gains or allowable losses.

### **3.7 Retirement relief**

Section 70 FA 2006 provides, with effect from 1 January 2005, that a payment entitlement is a qualifying asset for retirement relief purposes where it is disposed of at the same time and to the same person as land that would support a claim to payment in respect of that entitlement.

### **3.8 Other subsidies**

Quotas that ceased before 1 January 2005 are now worthless and negligible value claims under Section 538 TCA 1997 may arise where the quota had been acquired on purchase. A negligible value claim may result in an allowable loss available to set against chargeable gains of the same or a later tax year.

### **3.9 Milk Quotas**

Milk quota continues to exist and, like payment entitlement, it is not a wasting asset under Section 560 TCA 1997. Gains arising on the disposal of milk quotas continue to be charged in the normal manner.

## **Capital Acquisitions Tax Issues**

### **4.1 General**

Transfers of payment entitlement whether by way of gift or inheritance are liable to capital acquisitions tax as any other asset and are subject to the normal capital acquisitions tax rules.

## 4.2 Agricultural Relief

Agricultural relief can apply to "agricultural property" only. This is defined in Section 89(1) Capital Acquisitions Tax Consolidation Act, 2003 as:

- (a) agricultural land, pasture and woodland situate in the State and crops, trees and underwood growing on such land and also includes such farm buildings, farm houses and mansion houses (together with the lands occupied with such farm buildings, farm houses and mansion houses) as are of a character appropriate to the property, and farm machinery, livestock and bloodstock on such property, and
- (b) a payment entitlement (within the meaning of Council Regulation (EC) No 1782/2003 of 29 September 2003 (OJ No L270 of 21 October 2003, p.1).

A payment entitlement can therefore qualify for agricultural relief.

Agricultural land which is taken out of production can still qualify for agricultural relief when transferred because Section 89 CATCA, 2003 does not require the land to be in production either continuously or at a specific time. So, for example, agricultural land set aside to rotational, or even permanent fallow, can still qualify as agricultural property within the definition of Section 89 CATCA, 2003.

## 4.3 Business Relief

Agricultural property can qualify for business relief if the donee or successor, for whatever reason, fails to obtain agricultural relief. The agricultural property can qualify for business relief, if it is an asset of a trading business which satisfies the normal conditions of the relief as set out in Part 10, Chapter 2 CATCA 2003.

Business relief is available for transfers of "relevant business property" which the transferor has owned for two years in respect of an inheritance taken on the death of the disposer and five years in every other case. However, there is no requirement that the payment entitlement itself, as an individual asset of the business, be held for a minimum period in order to qualify for business relief.

"Relevant business property" includes certain categories of business (or an interest in a business, for example a partnership interest) and some types of shares and securities. Payment entitlement will qualify for business relief as an asset of the business on the assumption that the resulting payment will be used in the business or be required for future use in the business. Payment entitlement will still qualify for business relief where the owner has put farmland out of production, for example into set-aside in order to receive a single payment, provided the farmer is still carrying on a business on a commercial basis, and provided the nature of the business remains essentially that of a trading concern rather than one that consists of dealing in land or making or holding investments. As with any asset, the transfer of payment entitlement by someone who is not carrying on a trading business will not qualify for business relief. Similarly, the transfer of payment entitlement as an individual asset, rather than the business itself, or an interest in the business, will not qualify for business relief.

## Stamp Duty Issues

### 5.1 Transfer of Payment Entitlement

Section 101A Stamp Duties Consolidation Act, 1999 (SDCA) provides for an exemption from stamp duty on the sale, transfer or other disposition of a payment entitlement.

This exemption applies to instruments executed on or after 1 January 2005.

#### Apportionment

Where the payment entitlement forms part of a transaction consisting also of chargeable property, the consideration is to be apportioned on a just and reasonable basis as between the payment entitlement and the other property. The part of the consideration attributable to the payment entitlement should be disregarded when determining the liability to stamp duty on the chargeable property.

### 5.2 Consanguinity Relief

Transfers between certain blood relatives qualify for a reduced rate of stamp duty. The reduced rate is half the rate of stamp duty which would otherwise apply. A transfer of payment entitlement is capable of qualifying for the reduced rate where the appropriate relationship certificate is included in the deed of transfer.

### 5.3 Young Trained Farmer Relief

Section 81A SDCA, 1999 provides for an exemption from stamp duty on the transfer of land to young trained farmers where certain conditions are met. "Land" is defined in Section 81A of that Act as agricultural land including such farm buildings, farm houses and mansion houses (together with lands occupied with such farm buildings, farm houses and mansion houses) as are of a character appropriate to the land. As payment entitlement is a separate asset from land, the exemption in Section 81A would not apply to the transfer of payment entitlement.

## Value Added Tax Issues

### 6.1 No Supply

A single payment does not represent consideration for any supply between the farmer and the State and is, therefore, outside the scope of VAT. However, as payment entitlement is transferable either with or without land, there are situations in which a VAT liability will arise.

### 6.2 Sale of payment entitlement Only

If payment entitlement is sold without land then VAT will be due at the standard rate on the sale if the sale proceeds exceed the relevant threshold for registration (currently €25,500 per 12 month period). A farmer who exceeds the threshold by virtue of selling payment entitlement will be permitted to register for VAT in respect of that single transaction. Non-VAT-registered farmers who purchase payment entitlement and suffer VAT will not be permitted to register in respect of the single transaction, but will have the normal registration option open to them.

### 6.3 Leases

If payment entitlement is transferred with underlying land in a leasehold arrangement, the payment entitlement will follow the liability of the land transfer, provided the acquisition of the land is the principal driver behind the transaction.

#### **6.4 Sale of payment entitlement and Land**

Where payment entitlement and land are sold together as part of a single transaction, the VAT liability will depend upon the actual circumstances of the sale but it is likely that two supplies will be taken to have occurred, each with their own liability.

#### **6.5 Sale of Business**

Where a farm business, including payment entitlement, is sold to a person who intends to carry on the farming business, then the sale may be treated as the transfer of a business or part thereof, provided all the relevant conditions are met. If the sale fails to meet the necessary criteria then the sale of the payment entitlement will be taxable as described in either 6.2 or 6.4.

#### **6.6 Cases not in business**

Where the single payment is the only income received, and the farmer has no intention of pursuing taxable business income, there will be no entitlement to VAT registration.

Enquiries on this article should be addressed to [taxbrief@revenue.ie](mailto:taxbrief@revenue.ie).

### **Appendix**

#### **Meaning of the words "Farming" & "Farmer"**

The Single Payment will not be paid exclusively to persons engaged in "farming", as that term is understood for tax purposes.

For tax purposes, the word "farming" is defined in Section 654 TCA, 1997 as:

"...farming farm land, that is, land in the State wholly or mainly occupied for the purposes of husbandry, other than market garden land".

The word "land" is interpreted in the Schedule to the Interpretation Act 2005 as including:

"... tenements, hereditaments, houses and buildings, land covered by water and any estate, right or interest in or over land."

The word "occupation", in relation to any land, is defined in Section 654 TCA, 1997 as:

"...having the use of that land or having the right by virtue of any easement (within the meaning of Section 96) to graze livestock on that land."

Thus, to be engaged in "farming" for tax purposes, a person must have the use of farm land, or the right to graze livestock thereon; and the land must be wholly or mainly occupied for the purposes of husbandry, and it must not be market garden land.

For the purposes of the single payment scheme, EU Regulation 1782/2003, Article 2, defines "farmer" as:

"a natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is

situated within Community territory, as referred to in Article 299 of the Treaty, and who exercises an agricultural activity".

The Article goes on to define "agricultural activity" as:

"the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition as established under Article 5".

The latter part of this definition ensures that a "farmer", i.e. someone who can receive a single payment under the EU Scheme is not necessarily someone who would be treated as farming for tax purposes. The EU definition is not necessarily linked to productive activity or husbandry.

Enquiries on this article should be addressed to [taxbrief@revenue.ie](mailto:taxbrief@revenue.ie).