

Meaning of “goods”. FA80 s39; FA81 s17(a); FA84 s45(b); FA87 s28(3), s29 and s31; S.I. No. 61 of 1988 ; FA90 s41(1); FA91 s32(1); FA92 s47; FA93 s44(1) and s47(3); FA94 s48(1); FA97 s146(1) and Sch9 Ptl par11(1) 443.—(1) (a) In this Part, “goods” means, subject to this section, goods manufactured in the State in the course of a trade by the company which, in relation to the relevant accounting period, is the company claiming relief under this Part in relation to the trade.

(b) Where—

(i) there are 2 companies one of which manufactures goods and the other of which sells the goods in the course of its trade, and

(ii) one of the companies is a 90 per cent subsidiary of the other company or both companies are 90 per cent subsidiaries of a third company,

any goods manufactured in the State by one of the companies shall, when sold in the course of its trade by the other company, be deemed to have been manufactured in the State by that other company.

(c) Sections 412 to 417 shall apply for the purposes of paragraph (b)(ii) as they apply for the purposes of Chapter 5 of Part 12.

(2) The definition of “goods” shall include fish produced in the State on a fish farm in the course of a trade by the company which, in relation to the relevant accounting period, is the company claiming relief under this Part in relation to the trade, and references in this Part to manufactured shall be construed, in relation to fish, as including references to produced and cognate words shall be construed accordingly.

(3) The definition of “goods” shall include plants cultivated in the State, by the process of plant biotechnology known as “micro-propagation” or “plant cloning”, in the course of a trade by the company which, in relation to the relevant accounting period, is the company claiming relief under this Part in relation to the trade, and references in this Part to manufactured shall be construed, in relation to such plants, as including references to cultivated and cognate words shall be construed accordingly.

(4) The definition of “goods” shall include—

(a) meat processed in the State in an establishment approved and inspected in accordance with the European Communities (Fresh Meat) Regulations, 1987 ), and

(b) subject to subsections (5) and (6)(a)(iii), fish which has been subjected to a process of manufacture in the State,

in the course of a trade by the company which, in the relevant accounting period, is the company claiming relief under this Part in relation to the trade, and references in this Part to manufactured and cognate words shall be construed accordingly.

(5) (a) The definition of “goods” shall not include goods sold by retail by the company claiming relief under this Part.

(b) For the purposes of paragraph (a), goods shall be deemed not to be sold by retail if they are sold—

(i) to a person who carries on a trade of selling goods of the class to which the goods so sold to such person belong,

(ii) to a person who uses goods of that class for the purposes of a trade carried on by such person, or

(iii) to a person, other than an individual, who uses goods of that class for the purposes of an undertaking carried on by such person.

(6) Without prejudice to the generality of subsection (1) and subject to subsections (2) to (4) and (8) to (15), goods shall not for the purposes of this section be regarded as manufactured if they are goods which result from a process—

(a) which consists primarily of any one of the following—

(i) dividing (including cutting), purifying, drying, mixing, sorting, packaging, branding, testing or applying any other similar process to a product, produce or material that is acquired in bulk so as to prepare that product, produce or material for sale or distribution, or any combination of such processes,

(ii) applying methods of preservation, pasteurisation or maturation or other similar treatment to any foodstuffs, or any combination of such processes,

(iii) cooking, baking or otherwise preparing food or drink for human consumption which is intended to be consumed, at or about the time it is prepared, whether or not in the building or structure in which it is prepared or whether or not in the building to which it is delivered after being prepared,

(iv) improving or altering any articles or materials without imposing on them a change in their character, or

(v) repairing, refurbishing, reconditioning, restoring or other similar processing of any articles or materials, or any combination of such processes,

or

(b) which, subject to subsection (1)(b), is not carried out by the company claiming relief under this Part.

(7) (a) In this subsection, “the intervention agency” means the Minister for Agriculture and Food, when exercising or performing any power or function conferred on that Minister by regulation 3 of the European Communities (Common Agricultural Policy) (Market Intervention) Regulations, 1973 ), and any other person when exercising or performing any corresponding power or function in any Member State of the European

Communities.

(b) Notwithstanding any other provision of the Tax Acts, the definition of “goods” shall not include goods sold to the intervention agency.

(c) For the purposes of paragraph (b), the sale of goods to a person other than the intervention agency shall be deemed to be a sale to the intervention agency if and to the extent that those goods are ultimately sold to the intervention agency; but the rendering to the intervention agency of services consisting of the subjecting of meat belonging to the agency to a process of manufacture carried out in an establishment specified in subsection (4)(a) shall not be regarded as a sale of goods to the agency.

(8) For the purpose of relief under this Part, in relation to a company that carries on a trade which consists of or includes the repairing of ships—

(a) repairs carried out in the State to a ship shall be regarded as the manufacture in the State of goods, and

(b) any amount receivable in payment for such repairs so carried out shall be regarded as an amount receivable from the sale of goods.

(9) (a) In this subsection, “engineering services” means design and planning services the work on the rendering of which is carried out in the State in connection with chemical, civil, electrical or mechanical engineering works executed outside the territories of the Member States of the European Communities.

(b) For the purpose of relief under this Part, in relation to a company which carries on a trade which consists of or includes the rendering of engineering services—

(i) the rendering in the State of such services shall be regarded as the manufacture in the State of goods, and

(ii) any amount receivable in payment for such services so rendered shall be regarded as an amount receivable from the sale of goods.

(10) (a) In this subsection, “computer services” means one or more of the following—

(i) data processing services,

(ii) software development services, and

(iii) technical or consultancy services relating to either or both services specified in subparagraphs (i) and (ii),

the work on the rendering of which is carried out in the State in the course of a service undertaking in respect of which—

(I) (A) an employment grant was made by the Industrial Development Authority under section 25 of the Industrial Development Act, 1986 , or

(B) an employment grant was made by the Industrial Development Agency (Ireland) or Forbairt, as may be appropriate, under section 12 (2) of the Industrial Development Act, 1993 ,

(II) a grant under section 3, or financial assistance under section 4 , of the Shannon Free Airport Development Company Limited (Amendment) Act, 1970 , was made available by the Shannon Free Airport Development Company Limited, or

(III) financial assistance was made available by Údarás na Gaeltachta under section 10 of the Údarás na Gaeltachta Act, 1979 .

(b) For the purposes of relief under this Part, in relation to a company carrying on a trade which consists of or includes the rendering of computer services—

(i) the rendering of the computer services shall be regarded as the manufacture in the State of goods, and

(ii) any amount receivable in payment for the rendering of the computer services shall be regarded as an amount receivable from the sale of goods.

(11) (a) In this subsection, “qualifying shipping activities” and “qualifying shipping trade” have the same meanings respectively as in section 407.

(b) For the purposes of relief under this Part, in relation to a company carrying on a qualifying shipping trade—

(i) qualifying shipping activities carried on in the course of the qualifying shipping trade shall be regarded as the manufacture in the State of goods, and

(ii) any amount receivable from the carrying on of qualifying shipping activities shall be regarded as an amount receivable from the sale of goods.

(12) (a) In this subsection—

“export goods” means goods which, in relation to the manufacturer of those goods, are goods for the purposes of this Part and which are exported by a Special Trading House which is not the manufacturer of the goods but which, in relation to the relevant accounting period, is the company claiming relief from tax by virtue of this subsection, where the selling by the Special Trading House of the goods so exported is selling by wholesale;

“selling by wholesale” means selling goods of any class to a person who carries on a business of selling goods of that class or who uses goods of that class for the purposes of a trade or undertaking carried on by such person;

“Special Trading House” means a company which exists solely for the purpose of carrying on a trade consisting solely of the selling of export goods manufactured by a firm which employs less than 200 persons.

(b) For the purposes of this subsection, goods shall be deemed to be exported when they are transported out of the State in the course of the selling by wholesale of those goods and are not subsequently transported into the State in the course of the selling by wholesale of those goods.

(c) For the purposes of relief under this Part, in relation to a Special Trading House—

(i) export goods when exported in the course of its trade by a Special Trading House shall be deemed to have been manufactured by the Special Trading House, notwithstanding that the manufacturer has claimed, or is entitled to claim, relief under this Part in respect of the sale by it of those goods, and

(ii) any amount receivable by the Special Trading House in payment for the sale of export goods shall be regarded as an amount receivable from the sale of goods.

(d) This subsection shall apply subject to the Export Promotion (Amendment) Act, 1987.

(13) For the purposes of relief under this Part, in relation to a company which carries on a trade, not being a relevant trading operation within the meaning of section 445 (7)(a), which consists of or includes the repair or maintenance of aircraft, aircraft engines or components—

(a) such repair or maintenance carried out in the State shall be regarded as the manufacture in the State of goods, and

(b) any amount receivable in payment for such repair or maintenance so carried out shall be regarded as an amount receivable from the sale of goods.

(14) (a) In this subsection, “film” means a film which is produced—

(i) on a commercial basis with a view to the realisation of profit, and

(ii) wholly or principally for exhibition to the public in cinemas or by means of television broadcasting or for training or documentary purposes,

and in respect of which not less than 75 per cent of the work on the production is carried out in the State.

(b) For the purposes of relief under this Part, in relation to a company carrying on a trade which consists of or includes the production of a film—

(i) the production of the film by the company claiming the relief shall be regarded as the manufacture in the State of goods, and

(ii) any amount receivable for that production shall be regarded as an amount receivable from the sale

of goods.

(15) For the purposes of relief under this Part, in relation to a company which carries on a trade which consists of or includes the remanufacture and repair of computer equipment or of subassemblies where such equipment or subassemblies were originally manufactured by that company or a connected company—

(a) such remanufacture or repair carried out in the State shall be regarded as the manufacture in the State of goods, and

(b) any amount receivable in payment for such remanufacture or repair so carried out shall be regarded as an amount receivable from the sale of goods.

(16) (a) In this subsection—

“agricultural society” means a society—

(i) in relation to which both the following conditions are satisfied:

(I) the number of the society's members is not less than 50, and

(II) all or a majority of the society's members are persons who are mainly engaged in and derive the principal part of their income from husbandry,

or

(ii) to which a certificate under paragraph (b) relates;

“fishery society” means a society—

(i) in relation to which both the following conditions are satisfied:

(I) the number of the society's members is not less than 20, and

(II) all or a majority of the society's members are persons who are mainly engaged in and derive the principal part of their income from fishing,

or

(ii) to which a certificate under paragraph (c) relates;

“qualifying goods” means goods purchased by a society from its members where such goods, in relation to those members, are or would but for subsection (7) be goods for the purposes of this Part;

“qualifying society” means an agricultural society or a fishery society—

(i) which carries on a trade which consists wholly or mainly of the selling by wholesale of qualifying goods, and

(ii) all or a majority of the members of which are agricultural societies or fishery societies;

“selling by wholesale” means selling goods of any class to a person who carries on a business of selling goods of that class or who uses goods of that class for the purposes of a trade or undertaking carried on by such person;

“society” means a society registered under the Industrial and Provident Societies Acts, 1893 to 1978.

(b) The Minister for Finance may, on the recommendation of the Minister for Agriculture and Food, give a certificate entitling a society to be treated for the purposes of this subsection as an agricultural society notwithstanding that one or both of the conditions in paragraph (i) of the definition of “agricultural society” is or are not complied with in relation to the society.

(c) The Minister for Finance may, on the recommendation of the Minister for the Marine and Natural Resources, give a certificate entitling a society to be treated for the purposes of this subsection as a fishery society notwithstanding that one or both of the conditions in paragraph (i) of the definition of “fishery society” is or are not complied with in relation to the society.

(d) A certificate given under—

(i) paragraph (a) or (b) of section 70 (2) of the Finance Act, 1963 ,

(ii) paragraph (a) or (b) of section 220 (2) of the Income Tax Act, 1967 , or

(iii) paragraph (a) or (b) of section 18 (2) of the Finance Act, 1978 ,

shall, unless it has been revoked, be deemed to be a certificate given under paragraph (b) or (c), as the case may be.

(e) A certificate given under paragraph (b) or (c)—

(i) shall have effect as from such date, whether before or after the date on which it is given, as may be stated in the certificate, and

(ii) shall be published in Iris Oifigiúil as soon as may be after the certificate is given.

(f) A certificate given under paragraph (b) or (c) may be revoked by the Minister for Finance at any time and notice of any such revocation shall be published as soon as may be in Iris Oifigiúil.

(g) For the purposes of relief under this Part, in relation to a qualifying society—

(i) qualifying goods sold by wholesale in the course of its trade by the qualifying society shall be

deemed to have been manufactured by the qualifying society, notwithstanding that the society which manufactured those goods has claimed, or is entitled to claim, relief under this Part in respect of the sale by it of those goods, and

(ii) any amount receivable from the sale of qualifying goods by the qualifying society shall be regarded as an amount receivable from the sale of goods.

(17) (a) In this subsection—

“agricultural society” and “society” have the same meanings respectively as in subsection (16);

“milk product” means butter, whey-butter, cream, cheese, condensed milk, dried or powdered milk, dried or powdered skim-milk, dried or powdered whey, chocolate crumb, casein, butter-oil, lactose, and any other product made wholly or mainly from milk or from a by-product of milk and approved for the purposes of this section by the Minister for Finance after consultation with the Minister for Agriculture and Food;

“qualifying company” means a company to which a certificate under paragraph (c) relates;

“qualifying trade” means a trade carried on by a company which consists wholly or mainly of the manufacture of milk products;

“relevant product” means milk purchased by an agricultural society from its members, being milk sold by the agricultural society to a qualifying company.

(b) For the purposes of this subsection (other than this paragraph), where a trade consists partly of the manufacture of milk products, then, unless the trade consists mainly of the application of a process of pasteurisation to milk, the part of the trade which consists of the manufacture of milk products shall be treated as a separate trade.

(c) Where the Minister for Agriculture and Food is satisfied that a company—

(i) carried on a qualifying trade during the whole of the period of 3 years ending immediately before the day from which the certificate specified subsequently in this paragraph has effect,

(ii) is carrying on a qualifying trade and intends to continue to carry it on for a period which when added to the period for which it has been carrying it on will amount to not less than 3 years, or

(iii) intends to carry on a qualifying trade for a period of not less than 3 years,

that Minister may, after consultation with the Minister for Finance, give a certificate to the company stating that the company may be treated as a qualifying company for the purposes of this subsection, and, whenever such a certificate is given to a company, the company shall be so treated during the period for which the certificate has effect.

(d) A certificate given under paragraph (c)—



(i) shall have effect for the period beginning on such day, whether before or after the day on which it is given, as may be specified in the certificate and ending on the day which is 2 years after that day, and

(ii) may be revoked by the Minister for Agriculture and Food after consultation with the Minister for Finance.

(e) Notice of a revocation under paragraph (d) shall be published as soon as may be in *Iris Oifigiúil* and the revocation shall have effect as on and from the thirtieth day after the day on which it is so published.

(f) For the purposes of relief under this Part, in relation to the sale by an agricultural society of relevant products—

(i) relevant products shall be deemed to have been manufactured by the agricultural society, and

(ii) any amount receivable from the sale of relevant products by the agricultural society shall be regarded as an amount receivable from the sale of goods.

(18) For the purposes of relief under this Part, in relation to a company to which a profit or loss specified in section 80 arises, the amount of any profit which is deemed by that section to be a profit or gain of the trade carried on by the company shall be regarded as an amount receivable from the sale of goods.

(19) (a) In this subsection, “newspaper” means a newspaper—

(i) the contents of each issue of which consist wholly or mainly, as regards the quantity of printed matter contained in the newspaper, of information on the principal current events and topics of general public interest,

(ii) the format of which is commonly regarded as newspaper format, and

(iii) which is—

(I) printed on newsprint,

(II) intended to be sold to the public, and

(III) normally published at least fortnightly.

(b) For the purposes of relief under this Part, in relation to a company which carries on a trade which consists of or includes the production in the State of a newspaper—

(i) the production of the newspaper (including the rendering of advertising services in the course of the production of the newspaper) by the company shall be regarded as the manufacture in the State of goods, and

(ii) any amount receivable—

(I) from the sale of copies of the newspaper, or

(II) from the rendering by the company of advertising services in the course of the production of the newspaper,

shall be regarded as an amount receivable from the sale of goods.

(20) Subject to subsection (19), for the purposes of this Part, where in a relevant accounting period a company renders advertising services in the course of a trade carried on by it which consists wholly or partly of the production of a newspaper, magazine or other similar product, then—

(a) any amount receivable in payment for the rendering of such services shall not be regarded as an amount receivable from the sale of goods, and

(b) for the purposes of section 448, the company's income from the trade for a relevant accounting period shall be regarded as not derived solely from the sale of goods and merchandise.

(21) For the purpose of relief under this Part, in relation to a company which carries on a trade which consists of or includes the rendering to another person of services by means of subjecting commodities or materials belonging to that person to any process of manufacturing—

(a) the rendering in the State of such services shall be regarded as the manufacture in the State of goods, and

(b) any amount receivable in payment for services so rendered shall be regarded as an amount receivable from the sale of goods.

(22) The inspector may by notice in writing require a company, a Special Trading House (within the meaning of subsection (12)), a qualifying society (within the meaning of subsection (16)) or an agricultural society (within the meaning of subsection (17)), as the case may be, claiming relief from tax by virtue of subsection (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19) or (21), as the case may be, to furnish him or her with such information or particulars as may be necessary for the purpose of giving effect to that subsection, and subsection (2) of section 448 shall apply as if the matters of which proof is required by that subsection included the information or particulars specified in a notice under this subsection.