

23.02.08 Tax Treatment of Animal Leasing

1. Income Tax

A dairy farmer with surplus cattle may lease them to another dairy farmer who wishes to increase production without the need to invest in ownership of extra animals. Where the lessor continues to carry on the business of farming, Revenue will accept that the income from leasing of cattle will be considered to be income from farming and will be taxed accordingly. The lessor will be entitled to claim stock relief on the leased cattle and the lease payments will not be treated as payments on account for the purpose of calculating stock relief, provided there is no agreement in place to sell the animals other than at their open market price.

The lessee farmer may claim a deduction for the cost of leasing in calculating his or her farm income. However, the lessee may not claim stock relief on the leased animals as ownership remains with the lessor. The lease agreement may provide that the lessee may sell some of the cattle leased provided they are replaced with animals of equivalent value for return to the lessor at the end of the lease period. In this situation the profits arising from such sale would be part of normal farming and the cost of replacement would be an allowable expense.

If, at the end of the lease period, ownership of the leased animal is transferred to the lessee farmer, any amount paid for the transfer will be a receipt in respect of a sale by the lessor farmer. This amount will represent the cost to the lessee farmer of purchasing the livestock and should be recognised accordingly in his closing stock.

If, however, animals are purchased with the intention of leasing then a separate trade exists. No stock relief is available.

2. VAT Treatment of Animal Leasing

Animal leasing is liable to VAT at the standard rate, currently 23%. Two scenarios may arise in relation to VAT and leased animals.

a. Leasing of cattle by unregistered farmers

The leasing of cattle is not regarded as an agricultural production activity for VAT purposes. Where the lessor carries on agricultural production activities and that lessor's income from animal leasing activities exceeds the services threshold of €37,500 in a continuous period of 12 months then the lessor is obliged to register and account for VAT on all income including income from agricultural production activities.

The sale of the animal by the lessor who is unregistered for VAT at the end of the lease period would be considered to be part of the lessor's agricultural production activities and the sale is not chargeable to VAT.

The sale of the animal by a lessor, who is unregistered for VAT, to a VAT registered trader, qualifies for the flat-rate addition, payable by the VAT registered trader.

b. Leasing of cattle by VAT-registered persons including VAT-registered farmers

The sale of the cattle at the end of the lease period by a VAT registered person is chargeable to VAT at the livestock rate, currently 4.8%, in accordance with Section 46(1) (d) of the VAT Consolidation Act 2010, as amended.