An Roinn Forbartha
Tuaithe agus Pobail
Department of Rural and
Community Development

Circular No: 10- 2020

From: LEADER Policy and Operations Unit

To: All LAGs and Implementing Partners

Date Issued: 17June 2020

Subject: Revised Process for Tax Clearance for suppliers of goods, services, and construction services to project promoters

This circular is being issued to advise LAGs and their Implementing Partners of changes to the tax clearance requirements for suppliers of goods and services to project promoters. This follows a review of the requirements applicable to tax clearance.

Section 14.3 of the Operating Rules for the LEADER Programme 2014-2020 requires that confirmation of tax clearance is provided in respect of the LAG, the Implementing Partner, the project applicants and promoters, suppliers of goods and services, and contractors. Following a review of this requirement and consultation with the Revenue Commissioners confirmation of tax clearance will no longer apply to suppliers of goods and services to project promoters, **except** for instances of projects involving construction operations where payment exceeds €650 in a twelve-month period. In the latter cases, both the contractor and the promoter **must** provide evidence of tax clearance. This change will take effect from the date of this circular.

For administrative purposes, payment claims currently at Stage 2 (IP User/LAG User Check) will remain subject to the previous tax clearance requirements set out in Section 14.3 of the Operating Rules for the LEADER Programme 2014-2020.

Please note that confirmation of tax clearance continues to apply to payments of grant aid to project promoters totaling or exceeding €10,000 in a twelve-month period, and €650 in instances involving construction operations.

Queries in relation to the definition of construction operations should be directed to the Office of the Revenue Commissioners via appropriate channel on the Revenue.ie website.

Changes to Section 14.3 of the Operating Rules for the LEADER Programme 2014-2020 under heading Tax Clearance Procedures are as follows. Text in red strikethrough has been removed and new text is shown in blue. Appendix A shows the clean text for Section 14.3 under heading Tax Clearance Procedures.

Tax Clearance Procedures

The LAG must be aware of the requirements vis-à-vis Tax Clearance procedures. These procedures are available at ~~http://www.revenue.ie/en/online/tax-clearance.html~~ https://www.revenue.ie/en/starting-a-business/tax-clearance/when-is-a-tax-clearance-certificate-required/index.aspx These requirements apply in respect of the LAG, the Implementing Partner, the project applicants and promoters, ~~suppliers of goods and services~~, and contractors for construction projects, subject to the ~~following~~ requirements below –

- The LAG (or Financial Partner where appropriate) must be tax compliant. The Department will not issue any funding unless the LAG or Financial Partner produces evidence of tax clearance or a valid charity number to the Department;
- The LAG must notify project applicants and promoters of the tax clearance requirements relevant to them and their ~~suppliers or~~ contractors for construction projects. The LAG must ensure that the tax affairs of project promoters and ~~suppliers or~~ contractors for construction projects are in order. The LAG must also ensure that for projects being grant aided by LEADER that evidence of tax clearance is provided in respect of all suppliers of construction services for the project, where applicable. Payment must not be made if evidence of tax compliance cannot be provided on completion of work or at payment stage.

Evidence of current Tax Clearance must be provided for payments of grant aid to promoters that exceed €10,000 (including VAT) for the previous twelve-month period ~~of the project~~ at the time of payment. This threshold is €650 for payments involving construction operations. Accordingly, the LAG must ensure that all promoters obtain evidence of current Tax Clearance from all relevant ~~suppliers and~~ contractors where the project involves construction. The LAG must not offer funding of less than €10,000 to avoid tax clearance procedures and to do so may result in cancellation of the Agreement.

Tax compliance can be verified using the Revenue Online System (ROS). The procedure is explained in Appendix 4. As there is no specific expiry date on the online e-Tax Clearance system, confirmation will be required each time a payment is made to a ~~supplier~~ a construction contractor, subject to the relevant threshold. A copy of each e-Tax Clearance confirmation printout must be signed, stamped and dated by the verifier and kept on the project file.

Non-resident ~~suppliers/~~contractors for construction projects

Non-resident ~~suppliers/~~contractors for construction projects must also provide evidence of Irish Tax Clearance Certificate. Further guidance on tax clearance for non-residents is available on the Revenue website at http://www.revenue.ie/en/business/running/tax-clearance.html.

Payments to non-resident ~~suppliers or~~ contractors for construction projects who have not provided evidence of a valid Tax Clearance Certificate will be deemed ineligible and the LAG must de-commit such payments and reimburse the appropriate amount to the Department.

Appendix 2 of Department of Finance Circular 44/2006,Tax clearance procedures, Grants, Subsidies and similar type payments – Definition of 'Construction Operations' – provides guidance on what types of activity constitute construction operations for the purposes of tax clearance. A copy of same is provided as Appendix B to this circular, for ease of reference. The following Revenue webpage provides general information in this regard.

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https://www.revenue.ie/en/self-assessment-and-self-employment/construction-industry/what-are-construction-operations.aspx

LAGs that require further assistance in relation to what is a construction operation, should seek such assistance from the Office of the Revenue Commissioners via the appropriate channel on the Revenue.ie website.

LEADER Policy & Operations Unit

Appendix A

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Tax Clearance Procedures (Clean Version)

The LAG must be aware of the requirements vis-à-vis Tax Clearance procedures. These procedures are available at https://www.revenue.ie/en/starting-a-business/tax-clearance/when-is-a-tax-clearance-certificate-required/index.aspx. These requirements apply in respect of the LAG, the Implementing Partner, the project applicants and promoters, and contractors for construction projects, subject to the requirements below –

- The LAG (or Financial Partner where appropriate) must be tax compliant. The Department will not issue any funding unless the LAG or Financial Partner produces evidence of tax clearance or a valid charity number to the Department;
- The LAG must notify project applicants and promoters of the tax clearance requirements relevant to them and their contractors for construction projects. The LAG must ensure that the tax affairs of project promoters and contractors for construction projects are in order. The LAG must also ensure that for projects being grant aided by LEADER that evidence of tax clearance is provided in respect of all suppliers of construction services for the project, where applicable. Payment must not be made if evidence of tax compliance cannot be provided on completion of work or at payment stage.

Evidence of current Tax Clearance must be provided for payments of grant aid to promoters that exceed €10,000 for (including VAT) for the previous twelve-month period at the time of payment. This threshold is €650 for payments involving construction operations. Accordingly, the LAG must ensure that all promoters obtain evidence of current Tax Clearance from all relevant contractors where the project involves construction. The LAG must not offer funding of less than €10,000 to avoid tax clearance procedures and to do so may result in cancellation of the Agreement.

Tax compliance can be verified using the Revenue Online System (ROS). The procedure is explained in Appendix 4. As there is no specific expiry date on the online e-Tax Clearance system, confirmation will be required each time a payment is made to a construction contractor, subject to the relevant threshold. A copy of each e-Tax Clearance confirmation printout must be signed, stamped and dated by the verifier and kept on the project file.

Non-resident contractors for construction projects

Non-resident contractors for construction projects must also provide evidence of Irish Tax Clearance Certificate. Further guidance on tax clearance for non-residents is available on the Revenue website at http://www.revenue.ie/en/business/running/tax-clearance.html.

Payments to non-resident contractors for construction projects who have not provided evidence of a valid Tax Clearance Certificate will be deemed ineligible and the LAG must de-commit such payments and reimburse the appropriate amount to the Department.

Appendix 2 of Department of Finance Circular 44/2006,Tax clearance procedures, Grants, Subsidies and similar type payments – Definition of ‘Construction Operations’ – provides guidance on what types of activity constitute construction operations for the purposes of tax clearance. A copy of same is provided as Appendix B to this circular, for ease of reference. The following Revenue webpage provides general information in this regard.

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LAGs that require further assistance in relation to what is a construction operation, should seek such assistance from the Office of the Revenue Commissioners via the appropriate channel on the Revenue.ie website.

Appendix B

Appendix 2 of Department of Finance Circular 44/2006, Tax clearance procedures, Grants, Subsidies and similar type payments

Definition of ‘Construction Operations’ in Section 530 of Taxes Consolidation Act 1997 ‘Construction operations’ means operations of any of the following descriptions:

(a) The construction, alteration, repair, extension, demolition or dismantling of buildings or structures;

(b) The construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including walls, road-works, power-lines, aircraft runways, docks and harbours, railways, inland waterways, pipelines, reservoirs, water-mains, wells, sewers, industrial plant and installations for purposes of land drainage;

(c) The installation in any building or structure of systems of heating, lighting, airconditioning, sound-proofing, ventilation, power supply, drainage, sanitation, water supply, burglar or fire protection;

(d) The external cleaning of buildings (other than cleaning of any part of a building in the course of normal maintenance); the internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, extension, repair or restoration;

(e) Operations which form an integral part of, or are preparatory to, or are for rendering complete such operations as are described above, including site clearance, earthmoving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works;

(f) Operations which form an integral part of, or are preparatory to, or are for rendering complete, the drilling for or extraction of minerals, oil, natural gas or the exploration or exploitation of natural resources;

(g) The haulage for hire of materials, machinery or plant for use, whether used or not, in any of the aforesaid construction operations.