

## **State ignoring ‘VAT scam’ as poultry farmers make millions out of dodgy tax scheme**



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The Government has allowed a massive farming tax scam that has cost taxpayers tens of millions of euro to continue despite repeated warnings from Revenue, an Irish Mail on Sunday investigation reveals.

The tax abuse – which enables some chicken farmers to recoup as much 1,000% more VAT than they are entitled to – was first identified to the authorities in 2013 by a whistleblower.

Despite this, the Government has never shut down the scam, even though it passed a law more than six years ago to allow the finance minister to do so with a single stroke of a pen.



The Government has allowed a massive farming tax scam that has cost taxpayers tens of millions of euro to continue despite repeated warnings from Revenue, an Irish Mail on Sunday investigation reveals.

Now this failure to act could result in Ireland being investigated and fined by the European Commission if it is found that the Government allowed breaches of EU VAT rules to continue.

Under EU directives, no business can claim more in VAT than it pays. However, Irish poultry producers were able to earn multiples more than they paid by manipulating rules intended to make VAT administration simple for farmers.

This exploitation of what farmers call the 'flat-rate allowance' allowed the sector to secretly harvest unjustified VAT returns from the Exchequer.



These concerns were reflected in correspondence between former finance minister Paschal Donohoe, now Public Expenditure Minister, to the attorney general. Pic: Damien Storan/PA Wire

According to a never-before-published [Revenue](#) review – seen by the MoS – this tax abuse earned the poultry sector €7m more in 2017 alone, an average of €35,000 per farmer.

An MoS analysis of the underlying figures revealed in the review suggests the scam could have cost the State more than €20m in recent years.

A second element to the abuse involved VAT being harvested on the double via farming co-ops. When Revenue ordered this practice to halt in August 2017, the amount of VAT overcompensation dropped, from 1,000% to 750%.



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Pic: The Picture Pantry/Getty Images

In turn, this Exchequer funding benefited the sector's largest processors and their multi-millionaire owners, as well as the farmers.

When the MoS first asked the Government about the widespread VAT abuse in the sector a month ago, the Department of Finance and Revenue issued a joint response.

The cryptically worded statement gave no indication of Revenue's continuing concern over the Government's failure to act against the tax abuses.





Briefing notes prepared for then finance minister Michael Noonan explained that ‘models are established in some sectors... which result in a much higher level of flat-rate addition payments in the sector than would otherwise be available’. Pic: Isopix/REX/Shutterstock

However, internal files obtained by the MoS under the Freedom of Information Act reveal Revenue warned the Government the tax abuse could escalate and spread to the beef sector, with far more costly consequences for taxpayers.

These concerns were reflected in correspondence between former finance minister [Paschal Donohoe](#), now Public Expenditure Minister, to the attorney general.

Mr Donohoe wrote: ‘There is significant overcompensation of unregistered farmers in the chicken production sector. Despite Revenue’s engagement with the sector, the practice continues. This is unsustainable in that the flat-rate scheme is designed to compensate unregistered farmers for the VAT paid on their inputs but overcompensation is not permitted under EU law.’



Mr Donohue did ask for an exclusion order to be prepared, but he never signed it after the Department of Agriculture became involved. Photograph: Leah Farrell / RollingNews.ie

Mr Donohoe added: 'There is also a concern that the business model and contractual arrangements that have emerged in this sector could migrate to other agricultural sectors with potentially more serious implications for VAT revenues.'

The documents also show Revenue told the Government that the millions earned via the scam likely amounted to illegal State aid.

One Revenue official noted in internal correspondence prompted by our original query a month ago,

'The Department were also advised that should the Minister decide not to remove the sector from the operation of the flat-rate addition that they would need to consider the issue of State Aid'.

The files also lay bare the frustration of senior Revenue officials as their warnings went unheeded. One Revenue official criticised the Department of Agriculture for allowing the poultry sector to 'engineer an opportunity to stall the process and walk us into a merry go round'.

The same official also expressed frustration at the failure of the Department of Finance to act to shut down the VAT scam.

He wrote: 'We have... presented a report to the Department of Finance; it is up to the Minister to act or not.'

Another official was so frustrated at the lack of response from the department he suggested putting Revenue's concerns on the record.

He wrote: 'Knowing as we do that nothing is likely to happen, what about putting our warning about the risks of the scheme migrating to other sectors on record?'

According to records seen by the MoS, Revenue was aware of these abuses from at least 2013, when Cavan chicken farmer Alo Mohan, a supplier to Manor Farm, raised the issue with a succession of tax officials.

Along with Mayo-based Western Brand and Cork-based Shannon Vale Foods, Manor Farm is one of the top three chicken processing firms in Ireland. Of the three, Shannon Vale Foods was the only one in which farmers did not operate a co-op.

However, the three firms have jointly made representations to the Department of Agriculture in a bid to ensure the sector is not excluded from the flat-rate allowance because of the abuse.

Mr Mohan raised his concerns after his accountant, Frank Lynch & Co, advised him that to engage in the scam would amount to VAT fraud.

A second opinion, from former Revenue Commissioner and tax adviser Eugene Dolan, also advised the practices would amount to, 'a clear misuse/abuse of the VAT input credit regime and indeed of the VAT system in general'.

Despite these concerns, a number of Revenue officials were unable to clarify for Mr Mohan if the schemes were illegal.

Refusing to partake in the abuse on moral grounds, Mr Mohan ultimately lost his business. He is currently seeking to sue the Revenue for malfeasance.

In recent years, Mr Moran has also been joined in his campaign by Raymond O'Hanlon, former managing director of Cappoquin Chickens, which went bust as rivals abused the tax system to gain an advantage.

Internal Revenue and Department of Finance records confirm that, from at least 2015, the Government knew these practices were a likely breach of EU rules.

The records describe the abuse as 'an anti-avoidance issue' and as being 'against the spirit and purpose of the EU VAT directive'.

In 2016, then MEP Marian Harkin made an official complaint about the practice to the EU's director general for finance.

Briefing notes prepared for then finance minister Michael Noonan explained that 'models are established in some sectors... which result in a much higher level of flat-rate addition payments in the sector than would otherwise be available'.

Mr Noonan's briefing notes also warned: 'This would have implications for VAT neutrality and possibly competitiveness within the sector and within the agriculture industry generally.'

However, any EU concerns about the VAT abuses were satisfied when Ireland passed legislation to address the issue in January 2017.

The new law gave the finance minister the authority to exclude an agricultural sector from the flat-rate system completely if it was found to be abusing the rules. Satisfied with this, the EU closed the investigation it had opened on foot of Ms Harkin's complaint.

However, neither Mr Noonan nor his successors as ministers for finance have used this power to shut down the VAT abuses.

In September 2019, Mr Mohan and his accountant wrote a letter to Minister Donohoe, in which they said the Government had 'failed to address or seek redress in any meaningful way'.

The letter reads: 'What your predecessor [Mr Noonan] actually allowed for was a situation where one industry... claims more flat-rate VAT than it is entitled to compared to VAT-registered enterprises.'

'An example of this has been occurring in the large beef feed lots whereby the VAT claimed by these industrial farmers is far in excess of the inputs actually incurred and gives them an unfair competitive advantage against their farming neighbours.'

However, like his predecessor, Mr Donohoe did not use his power to ban the poultry sector from the flatrate allowance.

Mr Donohoe did ask for an exclusion order to be prepared, but he never signed it after the Department of Agriculture became involved.

Asked about the VAT abuse when he appeared before the Dáil spending watchdog in November 2019, Revenue chairman Niall Cody admitted, 'There is no doubt that, within the poultry sector, the pricing structure allowed for an overcompensation of the VAT for some people who are in that trade'.



When asked what solution was available to the finance minister, Mr Cody replied, 'To remove the flat-rate compensation for the sector'.

Mr Cody added Revenue had conducted a detailed report 'to establish if there was overcompensation in the poultry sector' for the finance minister.

'We have sent our report to the Minister for Finance. It is now with the minister and he has to consider,' he said at the time.

He also acknowledged concerns the issue could have spread into the beef sector, saying Revenue would be 'keeping an eye on it'.

When Aontú leader Peadar Tóibín raised the tax abuses in the Dáil in 2021, he questioned Agriculture Minister Charlie McConalogue about what he described as the 'VAT fraud' and 'illegal State aid'.

However, Mr McConalogue refused to engage with Mr Tóibín, saying it was not 'appropriate' to raise the matter 'on the floor of the House [Dáil]'.