AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

37TACD2026

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

Contents

Introduction

1. This Determination concerns an appeal made to the Tax Appeals Commission ("the Commission") under section 119 of the Value-Added Tax Consolidation Act 2010 ("the VATCA 2010") of a decision of the Revenue Commissioners ("the Respondent") of 24 February 2025. The decision in question was the Respondent's refusal to repay to [redacted] ("the Appellant") Value Added Tax ("VAT") that it incurred in its acquisition of a single-phase power take-off generator ("the PTO Generator"). The Appellant acquired the PTO generator on 21 October 2023 and the amount of VAT at issue is €972.36.

2. The Appellant's claim for the repayment of the VAT that it incurred was made pursuant to Article 5 of SI 201 of 2012, entitled the Value-Added Tax (Refund of Tax) (Flat-rate Farmers) Order 2012 ("the 2012 Refund Order"). This entitles a "*flat-rate farmer*", as defined in section 2 of the VATCA 2010, who has incurred VAT in respect of outlay on a farm building, structure, land or specific types of equipment, to the repayment of that VAT so incurred. This repayment entitlement arises though a flat-rate farmer is by definition not an "*accountable person*" who themself charges VAT to those who receive their agricultural goods or services supplied for consideration.

3. The issue that falls to be considered in this appeal is whether, for the purposes of the 2012 Refund Order, the VAT incurred by the Appellant as a consequence of its acquisition of the PTO generator constituted "*outlay"* relating to "*the construction, extension, alteration, or reconstruction of any building or structure which is designed for use solely or mainly in* [the Appellant's] *farming business."*

4. By way of explanation, a PTO generator is a generator that is connected to the driveshaft of a tractor by means of a detachable shaft. It is the power delivered to a PTO generator by a tractor's engine, through its driveshaft, that generates electricity that is transferred to a distribution board. PTO generators are typically used as a source of backup electricity.

5. In accordance with the provisions of sections 949U and 949AN of the Taxes Consolidation Act 1997 ("TCA 1997"), this appeal is determined without a hearing.

Background

6. The Appellant is a limited liability company engaged in dairy farming.

7. On 10 October 2023, the Appellant purchased the PTO generator from the supplier [redacted] ("the supplier"). The price it paid was €5,200.36, of which €972.36 was VAT.

8. On 30 November 2024, the Appellant made a claim by means of the submission of a Form 58 return for the repayment of the VAT that it had incurred.

9. In the section of the return entitled "*Description of the Work Carried Out",* the Appellant stated:-

> "*Concrete work for construction of slatted cubicle shed. Installed fixed generator to provide power to milking parlour in the event of an ESB power cut* […] *Invoice number 92 resubmitted because on the last VAT claim failed to explain that it is a fixed generator (not a mobile generator) the generator provides power to the milking parlour if there is no ESB power, please see photos attached to show evidence that it is a fixed generator."*

10. On 10 February 2025, the Respondent refused the Appellant's claim for the refund of the VAT incurred in respect of the acquisition of the PTO generator. The reason given by the Respondent was "*Not allowable under Flat Rate Farmers order."*

11. On 28 February 2025, the Appellant appealed the Respondent's refusal of its claim to the Commission. In the grounds of appeal section of the Notice of Appeal, the Appellant stated:-

> "*I wish to appeal the decision made following my application for a refund of unregistered V.A.T. for a fixed mounted PTO generator purchased for the purpose of providing power to the milking parlour in the event of a power cut by the E.S.B.*
>
> *It is my understanding that fixed mounted PTO generators come within the category of fixed equipment.*
>
> *When recently listening to our local radio station a speaker from the I.C.M.S.A outlined this to be a fact.*
>
> *Please find enclosed photos to provide evidence that it is a fixed mounted PTO generator and the original invoice."*

12. As stated by the Appellant in the grounds section of its Notice of Appeal, in support of its claim the Appellant submitted an invoice from the supplier that listed two items, namely a "*Mecc-Alte 50KVA single-phase generator"* and a "*mounting stand".* The Appellant also submitted photographs of the PTO generator in situ. These show it mounted atop a stand, which is bolted to the concrete floor of the dairy building. The machine itself is between a meter and a meter and a half in length and, when mounted on its stand, reaches about waist height. The photos show the PTO generator placed beside a part of the exterior wall through which a small hole, located at about knee height, has been made. The

purpose of this hole is to allow the connection of the tractor and the PTO generator by means of a metal shaft. The PTO generator is on the inside of the exterior wall of the dairy and the tractor is on the outside. The hole in the exterior wall resembles that made for the venting of a tumble dryer.

13. Later in the appeals process, the Appellant stated in its Statement of Case:-

> "[The Appellant is] *appealing a decision made following an application for the refund of unregistered VAT for a fixed PTO powered electrical generator purchased to provide power to the milking parlour in the event of an electricity power cut.*
>
> *It is our understanding that a fixed PTO generator comes within the category of fixed equipment for farming purposes for unregistered farmers VAT refund.*
>
> […]
>
> *The photos we have already provided clearly show that the equipment in question is permanently 'fixed' to the floor and we can assure you that we have no intention to move it.*
>
> *Finally you will note that our primary motivation in purchasing the equipment was to provide backup electricity supply to milk the cows and cool the milk in the event of a serious power outage like what we experienced with Storm Éowyn."*

14. On 16 April 2025, the Respondent filed its Statement of Case with the Commission. Therein, it contended that the acquisition of the PTO generator was unrelated to "*construction, extension, alteration or reconstruction" carried out to the Appellant's dairy building*.

15. In light of the content of the Appellant's Notice of Appeal and Statement of Case and the Respondent's Statement of Case, the Commissioner considered it appropriate to issue a notice to the parties under section 949AN of the TCA 1997. In this notice, dated 25 August 2025, the Commissioner indicated his intention to decide the appeal without a hearing, having regard to a Determination of the Commission raising a common or related issue. The Determination to which the Commissioner referred in the notice was 202TACD2025. It should be noted that, in accordance with section 949AN(2) of the TCA 1997, both the Appellant and the Respondent were offered the opportunity to object within a period of 21 days to this proposed course of action and to give reasons supporting any objection within the same timeframe. Neither party having objected, the Commissioner has proceeded to determine this appeal in the manner set out in the notice of 25 August 2025.

Legislation

EU Legislation

16. Title XII of the Council Directive 2006/112/EC ("the VAT Directive") makes provision for Member States to apply special schemes for VAT purposes. Chapter 2 of Title XII (Articles 295 to 305) makes provision for one such scheme applicable to farmers, namely the *"flat-rate*" scheme. In essence, under the flat-rate scheme Member States may permit farmers falling within the definition of a "taxable person" to nonetheless operate outside of the normal VAT system if they so choose. These farmers, known as *"flat-rate farmers*", who by definition do not have the right to deduct VAT that they incur, may instead charge and retain an additional amount referred to as the "*flat-rate compensation percentage"* to the purchasers of their supplies of agricultural goods and services. This compensation is, as the name would suggest, calculated as a percentage of the consideration due to the farmer for the supply of their agricultural good or service.

17. Title XIII of the VAT Directive concerns derogations. Under Article 394 of the VAT Directive:-

> *"Member States which, at 1 January 1977, applied special measures to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance may retain them provided that they have notified the Commission accordingly before 1 January 1978 and that such simplification measures comply with the criterion laid down in the second subparagraph of Article 395(1)."*

18. Article 27(1) of the Sixth Council Directive 77/388/EEC ("the Sixth Directive") provided:-

> "*The Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from the provisions of this Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance. Measures intended to simplify the procedure for charging the tax, except to a negligible extent, may not affect the amount of tax due at the final consumption stage."*

Domestic Legislation

19. A "*taxable person*" under the VATCA 2010 is defined as one who independently carries on a business in the community or elsewhere.

20. Section 5 of the VATCA 2010 provides, *inter alia*:-

"(1) (a) Subject to paragraph (c), a taxable person who engages in the supply, within the State, of taxable goods or services shall be—

(i) an accountable person, and

(ii) accountable for and liable to pay the tax charged in respect of such supply."

21. A *"taxable good" or "taxable service"* is a good or service the supply of which is not an "*exempted activity*".

22. Under section 4(1) of the VATCA 2010, "*farmer*":-

"[…] *means a person who engages in at least one Annex VII activity, and –*

(a) whose supplies consist exclusively of either or both of the following:

(i) supplies of agricultural produce

(ii) supplies of agricultural services

[…]"

23. Section 6 of the VATCA 2010 is entitled "*Persons not accountable persons unless they so elect".* Under section 6(1) a farmer shall not be an accountable person unless they so elect.

24. Under section 2 of the VATCA 2010 a "*flat-rate farmer"* is defined as "*a farmer who is not an accountable person."*

25. Part 10 of the VATCA 2010 concerns "*Special schemes"* and section 86 of the VATCA 2010, which appears in this Part, concerns "*Special provisions for tax invoiced by flat-rate farmers".* The effect of section 86 is that, in issuing invoices in respect of supplies of agricultural produce or services, flat-rate farmers charge an amount for the good or service supplied plus a "*flat-rate addition"* equal to a percentage of the consideration due for the supply.

26. Under section 103(1) of the VATCA 2010 the Minister for Finance may:-

[…] *by order provide that a person who fulfils to the satisfaction of the Revenue Commissioners such conditions as may be specified in the order shall be entitled to be repaid so much, as is specified in the order, of any tax borne or paid by the person as does not qualify for deduction under Chapter 1 of Part 8."*

27. On 12 June 2012, in the exercise of the powers conferred on him by section 103 of the VATCA 2010, the Minister for Finance made the 2012 Refund Order. Article 2 of the 2012 Refund Order defines a "*qualifying person"* as:-

> "[…] *a flat-rate farmer who has incurred tax in relation to an 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*
>
> *(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."*

28. Under Article 3 of the 2012 Refund Order:-

> "*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."*

29. Article 4 of the 2012 Refund Order provides:-

> "*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."

30. Under Article 5 of the 2012 Refund Order:-

"*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."*

31. Under Article 7 of the 2012 Refund Order:-

"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."

32. Of relevance to this Determination is that under SI 267 of 1972, Value-Added Tax (Refund of Tax) (No 1) Order, 1972 ("the 1972 Refund Order"), unregistered persons who incurred VAT in connection with outlay on "*the construction, extension, alteration or reconstruction of any building or structure which is designed for use solely or mainly for the purpose of a farming business"* were, as under the 2012 Refund Order, entitled to repayment of such VAT incurred.

Submissions

Appellant

33. In its Statement of Case, the Appellant grounded its submission that the VAT it incurred in its acquisition of the PTO generator constituted outlay relating to "*the construction, extension, alteration or reconstruction of any building or structure"* on the fact that the PTO generator was affixed to the floor of the dairy building in which it was located by means of bolts.

Respondent

34. In its Statement of Case, the Respondent indicated that the VAT at issue that was incurred by the Appellant related to its acquisition of a piece of equipment. It was not VAT incurred on outlay relating to *"the construction, extension, alteration or reconstruction of any building or structure which is designed for use solely or mainly for the purpose of a farming business".* Accordingly, the Appellant's claim had been correctly refused.

Material Facts

35. The following are the facts material to the determination of this appeal:-

(i) the Appellant is a limited liability company engaged in dairy farming;

(ii) the Appellant is not an accountable person registered for VAT;

(iii) on the Appellant's dairy farm is a dairy building;

(iv) on 10 October 2023, the Appellant purchased a single-phase PTO generator and shaft, which was mounted on a stand;

(v) the price paid by the Appellant for the PTO generator and shaft was €5,200.36, of which €972.36 was VAT;

(vi) the PTO generator was installed in the dairy building located on the Appellant's farm;

(vii) the stand on which the PTO generator was mounted was bolted to the concrete flooring of the dairy building;

(viii) the PTO generator was located beside a hole in the exterior wall of the dairy building;

(ix) through this hole passed the shaft which connected the PTO generator to the tractor that supplied power to it;

(x) the purpose of the PTO generator was to provide a backup source of electricity for the dairy in the event of a power outage;

(xi) on 30 November 2024, the Appellant made a claim by means of the submission of a Form 58 return for the repayment of the VAT that it had incurred in respect of its purchase of the PTO generator;

(xii) the Respondent refused the Appellant's claim on 10 February 2025, with the reason given being "*Not allowable under Flat Rate Farmers order."*

Analysis

36. The legislation at the heart of this appeal, namely the 2012 Refund Order, is secondary legislation made by the Minister for Finance. The effect of the 2012 Refund Order is that flat-rate farmers who incur VAT on specific kinds of expenditure may claim a repayment of that VAT.

37. The 2012 Refund Order was made by the Minister for Finance pursuant to the powers given to him by the Oireachtas under section 103 of the VATCA 2010. This provides that the Minister may make provision for the repayment of VAT incurred by a person meeting prescribed conditions, which VAT that person is not entitled to deduct under the usual rules set out in section 59 of the VATCA 2010.

38. The conferral on an unregistered person who is engaged in economic activity of the right to obtain repayment of VAT incurred in the course of that activity, even though that person has by definition no taxable output, constitutes a derogation from the general principles of the VAT system laid down under the VAT Directive (see *Iberdrola Immobiliaria Real Estate Investments* (Case C-132/16) paragraph 28). The legal basis in the VAT Directive for this derogation is Article 394 therein, which allows Member States to retain "*special measures"* in place as of 1 January 1977, provided those measures were notified to the Commission by 1 January 1978. The 1972 Refund Order, which reflects the terms of the 2012 Refund Order, constitutes the special measure in place as of the date in question that was capable of retention.

39. In order for a flat-rate farmer to be allowed a refund under the 2012 Refund Order, the outlay in question must fall clearly within the meaning of the tax referred to in Article 7 therein. That this is so, is apparent from the judgment in *Perrigo Pharma International DAC v McNamara & Ors,* where, at paragraph 74, McDonald J set out in detail the following guiding principles concerning the interpretation of legislation, in particular taxing legislation:-

> "*The principles to be applied in interpreting any statutory provision are well settled. They were described in some detail by McKechnie J. in the Supreme Court in Dunnes Stores v. The Revenue Commissioners [2019] IESC 50 at paras. 63 to 72 and were reaffirmed recently in Bookfinders. Based on the judgment of McKechnie J., the relevant principles can be summarised as follows:*
>
> *(a) If the words of the statutory provision are plain and their meaning is self-evident, then, save for compelling reasons to be found within the Act as a whole, the ordinary, basic and natural meaning of the words should prevail;*
>
> *(b) Nonetheless, even with this approach, the meaning of the words used in the statutory provision must be seen in context. McKechnie J. (at para. 63) said that: "… context is critical: both immediate and proximate, certainly within the Act as a whole, but in some circumstances perhaps even further than that";*
>
> *(c) Where the meaning is not clear but is imprecise or ambiguous, further rules of construction come into play. In such circumstances, a purposive interpretation is permissible;*
>
> *(d) Whatever approach is taken, each word or phrase used in the statute should be given a meaning as it is presumed that the Oireachtas did not intend to use surplusage or to use words or phrases without meaning.*

(e) In the case of taxation statutes, if there is ambiguity in a statutory provision, the word should be construed strictly so as to prevent a fresh imposition of liability from being created unfairly by the use of oblique or slack language;

(f) Nonetheless, even in the case of a taxation statute, if a literal interpretation of the provision would lead to an absurdity (in the sense of failing to reflect what otherwise is the true intention of the legislature apparent from the Act as a whole) then a literal interpretation will be rejected.

(g) Although the issue did not arise in Dunnes Stores v. The Revenue Commissioners, there is one further principle which must be borne in mind in the context of taxation statute. That relates to provisions which provide for relief or exemption from taxation. This was addressed by the Supreme Court in Revenue Commissioners v. Doorley [1933] I.R. 750 where Kennedy C.J. said at p. 766:

> *"Now the exemption from tax, with which we are immediately concerned, is governed by the same considerations. If it is clear that a tax is imposed by the Act under consideration, then exemption from that tax must be given expressly and in clear and unambiguous terms, within the letter of the statute as interpreted with the assistance of the ordinary canons for the interpretation of statutes. This arises from the nature of the subject-matter under consideration and is complementary to what I have already said in its regard. The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their operation beyond what the statute, clearly and without doubt and in express terms, except for some good reason from the burden of a tax thereby imposed generally on that description of subject-matter. As the imposition of, so the exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as possible"."*

40. The Commissioner observes that although what is at issue is secondary legislation not passed by the Oireachtas, he considers that as a matter of law the above passage constitutes the correct approach to the interpretation of the 2012 Refund Order. In short, what must be done is to establish the plain meaning of the words used in the legislation, viewed in context, in order to find whether the VAT incurred as part of the outlay on the automatic PTO generator is repayable by the Respondent to the Appellant.

41. In this appeal, the question is whether the Appellant's outlay on the PTO generator constituted outlay relating to *"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."*

42. Applying the interpretive approach outlined by the McDonald J in *Perrigo Pharma International DAC v McNamara & Ors* [2020] IEHC 552, the Commissioner is satisfied that it does not.

43. Regarding the interpretation of the 2012 Refund Order, the Commissioner finds that the use in combination of the words "*construction",* "*extension",* "*alteration"* or "*reconstruction"* indicates a clear intention on the part of the maker of the legislation that, in order to be refundable under Article 7(a) of the 2012 Refund Order, the outlay in respect of which VAT is incurred by a flat-rate farmer must "*relate*" to building work that is carried out to a farm structure.[1]

44. The grounds on which the Appellant claims the VAT in question to be refundable to it is that the PTO generator is bolted to the concrete floor of the dairy building. This is clear both from the grounds of appeal section of the Appellant's Notice of Appeal and from the content of its Statement of Case.

45. It was on foot of an analysis of the grounds of appeal expressed by the Appellant in its Notice of Appeal, and on its case as set out in its Statement of Case, that the Commissioner opted, pursuant to section 949AN of the TCA 1997, to notify the parties of his intention to determine the Appellant's appeal without a hearing, having regard to a previous Determination that he considered raised a common or related issue. This previous Determination was 202TACD2025. Having been so notified, neither party raised objection to this course of action, despite having been afforded to opportunity to raise such an objection. In determining the instant appeal, the Commissioner therefore has regard to the findings made in his previous Determination 202TACD2025.

46. Determination 202TACD2025 concerned an appeal of a flat-rate farmer of a decision of the Respondent, whereby it refused to refund to it the VAT it incurred in respect the purchase and installation of an automatic calf feeder. In that appeal, the flat-rate farmer in question argued that, as two of the elements of the calf feeder, namely its feeding stalls, were bolted to the cement floor of a farm building, and as another element, namely its milk producing unit, was plumbed to the building's water supply and connected to electricity, its installation constituted *"construction, extension, alteration or reconstruction"* carried out to that building. As such, the flat-rate farmer in 202TACD2025 argued that the VAT incurred in respect of the calf-feeder was refundable under the 2012 Refund Order.

[1] In this regard, the Commissioner notes that Oxford English Dictionary defines "*construction"* as "*the action or process of constructing, building, assembling, or making something, or of causing something to be constructed or made",* "*extension"* as "*an addition to (esp. the rear of) a house or other building*", "*alteration"* as "*a change in the character or appearance of a person or thing; an altered condition"* and "*reconstruction"* as "*the action or process of rebuilding".*

47. In finding that the VAT incurred by the flat-rate farmer on its outlay on the purchase and installation of the calf-feeder was not refundable, the Commissioner held that the decisive fact was that, although the calf feeder was bolted to the ground and plumbed in and wired, it could easily be unbolted, disconnected from water and electricity, and then removed from the farm building. As such, the VAT incurred by the flat-rate farmer in that appeal was not referable to outlay relating to the "*construction, extension, alteration or reconstruction"* of its farm building. It was, rather, outlay referable to the machine itself.

48. The Appellant's appeal in this instance falls to be decided on the same grounds. What is at issue is VAT incurred as a consequence of the acquisition of a PTO generator. This is an item that has been installed in the Appellant's dairy. The Appellant's own case is that this installation involved the bolting of the stand on which the PTO generator rested to the floor of the building and connecting it to the electricity supply so that it could function as a source of backup power in the event of an outage. Although the Appellant asserted in its Notice of Appeal and Statement of Case that it had no intention of removing the PTO generator from the dairy, it is clear that in principle it could be removed by unbolting it from the floor and disconnecting it from the electricity. As a result, the Commissioner finds that, just as with the aforementioned calf feeder, the VAT incurred by the Appellant cannot be held to relate to construction work carried out to the dairy in which it has been installed. Moreover, to the extent that one might argue that the making of a hole in the exterior wall of the dairy building constituted construction, the Commissioner would not agree. This hole is small in size and resembles that created for the ventilation of a tumble dryer. The creation of such a hole does not constitute construction, extension or alteration of the dairy building. The Commissioner notes that, in any event, the Appellant did not seek to make such an argument in its Statement of Case, but nonetheless the Commissioner refers to the matter in this Determination for the sake of completeness.

49. Lastly, the Commissioner considers his finding in this regard concerning the meaning of the 2012 Refund Order to be consistent with the distinction drawn under EU law between the concepts of "*immovable"* and "*moveable"* property for the purposes of VAT. In this respect, under Article 13b of Council Implementing Regulation (EU) No 1042/2013 "*immovable property"* is defined for the purposes of the VAT Directive as including:-

> "[…]
>
> *(c) any item that has been installed and makes up an integral part of a building or construction without which the building or construction is incomplete, such as doors, windows, roofs, staircases and lifts;*

(d) any item, equipment or machine permanently installed in a building or construction which cannot be moved without destroying or altering the building or construction."

50. Moveable property, by contrast, includes an item, piece of equipment or machinery that is capable of removal from the building in which it has been installed without destroying or altering the state of that building.

51. What this underlines is that, as a matter of EU VAT law, there is a distinction drawn between goods that, once installed in a building or structure, become integrated into that building or structure, such that their removal would constitute a change to the building itself. It is clear to the Commissioner that the PTO generator falls within the definition of moveable property that can, once installed in the dairy, be removed without doing damage to that room and its installation. The Commissioner's finding already made regarding the interpretation of the 2012 Refund order, and his conclusion that the outlay on the PTO generator was not outlay relating to "*construction",* "*extension", "alteration"* or "*reconstruction"* of the dairy building, is bolstered by this fact.

52. Accordingly, the decision of the Respondent of 24 February 2025 to refuse the Appellant's claim for the refunding of VAT incurred in respect of its acquisition of the PTO generator was correct and stands. This is so, because this VAT was not related to outlay on the "*construction, extension, alteration or reconstruction"* of the dairy building in which it was installed.

Determination

53. The Respondent's decision of 24 February 2025 to refuse the Appellant's claim for the repayment of VAT in the amount of €972.36, incurred in respect of outlay on the purchase a PTO generator, is found to be correct and stands.

54. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular sections 949AL and section 949AN thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

55. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via

digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

56. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

Conor O'Higgins
Appeal Commissioner
4 February 2026