



Farm Taxation in the UK and Ireland: Differences, Similarities and Current Challenges



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Introduction

Agriculture is an important part of the economy of both the UK and Ireland, accounting for thousands of jobs and billions of added value to the gross domestic products of both nations. The taxation of this primary sector is therefore key – not only to the sustainability of the agricultural industry itself but also to the fiscal revenues generated by both Governments in these times of economic austerity. Trying to achieve a balance is difficult. Farming taxation is frequently seen as challenging and complicated by many professional advisers, navigating through a number of specific reliefs, valuations and unique situations that do not exist in any other industrial segment. This article explains some of the more distinct concepts applicable to agricultural accounts, compares the UK and Irish taxation systems, identifies the current

challenges facing the industry and proposes some solutions to these potential pitfalls for both advisers and farmers.

Definition of Farming

The definition of what exactly constitutes farming and agriculture from a tax viewpoint has been subject to much conjecture and debate.

In the UK, under s996(1) of the Income Tax Act 2007 (ITA 2007), “farming” means “the occupation of land wholly or mainly for the purpose of husbandry”. From the corporate tax angle, the definition is, to a certain extent, more oblique, as stated in s832(1) of the Income and Corporation Taxes Act 1988 (ICTA 1988), where “farmland” is defined as “land in the United Kingdom wholly or mainly occupied for the purposes of husbandry...and ‘farming’

shall be construed accordingly”. Thus, under UK taxation laws, to qualify as a farmer, a taxpayer must satisfy two tests: he or she must be in occupation of land; and the purpose of the occupation must be, at least mainly, for husbandry – i.e. cultivating crops or breeding and rearing livestock. This definition includes crop production, fish farming and the stud farming of horses, although at present no other form of equine activity currently qualifies as agriculture. Guidance is given in s115 of the Inheritance Tax Act 1984 on the definition of agricultural property.

In the UK, the definition is key for tax reliefs directly related to farming, e.g. farmers’ averaging, “hobby farming” rules and agricultural property relief for inheritance tax.

In Ireland, the definition is broadly similar. Here, according to the provisions of s654 of the Taxes Consolidation Act 1997 (TCA 1997), farming is defined as “farming farm land, that is, land in the State which is wholly or mainly occupied [occupied is defined as having the use of the land or the right to graze livestock on it] for husbandry, other than market garden land”. Market garden land is defined as “land in the State occupied as a nursery or garden for the sale of the produce (other than land used for the growth of hops), and ‘market gardening’ shall be construed accordingly.” Sport horse breeding, i.e. stud farming, from 2008 onward is considered a farming activity and is subject to the taxation system, whereas previously it was exempt.

“Hobby Farming” v Trading Activities

After it is established that a qualifying farming activity is taking place, the next issue to be determined is whether a valid business is being carried on or a “hobby farm” exists. “Hobby farms” are outside the scope of the tax system in both Ireland and the UK, with profits – although, more often, losses – being excluded from the tax return and any potential reliefs discounted.

In the UK, “hobby farms” are defined in the Taxes Act, but detailed guidance is provided in the HMRC manuals. The criteria are that

the farm is not run “on a commercial basis and with a view to the realisation of profit” (BIM75615) or a profit has not been recorded for the previous five years (BIM75620), or 11 years in the specific case of the commencement of a stud farm trade (BIM55725). Where the criteria are not met, loss relief cannot be claimed against other income. In order to satisfy HMRC that a farm trade is continuing, a business can take several steps to demonstrate that it is an ongoing concern.

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Firstly, some form of financial roadmap or business plan must be in place, signalling that a profit can be achieved in the entity’s current trading set-up.

Secondly, an actual profit must be recorded as soon and as often as possible, regardless of external economic pressures. Without satisfying these two tests, HMRC will deem a farming activity to be a hobby; thus, in the eyes of the Government, no trade will be taking place, and income tax loss relief will be restricted.

In Ireland, hobby farming rules are significantly tougher than in the UK. The commerciality test exists, but only three years of losses are allowable before the activity is deemed hobby farming, rather than five in the UK (s662 TCA 1997). There is the possibility, in exceptional circumstances, for this three-year period to be extended if a reasoned argument is made to Revenue, but successful claims are rare. Any losses after the four-year point can be carried forward against future profits from the same trade, a provision that does not exist in the UK. Finally, there is no special extension for stud farming, such as the UK’s 11 years from the commencement of the trade in which to make a profit. In Ireland, equine breeders are subject to the same loss-claiming rules as standard farming, unlike their UK counterparts.

Basics of Farm Taxation

In both countries, a farmer must produce a set of accounts annually, showing the total income received against the total expenditure incurred. The net profit made by the farm will then be subject to either income tax or corporation tax, depending on the business structure selected by the farm in question. The following

is a brief, most basic discussion of the most common type of agricultural business – the sole-trade farmer. Other charges on income, such as National Insurance (UK) and Pay-Related Social Insurance and Universal Social Charge (Ireland), as well as many other reliefs, are likely to apply, and the professional adviser must consider all viewpoints when calculating a client's tax burden.

In the UK, the sole-trade farmer or partnership needs to complete a set of farm accounts and a tax computation that form the basis of the tax year from 6 April to 5 April in the following year. The sole-trade farmer must then complete a tax return before either the 31 October (paper) or the 31 January (online) after the 5 April deadline. Payments in full must be received by 31 January in the year after the trading period. Income tax charged is dependent on the profit made. Table 1 gives the basic breakdown of the current UK income tax rates for 2013/14.

Table 1: UK income tax rates for 2013/14

Personal allowance	£9,440*	
Band	Income	Tax rate
Basic rate	£0–£32,010	20%**
Higher rate	£32,011–£150,000	40%**
Additional rate	£150,001+	45%**
* This is the amount of income that is tax-free for 2013/14, available up to £100,000 income.		
** Tax bands can be extended for gift aid and pension contributions.		

Examples

A farmer making a £20,000 profit would receive the first £9,440 tax-free and would be taxed at 20% on the remainder, so the calculation would be: £10,560 x 20% = £2,112 tax due.

A farmer making a £60,000 profit would receive the first £9,440 tax-free; the next £32,010 would be taxed at 20% and the remaining £18,550 at 40%, so the calculation would be:

$$£32,010 \times 20\% = £6,402$$

$$£18,550 \times 40\% = £7,420$$

$$\text{Tax due: } £13,822$$

A farmer making a £170,000 profit would lose the personal allowance; the first £32,010 would be taxed at 20%, the next £117,990 at 40% and the remaining £20,000 at 45%. Thus, the calculation would be:

$$£32,010 \times 20\% = £6,402$$

$$£117,990 \times 40\% = £47,196$$

$$£20,000 \times 45\% = £9,000$$

$$\text{Tax due: } £62,598$$

In Ireland, the farmer is subject to similar practices, but with different dates and charged at different rates. He or she needs to complete a set of farm accounts, but the data commonly include all transactions from 1 January to 31 December, as the Irish tax year follows the calendar year, unlike its UK counterpart. With the different tax year, the administration and payment dates also differ. The key date is 31 October, when the Irish sole-trade farmer must (a) pay preliminary tax (s952 TCA 1997) on the current year's trading activities and (b) file a tax return and pay any balance due for the preceding year. The preliminary tax paid must be equal to either 90% of the final liability for the current year or 100% of the final liability for the preceding year. If insufficient preliminary tax has been paid, interest will be charged from the due date for the preliminary tax. Table 2 gives the basic breakdown of the current Irish income tax rates for 2013.

Table 2: Irish income tax rates for 2013

Personal tax credit (single person)	€1,650*	
Band	Income	Tax rate
Standard rate	€0–€32,800	20%**
Higher rate	€32,801+	41%**
* This is the amount that is deducted from the income tax liability after the tax rates have been applied. It is subject to more variation than its UK counterpart, e.g. it is €3,300 for married couples and there are additional credits depending on personal circumstances.		
** This band increases to €36,800 for single or widowed persons qualifying for the one-parent family tax credit and to €41,800 for married couples where only one spouse has income, with an increase of up to an additional €23,800 if both spouses have income.		

Examples

A single farmer making a €20,000 profit would calculate tax at 20% of the full amount, giving a gross tax due figure of €20,000 x 20% = €4,000. The tax credit of €1,650 would then be claimed, to give a net tax payable of €2,350.

A married farmer making the same €20,000 profit would receive an additional €1,650 credit to that given to the single farmer. Thus, while the gross tax calculated would be the same, at €4,000, the tax credit claimed would be €3,300, giving a net tax payable of €700.

A single farmer making a profit of €60,000 would have the first €32,800 taxed at 20% and the remaining €27,200 at 41%, before claiming the tax credit available of €1,650. The calculation will be as follows:

€32,800 x 20% =	€6,560
€27,200 x 41% =	€11,152
Gross tax due:	€17,712
Less tax credit	(€1,650)
Net tax payable:	€16,052

A married farmer making the same profit of €60,000 would calculate the gross tax position in the same way as above but would claim an additional €1,650 in tax credit, reducing the net tax payable to €14,402.

In summary, the Irish tax system is subject to greater variation than its UK counterpart in key areas such as allowances/credits and tax bands.

Business Entity – Sole Trade/Partnership or Corporate Structure?

Farmers have a range of options regarding the type of trading vehicle they can use, from the basic sole trader, as in the examples above, to partnership with other family members or incorporating and running the farm as a company. In deciding on a structure, the key questions concern:

- the current rate of tax being paid – is it the top rate? and
- the future objectives of the business.

In the UK, sole-trade profits are subject to income tax, as described above, as well as Class 4 National Insurance (£7,755–£41,450 charged at 9%; excess over £41,450 charged at 2%). Corporation tax is charged at 20% for profits up to £300,000, at a

marginal rate of 25% for the next £1,200,000 and at 24% for the excess over £1,500,000. Therefore, for a highly profitable farming organisation making around £200,000, the incentive to qualify for the lower rate of tax could result in the adoption of, at the very least, a corporate partner in the business. In terms of withdrawing cash from the incorporated business, salaries can still be used to maximise the £9,440 personal allowance, and any dividends taken are charged at a separate 10%/32.5%/37.5% tax rate, depending on personal circumstances, potentially generating a significant tax saving.

There are disadvantages, such as having to register at Companies House, having to produce an annual standardised set of accounts at a higher professional cost, setting up separate bank accounts and business identities etc., and suffering the loss or restriction of some significant tax reliefs.

Thus, before the business structure is altered, all points must be considered in depth on a case-by-case basis by the professional adviser, to ensure that incorporation is both practically and financially sustainable. Adopting an element of a corporate structure, especially involving a corporate partner, is a major growth area in the UK at present, with many in the farming community employing these restructuring methods to maximise tax efficiencies.

In Ireland, the main corporation tax rate is 12.5% for trading income and 25% for any income deemed to be non-trading or passive. Again, this seems significantly more advantageous than the top income tax rate of 41%. Certainly, the gains are more pronounced than in the UK, due to the greater disparity between personal and corporation tax, and thus Irish advisers may be more inclined to examine the corporate structure than their British counterparts. Dividend withholding tax is at the standard rate of 20%, instead of the sliding scale used in the UK, which would seem a more beneficial route of extracting funds than sole-trade profits liable to the higher rate of income tax. There are similar disadvantages to incorporation as for the UK, with some reliefs lost or restricted, as well as the growing cost of general administration required for a company.

Calculation of Net Profit: Farmers' / Income Averaging

Farming is, by nature, highly dependent on weather conditions. In the winter of 2012/13, many farmers lost livestock and crops and thus will be struggling to turn a profit for this period. To mitigate

the effects of these profit fluctuations, farmers' averaging (UK) and income averaging (Ireland) were introduced, so that agricultural trades are not pushed into a higher tax bracket in one year without necessarily having adequate compensation in the following years.

In the UK, farmers' averaging is a simple arithmetic concept of adding the profits, after capital allowances and balancing charges have been applied, of two successive years and dividing by two. The difference between the profits recorded in the two years must be at least 30% for full averaging relief or at least 25% for tapered averaging relief. Any profits more closely matched than this do not qualify. Claims can be made by sole traders and partners regardless of personal circumstances, provided that they have profits from farming activities as a separate income stream. Companies and other incorporated entities are excluded from this method of calculating profit. To claim the relief, an election must be made on the tax return, and no further correspondence with HMRC is required. There is a time limit of 22 months after the trading period ends for a claim to be made.

Examples

Farmer A makes profits of £40,000 in year 1 and of £10,000 in year 2. If averaging is claimed, the profit for both periods is calculated as: $(£40,000 + £10,000) / 2 = £25,000$ per year.

Farmer B makes a £32,000 profit in year 1 and a £20,000 loss in year 2. Losses are deemed £0 for tax purposes, and thus if averaging is claimed, the profit for both periods is calculated as: $(£32,000 + £0) / 2 = £16,000$ per year. The £20,000 loss can then be used against the £16,000 profit, with £4,000 carried back one year.

In Ireland, the same concept exists, although the time period is extended to three years. There is no minimum percentage for the income difference and no tapering relief, as in the UK, but the figure used is before capital allowances are claimed, and not after, as for the UK. Claimants must, again, be a sole trader or partnership; incorporated entities are excluded. Revenue must be notified in writing within 30 days of the strategy being implemented, instead of a box simply being ticked on the tax return. Farmers must also have been taxed under the "normal" rules for the first two years of trade before the election can be made. Furthermore, farmers who, or whose spouses, carry on another trade or profession or who are directors of companies that carry on a trade or profession are excluded from averaging, in an attempt

to ensure that this relief is applicable only to full-time agricultural workers, and not to those in "hobby" operations. Once an election is made, farmers are committed to income averaging for at least the next three years before being able to revert, and even then, the previous two years may be investigated, with the potential for tax clawbacks. These restrictions on reverting from averaging and the two-year qualification period show that the Irish averaging system offers less flexibility than its UK counterpart.

Examples

Farmer A makes profits of €40,000 in year 1, €10,000 in year 2 and €10,000 in year 3. If averaging is claimed, the profit for all three years is calculated as: $(€40,000 + €10,000 + €10,000) / 3 = €20,000$.

If Farmer A makes a profit of €22,000 in year 4, the three-year average becomes: $(€10,000 + €10,000 + €22,000) / 3 = €14,000$.

Finally, if Farmer A makes a loss of €12,000 in year 5, the three-year average becomes: $(€10,000 + €22,000 + €0) / 3 = €10,667$.

In both the UK and the Irish system, where the profit is increasing, the averaging technique reduces the amount of tax to be paid in the short term, possibly helping with cash flow. However, the figures will level out and be subject to reductions, which will mean more tax being due in those years than if the normal rules had been adopted. This may lead to situations where despite losses being incurred, tax will still be due from farmers who may be struggling for cash. Thus, before adopting farmers' or income averaging in either country, adequate consideration of future projections is required on a case-by-case basis.

Stock Valuations

The accounting rule in relation to stock is that it must always be valued at the lower of cost or net realisable value – essentially the sale price – of the given item of inventory. Valuing stock is somewhat complicated in farming, as there cannot be absolute accuracy when assessing all of the costs involved in crop production or, for example, the net realisable price of a lamb in the highly volatile food market.

UK production and deemed cost valuations

In the UK, crop stocks are considered easier to value and, according to helpsheet IR232, should be measured at the actual cost of getting the stock into its condition and location at the

balance sheet date. This involves direct costs – such as seeds, fertilisers, drying and storage – and indirect costs – including contract labour and machinery costs. Any harvested crops where costs cannot be determined can be valued at a deemed cost of 75% of the open-market value. Livestock costs are usually much harder to determine than those of crops. Again, in cases where the production cost cannot be measured, deemed cost can be used, being 75% of open-market value for sheep and pigs and 60% for cattle.

Example

	Open-market value	IR232 percentage	Stock value
Wheat (harvested crop)	£180 per tonne	75%	£135 per tonne held at year-end
Sheep (sheep and pigs)	£300 per animal	75%	£225 per animal held at year-end
2-year-old heifer (cattle)	£500 per animal	60%	£300 per animal held at year-end

UK livestock valuations: herd basis

As well as these two methods, the herd basis of valuing livestock is available to UK farmers. This is based on the provision that farm production herds or flocks have the characteristics of machines in that they convert grass into end products, such as milk or wool. The herd basis treats animals kept for production in the same way as plant or machinery, valuing them on the balance sheet as opposed to the profit and loss account. From the farmer's viewpoint, the cost of maintaining the herd can thus be claimed against tax through the farm profit and loss account, and any gain on the eventual disposal of the herd will be tax-free using this method of valuation. An irrevocable election must be made to HMRC, specifying the class of animals concerned. To qualify as a production unit, the herd must be of the same species (irrespective of breed) and kept for the sake of its products and not its meat. Further unique valuation rules apply when adding animals to or removing animals from the herd.

Irish production and deemed cost valuations

In Ireland, the same basic rules apply for the valuation of both harvested crops and livestock; production cost should be calculated first, and where this cannot be determined, the deemed-cost method can be used, with the same percentages as for the UK: 75% of open-market value for harvested crops, 75% for sheep and pigs, and 60% for cattle. Although nothing similar to the herd basis exists in Ireland, some stock reliefs may apply.

Irish stock reliefs

General stock relief is available to all Irish farmers, regardless of circumstance. If stock appreciates in value, 25% of the increase can be deductible against tax. For example, if the opening value of farm stock is €30,000 and this increases to €40,000 during the year, €10,000 extra profit would be shown in the profit and loss account; with stock relief, 25% of this profit, i.e. €2,500, would not be chargeable to tax. Stock relief is subject to a number of conditions, including that the relief cannot be used to create a taxable loss and that any losses or capital allowances carried forward can no longer be claimed if stock relief is used in the tax computation.

“Young trained farmers” stock relief is also available, whereby a farmer who is under 35, has qualified under the specified training criteria and has started farming in the year of the claim can benefit from 100% relief in the appreciation of the value of his or her stock. There are special provisions to obtain this relief, and potential claimants should be examined carefully to ensure that they are likely to qualify.

Capital Allowances

If a farm purchases an asset for use in its agriculture business, say, an item of plant or machinery such as a tractor or delivery van, the farmer cannot deduct his or her expenditure on that asset from the trading profits made. This is because expenditure on an asset of this type will last for a number of years rather than being an expense to directly create profits in a single accounting period. To reflect the deterioration of capital assets accurately in the accounts, depreciation is charged over the useful life of that asset. For example, a tractor costing £10,000 and having a 10-year life may be subject to depreciation at a rate of £1,000 a year, charged to the farm profit and loss account. However, as depreciation is an abstract, estimated concept that can vary from business to business, it is not an allowable deduction for taxable

purposes. Therefore, standardised capital allowances, a tax version of depreciation, are used instead, forming an allowable deduction from the farm's taxable income.

In the UK, capital allowances are available only on plant and machinery; agricultural buildings allowances were suspended and abolished for trading periods ended on 5 April 2012 or later. Plant and machinery has no statutory definition, although it may be useful to consider that capital allowances are generally available on assets "with which" a proprietor trades rather than "in which" the proprietor trades.

The first allowance is the annual investment allowance (AIA), currently available on the first £250,000 (from January 2013) of capital expenditure every year. All qualifying expenditure up to this limit will receive a full 100% allowance, reducing the tax burden of the operation involved. Writing-down allowances (WDA) are the second most common capital allowances claimed. Any remaining expenditure after the AIA has been used is pooled in either the general pool or the special rate pool, depending on the class of asset.

Over future years, these balances are written down on a reducing-balance basis, at the rate of 18% (8% for the special rate pool), the deduction each year being allowable against taxable income. Enhanced capital allowances are available for farmers investing in new technologies, and an integral features pool (written down at 8%) is also available for various electrical and other systems essential to the operation of businesses. Capital allowances on cars are dependent on the emissions that they produce.

Examples

Where a farmer has profits of £100,000 and has spent £80,000 on a tractor and other equipment in the year, he or she is able to offset this expense against trading income using the AIA. Thus, taxable income falls from the full £100,000 to £20,000.

WDA is calculated as follows: If the general pool brought forward from the preceding year is £1,000, 18% of that figure – in this case, £180 – will be available to reduce taxable income. So if the farm had made a £12,000 profit in the year and had not made any capital purchases, £180 of WDA would still be available, reducing the taxable income to £11,820.

Ireland has a wider scope in which to claim capital allowances, with three main categories available to farmers: plant and

machinery, motor vehicles and farm buildings constructed in the year. Unlike its UK counterpart, there is no annual investment allowance. Instead, capital allowances are calculated on a straight-line basis, at 12.5% per year over eight years for plant, machinery and motor vehicles, and at 15% for the first six years and 10% for the final year for farm buildings. Expenditure on motor vehicles is capped at €24,000, and the amount of the claim is subject to similar emissions restrictions to the UK system. Special capital allowances also exist for energy-efficient technologies, again similar to the UK system.

Examples

If, during the year, an Irish farmer erects a new milking parlour worth €100,000 and purchases a tractor for €80,000, 15% of the building cost, €15,000, and 12.5% of the tractor cost, €10,000, would be available to reduce taxable income. Therefore, if profits of €100,000 are made, only €75,000 would be liable to tax.

VAT

Value-added tax is a consumption tax that is charged on the sale of supplies as they pass through the economic system to the end consumer. For VAT purposes, a supply is taxable only when it has been produced by a taxable person or business in the furtherance of a trade. Moreover, different supplies are charged at different rates, depending on the goods or services being sold. Special VAT categories also exist, allowing farmers to claim a "flat rate addition" to help cover their VAT expenditure. VAT and farming have many interactions, nuances and pitfalls, and the following is a basic outline of this particularly complicated area.

In the UK, the compulsory VAT registration limit is £79,000 (from 1 April 2013 for incorporated bodies or 6 April 2013 for unincorporated entities), meaning that any farms producing taxable supplies above this figure will have to register and charge UK VAT. Registration below this figure is optional, and for some farmers this could still be advantageous, because the standard rate of VAT in the UK is 20%, but food for human consumption is zero rated (i.e. 0%) and thus no VAT is charged on sales. Thus, an agricultural business could register, reclaim the VAT on its purchases and not have to charge VAT on its sales, improving cash flow and profitability. Other rates of VAT in the UK apply to exempt supplies (0%), i.e. those outside the scope of VAT such as DIY stable liveries, and reduced rate supplies (5%), such as the supply of firewood.

The farmers' fixed rate addition (FRA; in Ireland, flat rate addition), an alternative VAT method for qualifying farming activities, including crop production and stock farming or minding, has operated in the UK since January 1993 (HMRC Notice 700/46, October 2012). The principle is that an FRA-registered farmer does not need to account for VAT on the sale of his or her farming products or to recover VAT paid on inputs. Instead, he or she is able to charge VAT-registered persons a fixed, flat rate percentage, currently 4%, as an addition to the price paid for the farm-produced table supplies, and is permitted to retain this amount as compensation for not being VAT-registered. Those who pay this flat rate addition to the farmer are able to reclaim it as input VAT in their VAT returns, provided that they are VAT-registered. FRA registration is not popular in the UK at present because (a) most diversified activities are outside its scope and cannot be claimed and (b) most farms are fully VAT-registered, as they frequently culminate in a refund position.

In Ireland, farmers selling to the Irish market are not obliged to register for VAT, regardless of the scale of their turnover, and thus are excused from the basic compulsory registration limit of €75,000. Further differences from the UK system are seen in the rate of VAT charged, with zero rated products restricted to goods for human consumption, whereas a 4.8% rate applies to selling livestock. The next VAT rate, 13.5%, includes veterinary services, and a 23% rate applies to the majority of goods and services in Ireland. Thus, it is unsurprising that the majority of farmers here are unregistered. However, farmers in Ireland can

claim an FRA, set at 4.8% (rate at January 2013), that works, to all intents and purposes, in the same way as the UK model described above. Irish farmers, however, can also reclaim VAT incurred on the construction of farm buildings, fencing and land drainage by completing a Form VAT 58 and submitting it to the relevant Revenue Department. These advantages mean that up to 95% of farming operations in Ireland do not register for VAT.

Conclusion

A basic summary of the tax implications of farming operations in the UK and Ireland is given above. Although some areas, such as the definition of farming, are broadly similar, the two tax systems are significantly different in other areas.

The professional adviser must therefore approach each individual client differently and must investigate all areas to ensure that income or corporation tax returns etc. have been completed accurately and within the time limits specified by the tax system of the country in which the trade is conducted.

Many options exist for each client, and it is up to them, and their advisers, to navigate through this complicated area to obtain the optimum position.

Read more on [TaxFind](#) FINAK – Finance Act 2013 Explained – Section 20 Farm Taxation and Farm Tax Seminar Paper, June 2013.

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