WHICH CAME FIRST:
THE CHICKEN
OR THE
VAT FRAUD?

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

HOW THE IRISH STATE IS

1000% WRONG

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Press Release
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For Immediate Release

Ongoing Court Case:
Alo Mohan vs. Revenue Over Fraudulent Use of VAT as State Aid

Editors are alerted to a significant on-going court case involving Alo Mohan and Revenue, which is set to uncover the systemic use of state-sanctioned VAT fraud to channel a continuous regulated flow of illegal state aid to the agricultural sector in Ireland. Should this case be permitted by the state to run its course, the inevitable revelations regarding VAT fraud are likely have major implications for tax policy and state aid rules in Ireland, particularly in the wake of recent high-profile tax disputes in Europe, most especially, the recent Apple case. The fraud was first revealed by Alo Mohan, a well-known poultry farmer and former chairperson of the National Poultry Committee of the Irish Farmers Association. The latest appearance in the case took place in the High Court on Wednesday the 2nd of October, 2024.

Since revealing how the state is channeling funding to select processors in the Poultry sector through the fraudulent use of VAT arrangements imposed by them on their contracted farmer suppliers, Mr. Mohan has lost his livelihood and has been subjected to death threats and other intimidation. The Revenue Commissioners, Ireland's tax authority, are defending the case, despite irrefutable evidence that the development and deployment of the mechanisms of VAT fraud in use today, was orchestrated by the state some 30 years ago, and continues to be overseen by the state. The continued provision of illegal state aid and fraud has been committed by the state through the use of illegal VAT mechanisms for almost three decades. The Revenue's position is particularly egregious in light of the recent Apple case.

Implications for European Editors:
The Broader Impact on European Competition

Attention, European editors: While there are various mechanisms in place for fraudulently generating Flat Rate VAT, what they all have in common is that they undermine fair competition within the European Union. The misuse of flat rate VAT schemes to bolster sectors such as poultry, pigs, beef, and dairy, gives Ireland an unfair competitive advantage within the EU Single Market, with potentially serious ramifications for the integrity of the EU's internal market and its regulatory framework.

Under what is known as the 'Flat Rate Scheme', Farmers are not required to maintain records for the purposes of claiming claim back VAT on inputs. Instead, they are compensated for the VAT incurred on inputs through the application of a fixed percentage calculated by the tax authorities, which is applied to their Sales. In Ireland that Flat Rate value is currently set at 4.8%. So, when a Farmer sells Chickens to a Processor, 4.8% is added on to the net price paid by the Processor. The Farmer is compensated for VAT not claimed on inputs, and the Processor recovers the VAT paid to the Farmer from Revenue. The scheme was introduced across the EU as a way to simplify administrative tasks for small farmers who could encounter difficulties and/or incur excessive cost in maintaining and processing records to recover VAT.

Ireland's Flat-Rate VAT Scheme: A Comparative Analysis

1. **No Turnover Threshold:** In Ireland, there is no maximum turnover level which a farmer cannot exceed in order to qualify for the flat-rate scheme. Extraordinarily, Irish farmers maybe turning over several million euros, and yet, are not required to register for VAT. In contrast, countries like Germany and France impose turnover thresholds of €600,000 and €82,800 respectively.

2. **Zero-Rated Inputs:** In Ireland key agricultural inputs like animal feed and fertiliser are zero-rated for VAT. That is not the case in other EU countries, where such inputs are typically subject to reduced VAT rates (e.g., 7% in Germany and 10% in France). The result is that Flat Rate Farmers in Ireland are compensated for VAT on Inputs, which are not subjected to VAT.

3. **Higher Flat-Rate Compensation:** Traditionally, the rate of Flat Rate VAT received by Irish farmers, has been noticeably higher than their European counterparts. However, the rate not stands at 4.8%, down from 5.6% in December 2021.

This combination of zero-rated inputs, no maximum turnover threshold, and a high refund percentage, makes Ireland's Flat-Rate VAT scheme exceptionally generous, creating opportunities for over-compensation. However, that is not where the fraud/illegal state aid occurs.

The Fraud/Illegal State Aid

The fraud is perpetrated by select Processors who are authorised by the State to harness the Flat Rate Scheme which they require Farmers to adopt, in order to supply them with products. The Processor sells inputs such as Feed which are zero-rated for VAT, to the Farmer, at an inflated price. For example, the price of feed sold by processors to their supplying farmers in the Chicken Sector is currently more than double the open market price. For the Farmer, this is not a problem, as the Processor also inflates the price paid to the Farmer for his/her chickens, to the point where the agreed '*Margin per 1,000 Chickens*', is maintained. The '*Margin per 1,000 Chickens*', is the only value of concern to the Farmer.

While the extraordinary 'profit' made by the Processor on the sales of zero-rated products is wiped out by the extraordinary price paid for Chickens, what remains is the Flat Rate VAT applied to the inflated sales price paid to the farmer. The inflated quantum of Flat Rate VAT which results, is subsequently recovered from Revenue by the Processor. This is the point where the Fraud/Illegal State Aid occurs. While the Farmer on the Flat Rate System makes the fraud possible, the farmer only ever gets paid the minimum margin processors can get away with paying. The role of Revenue is to regulate the flow of VAT funding to the sector by ensuring that participating processors do not exceed the authorised price charged by them to Farmers, as it is the price of feed which drives the generation of VAT.

While there are various mechanisms in place for fraudulently generating Flat Rate VAT, what they all have in common is that they undermine fair competition within the European Union. The misuse of flat rate VAT schemes to bolster sectors such as poultry, pigs, beef, and dairy, gives Ireland an unfair competitive advantage within the EU Single Market, has potentially serious ramifications for the integrity of the EU's internal market and its regulatory framework.

This not only affects taxpayers in Ireland but also disadvantages European neighbours, creating an unfair competitive advantage for Irish producers at the expense of others.

The implications of this case go beyond Ireland's borders. Ireland is also manipulating the Flat-Rate VAT Scheme to illegally provide state aid to select processors, in sectors other than poultry including beef and dairy. Its control over select processors derived from the provision of funding to them, has enabled the state to establish national brands in the form of 'Bord Bia' (the Irish Food Board), and 'Origin Green', enabling Irish processors to compete unfairly within the EU and beyond.

The Cost To Irish And European Taxpayers

The estimated costs of this illegal state aid and VAT fraud to Irish and European taxpayers are staggering. Fraudulent VAT claims and illegal state aid in sectors such as poultry, pigs, beef, and dairy could be costing Irish taxpayers between €500 million and €1 billion annually. Moreover, the broader VAT gap in Ireland, largely driven by fraud, amounts to €2.7 billion in lost VAT revenue annually. For European taxpayers, the cost of Ireland's favourable VAT schemes and tax incentives could be as high as €10-13 billion annually, distorting competition across the EU.

Ireland's Unfair Competitive Advantage

Ireland's approach to the Flat-Rate VAT Scheme, with its lack of a turnover threshold and zero-rated inputs, creates competitive imbalances within the EU. These imbalances have significant implications for both Irish farmers and their European competitors:

- **Lower Input Costs:** Irish farmers benefit from zero-rated inputs (fertilisers, feed, etc.), reducing their operational costs compared to farmers in other EU countries, where these inputs are subject to VAT. Despite not paying VAT on these inputs, Irish farmers still receive a VAT refund on their sales, potentially allowing them to undercut their EU competitors in beef, dairy, pigs, and other agricultural sectors.
- **VAT Over-Claims:** The lack of turnover thresholds means that even large-scale farmers and agribusinesses in Ireland can take advantage of the flat-rate refund. This creates an un-level playing field, as smaller EU farmers (in countries with strict turnover limits) cannot benefit in the same way. Irish farmers may receive inflated refunds far beyond their VAT costs.

Ireland's VAT regime disproportionately benefits its agricultural sector, and distorts competition in key EU markets. Irish dairy, beef, pigs, and poultry products, can be sold at lower prices, benefiting from VAT-related subsidies that are not available to processors in countries like Germany, France, or the Netherlands. By allowing state aid through these VAT mechanisms, Ireland effectively grants indirect subsidies to its farmers. This contravenes the principle of fair competition under EU state aid rules, creating a competitive distortion within the EU's single market.

1000% VAT Overclaim

Revenue's own figures reveal that in 2017, Irish poultry farmers had over-claimed Flat Rate VAT by up to 1,000%.

Rationalisation of Processers in Ireland

When it comes to VAT Fraud/Illegal State Aid, all processors are not treated equally. In each sector processors were divided into '*Stayer*' Processors and '*Goer*' Processors. Inflated feed prices were used to channel VAT to *Stayer* Processors, while those same inflated feed prices were used to force *Goer* Processors not authorized to avail of Illegal State Aid out of business. The 10-year strategic plan for the Agriculture and Food Sector published in March 2000, sets out the strategic goal for the poultry sector to reduce the number of processing plants from 23 to 7. With the forced closure of the Cappoquin Poultry Plant in 2013, that goal was achieved.

Not only were *Stayer* Processors allowed to benefit from 1,000% overclaiming of Flat Rate VAT, they were also allowed to benefit from state-sanctioned breaching of regulations, giving them a competitive advantage in terms of cost over *Goer* Processors. For example, nutrient values in Chicken Litter (N & P) assigned by the Department of Agriculture were understated, while Antibiotics were fed as Growth Promoters. The excessive application of Chicken Litter containing antibiotic residues to tillage ground, has resulted in the contamination of groundwater reserves and with levels of Nitrates which are carcinogenic.

It should be noted that all of the above-mentioned matters are the subject of a separate legal action against Revenue involving Mr. Mohan and 5 of his colleagues. One of those colleagues is Mr. Raymond O'Hanlon, the former shareholder and Managing Director of the Cappoquin Poultry Plant.

Parallels to the Apple Tax Case

This case comes shortly after the high-profile €13billion judgment in the European Union's General Court involving Apple and Ireland, where the European Commission had accused Ireland of providing illegal state aid to Apple through selective tax breaks. The General Court ruled that the European Commission failed to prove that Ireland's tax arrangements with Apple were illegal under EU state aid rules, thereby setting a significant precedent for tax cases involving allegations of state aid. Similarly, the Alo Mohan case could test the boundaries of how state aid laws apply to VAT regulations and whether the use of tax arrangements can be construed as granting selective advantages that distort competition. While the Apple case focused on corporate tax, this case brings the question of VAT practices under scrutiny.

The Role of Ms Juliana Quaney and Allegations of Perjury

Representing the state in this matter is Ms Juliana Quaney, Principal Officer of the Revenue Solicitors Division, who previously led and lost the recent €13billion Apple tax case on behalf of Revenue. Ms Quaney is now leading the case against Mr. Mohan, even though evidence shows that the state itself used illegal VAT mechanisms to provide fraudulent state aid. Editors should note that at a previous appearance in Court Judge Emily Egan requested that the Garda make an application to the Court to investigate allegations that Ms Quaney committed perjury and misled the judge by falsely accusing Mr. Mohan of being a member of the cooperative set up to illegally benefit from a 1,000% VAT over-claim. Editors should be aware of these serious allegations, as the case touches on the misuse of taxpayer money and potential corruption at the highest levels in the State.

Courts Service Refuses to Release Crucial Digital Audio Recording (DAR) Raising Transparency Concerns

Mr Mohan was requested by DG Taxation to seek compensation from the Irish authorities in 2017, yet his attempts to get the evidence heard in Court have been consistently blocked. In the latest hearing on 2nd October Mr Justice Owens refused to release a crucial Digital Audio Recording (DAR) from the Discovery Hearing in the case held on the 9th of February, 2024, during which Mr. Justice Owens was misled by Ms Quaney and Revenue's legal team.

The Court's denial of access to the DAR raises serious concerns about transparency, data privacy rights, and access to justice, and has implications way beyond Mr. Mohan's case. The refusal to release the DAR violates Mr. Mohan's rights under the GDPR, including his right to access personal data under Article 15 GDPR. The Courts Service has failed to provide lawful justification for withholding this key evidence, which is essential to ensuring that Mr. Mohan can exercise his right to a fair legal process.

Concerns Over GDPR Compliance

The refusal raises broader concerns about the Courts Service's compliance with GDPR, particularly regarding:

Lawful Processing (Article 6): The Courts Service has not demonstrated a lawful basis for retaining and refusing access to the DAR.

Data Minimization (Article 5(1)(c)): The court must ensure that data processing is limited to what is necessary, yet the withholding of the DAR suggests otherwise.

Right to Rectification (Article 16): Without access to the recording, Mr. Mohan is unable to ensure the accuracy of the court's records or rectify any inaccuracies.

Lack of Transparency in the Courts System

Mr. Mohan's case highlights growing concerns about the transparency of Ireland's courts system. In refusing to release the DAR, the Courts Service has left Mr. Mohan in a difficult legal position, unable to access essential data to challenge the court's records or verify the accuracy of the proceedings. Commenting on the decision by Judge Owens not to release the DAR, Mr. Mohan stated that:

"*Justice cannot be done in the dark. The refusal to release this recording denies me my basic right to access information that is crucial for my case."*

Mr. Mohan is also seeking release of the DAR for the hearing on 2nd October, which was held in extraordinary circumstances given that the Courts had not yet re-opened after the holidays.

A Call for Action

Mr. Mohan is calling on the Courts Service to act in accordance with its responsibilities under GDPR and release the DAR without further delay. Legal action is currently being pursued, and the issue is being brought to the attention of the Data Protection Commission. The case is garnering attention from legal experts and data protection advocates, who warn that such refusals could undermine the transparency and accountability of the Irish legal system.

Media Blackout and Initial Exposure by Irish Mail On Sunday

The story of the alleged VAT abuse by the state was first brought to light in a comprehensive nine-page article in the 'Irish Mail On Sunday'. However, it is noteworthy that not a single other Irish news organisation has covered the story, reportedly due to a news blackout ordered by the Irish government. This raises serious concerns about press freedom and the ability of the media to report on issues of significant public interest without interference.

Journalists may wish to explore with their editors why cases such as this receive no coverage in Irish news outlets. It cannot be overstated that the media's failure to carry out its role of holding power to account has led to significant damage. As the Post Office scandal in the UK demonstrates, it is not just the initial wrong-doing that causes harm, but it is also the consequences of the subsequent cover up that are devastating for those concerned.

Mr. Mohan was deemed by the European Commission to be a victim of VAT Fraud / Illegal State Aid and was instructed by the Commission to go to the Irish authorities for compensation in 2017. Since that date he has been prevented from getting in to Court ,with Ms. Quaney's perjury being the latest tactic used by the State to prevent Mr. Mohan getting justice.

Journalists are invited to ask the relevant regulatory authorities including representatives of An Garda Siochana about their failure to take action. Journalists are also invited to seek comments from public representatives such as Michael McGrath and members of the Finance Committee of the Oireachtas, all of whom know the wrong that has been done, but have taken no action.

Mr. Mohan was also an investor in Monford AG Systems Ltd, the award winning start-up company which developed the GrassOmeter, a device for improving on farm efficiency. The company was illegally shut down through unfair competition and further fraud involving Teagasc, Enterprise Ireland, the Bank of Ireland, Glanbia and the Farmers Journal. Increased farm efficiency would result in reduced sales of feed and fertiliser, directly impacting on the benefits accrued by the dairy industry through the use of VAT as illegal state aid.

The Dangers of State Fraud and Legislative Violations

Negative Implications of State-Sponsored Fraud: The Irish government's alleged involvement in VAT fraud raises significant concerns about the rule of law and the abuse of taxpayer money. The use of illegal state aid mechanisms contravenes EU competition laws and damages the integrity of the EU Single Market. The cover-up of fraud by public institutions erodes public trust and violates EU legislation, including:

- Article 107(1) of the Treaty on the Functioning of the European Union (TFEU), which prohibits any state aid that distorts competition within the EU.

- Directive 2006/112/EC, the EU VAT Directive, which mandates fair and transparent VAT practices across member states.

Efforts to combat VAT fraud and illegal state aid are critical to preserving fair competition and ensuring that taxpayers are not burdened by fraudulent schemes. Furthermore, the concealment of fraud and perjury during legal proceedings represents a severe breach of national criminal laws, including sections of the Criminal Justice (Theft and Fraud Offences) Act 2001.

The implications of these actions are significant and detrimental to the rule of law, public trust in governmental institutions, and fair competition across the EU. It is essential for European authorities, media, and civil society to hold the Irish state accountable for any breaches of law and to combat any attempt to obscure or manipulate legal and democratic processes.

What's Next?

The case is expected to be closely monitored by policymakers, businesses, and legal experts across Europe, as it could influence future tax policy, not only in Ireland, but also across the European Union. It is yet another reminder of the ongoing tension between national tax sovereignty and the EU's state aid rules, and is a further stain on Ireland's reputation as a safe place to do business.

Call for Reform and Oversight: Given the potential for VAT over-compensation and competitive distortions, there must be greater scrutiny of Ireland's Flat-Rate VAT Scheme. EU authorities and competitors in other member states will recognise Ireland's VAT policies as a form of state aid, undermining fair trade within the European market. Mr Mohan's bravery and sacrifice must be recognised and proper compensation provided.

For more information or to arrange interviews, please contact:

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