

[19.06.06] Capital Gains Tax

Exemption on Disposal of Single Farm Payment Entitlements in Certain Circumstances

1. Background

The reform of the Common Agricultural Policy, with effect from 1 January 2015, sees the existing Single Payment Scheme for farmers being replaced by a new Basic Payment Scheme. All entitlements held under the current Single Payment Scheme will expire on the 31 December 2014. The following publication by the Department of Agriculture, Fisheries and the Marine outlines the new scheme: [CAP 2015 - An Introduction to Direct Payments](#).

The new 'Basic Payment Scheme' replaced the 'Single Payment Scheme' after 31 December 2014. Payments under both schemes are based on "entitlements".

Under the new arrangements "entitlements" under the new scheme are made up of two elements, an 'allocation right' and a "value". To qualify for an "allocation right", the applicant must have received a direct payment in 2013 under the existing Single Payment Scheme. However, the "value" element is determined by the total value of single payment entitlement **owned** by the applicant in 2014.

In relation to leases entered into in 2013 or before, where the lessor owns the single payment entitlement in 2014 but has leased both the land and the entitlement in full to the lessee, the lessee will have received the direct payment in respect of the entitlement in 2013. As the lessor will not have received the payment entitlement in 2013 and as the lessee will not satisfy the ownership condition in 2014, neither would qualify for the new Basic Payment Scheme from 1 January 2015 unless action was taken by the lessor to permanently transfer the single payment entitlement to the lessee before 15 May 2014.

2. Capital Gains Tax Position

A single payment entitlement is a chargeable asset for capital gains tax purposes under current capital gains tax legislation. Accordingly, any chargeable gain arising on the disposal of such entitlements before 15 May 2014 would ordinarily have been liable to capital gains tax and capital gains tax would be payable on or before 15 December 2014.

However, in the particular circumstances that give rise to the need for the transfer of the single payment entitlement, the Minister for Finance issued a statement in May 2014 that he intended to introduce a provision in Finance Bill 2014 to exempt from capital gains tax any chargeable gain on the transfer by individuals of payment entitlements under the Single Payment Scheme where all of those entitlements were leased out in 2013 and where the individuals had been advised by the Department of Agriculture, Food and the Marine to dispose of those entitlements to the lessee before 15 May 2014. Accordingly, lessors affected who disposed of their single payment entitlements to lessees **before 15 May 2014** will not be required to pay capital gains tax on these disposals.

Section 51 Finance Act 2014 gives effect to the statement issued by the Minister for Finance. It inserts a new section (**Section 604C**) in the Taxes Consolidation Act 1997 which exempts the relevant payment entitlements from capital gains tax.