

Relief for certain income from leasing of farm land. ITA67 s195B(3) and (6); FA85 s10, FA87 s2, FA91 s10; FA93 s10(1); FA96 s10, s132(1) and Sch5 pt14 664.—(1) (a) In this section—

“farm land” means land in the State wholly or mainly occupied for the purposes of husbandry and includes a building (other than a building or part of a building used as a dwelling) situated on the land and used for the purposes of farming that land;

“lease”, “lessee”, “lessor” and “rent” have the same meanings respectively as in Chapter 8 of Part 4;

“qualifying lease” means a lease of farm land which is—

(i) in writing or evidenced in writing,

(ii) for a definite term of 5 years or more, and

(iii) made on an arm's length basis between a qualifying lessor or qualifying lessors and a lessee or lessees who is, or each of whom is, a qualifying lessee in relation to the qualifying lessor or the qualifying lessors;

“qualifying lessee”, in relation to a qualifying lessor or qualifying lessors, means an individual—

(i) who is not connected with the qualifying lessor or with any of the qualifying lessors, and

(ii) who uses any farm land leased by him or her from the qualifying lessor or the qualifying lessors for the purposes of a trade of farming carried on by him or her solely or in partnership;

“qualifying lessor” means an individual who—

(i) is aged 55 years or over or is permanently incapacitated by reason of mental or physical infirmity from carrying on a trade of farming, and

(ii) has not after the 30th day of January, 1985, leased the farm land which is the subject of the qualifying lease from a person or persons, who is or are, or one of whom is, connected with him or her, on terms which are not such as might have been expected to be included in a lease if the negotiations for the lease had been at arm's length;

“the specified amount”, in relation to any surplus or surpluses (1) arising in respect of the rent or the rents from any farm land let under a qualifying lease or qualifying leases, means, subject to paragraph (b), the lesser of—

(i) the amount of that surplus or the aggregate amount of those surpluses,

(ii) as respects a qualifying lease or qualifying leases made—

(I) in the period beginning on the 6th day of April, 1985, and ending on the 19th day of January, 1987, £2,000,

(II) in the period beginning on the 20th day of January, 1987, and ending on the 31st day of December, 1987, £2,800,

(III) in the period beginning on the 1st day of January, 1988, and ending on the 29th day of January, 1991, £2,000,

(IV) in the period beginning on the 30th day of January, 1991, and ending on the 22nd day of January, 1996—

(A) £4,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and

(B) £3,000, in any other case, or

(V) on or after the 23rd day of January, 1996—

(A) £6,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and

(B) £4,000, in any other case,

and

(iii) where the rent or rents was or were not receivable in respect of a full year's letting or lettings, such amount as bears to the amount determined in accordance with clause (I), (II), (III), (IV) or (V), as may be appropriate, of subparagraph (ii) the same proportion as the amount of the rent or the aggregate amount of the rents bears to the amount of the rent or the aggregate amount of the rents which would be receivable for a full year's letting or lettings.

(b) Where the income of a qualifying lessor consists of or includes rent or rents—

(i) from a qualifying lease or qualifying leases made in the period beginning on the 20th day of January, 1987, and ending on the 31st day of December, 1987, and from a qualifying lease made—

(I) in the period beginning on the 6th day of April, 1985, and ending on the 19th day of January, 1987, or

(II) in the period beginning on the 1st day of January, 1988, and ending on the 29th day of January, 1991,

the specified amount shall not exceed £2,800;

(ii) from a qualifying lease or qualifying leases made in the period beginning on the 30th day of January, 1991, and ending on the 22nd day of January, 1996, and from a qualifying lease made before the 30th day of January, 1991, the specified amount shall not exceed—

(I) £4,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and

(II) £3,000, in any other case;

(iii) from a qualifying lease or qualifying leases made on or after the 23rd day of January, 1996, and from a qualifying lease made at any other time, the specified amount shall not exceed—

(I) £6,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and

(II) £4,000, in any other case.

(2) Where for any year of assessment—

(a) the total income of a qualifying lessor consists of or includes any profits or gains chargeable to tax under Case V of Schedule D, and

(b) any surplus or surpluses (within the meaning of section (97) (1)) arising in respect of the rent or rents from any farm land let under a qualifying lease or qualifying leases has been or have been taken into account in computing the amount of those profits or gains,

the qualifying lessor shall in determining that total income be entitled to a deduction of the lesser of—

(i) the specified amount in relation to the surplus or surpluses, and

(ii) the amount of the profits or gains.

(3) The amount of any deduction due under subsection (2) shall—

(a) where by virtue of section 1017 a woman's income is deemed to be her husband's income, be determined separately as regards the part of his income which is his by virtue of that section and the part which is his apart from that section, or

(b) where by virtue of section 1017 a man's income is deemed to be his wife's income, be determined separately as regards the part of her income which is hers by virtue of that section and the part which is hers apart from that section,

and where section 1023 applies any deduction allowed by virtue of subsection (2) shall be allocated to the person and to his or her spouse as if they were not married.

(4) (a) For the purposes of subsection (2), where a single qualifying lease relates to both farm land and other property, goods or services, only such amount, if any, of the surplus arising in respect of the rent payable under the lease as is determined by the inspector and after such apportionments of rent, expenses and other deductions as are necessary, according to the best of the inspector's knowledge and judgment, to be properly attributable to the lease of the farm land shall be treated as a surplus arising in respect of a rent from farm land let under a qualifying lease.

(b) Any amount which by virtue of paragraph (a) is determined by the inspector may be amended by the Appeal Commissioners or by the Circuit Court on the hearing or the rehearing of an appeal against that determination.

(5) For the purposes of determining the amount of any relief to be granted under this section, the inspector may by notice in writing require the lessor to furnish such information as the inspector considers necessary.

(6) (a) Subsections (1) and (2) of section 459 and section 460 shall apply to a deduction under this section as they apply to any allowance, deduction, relief or reduction under the provisions specified in the Table to section 458.

(b) Subsections (3) and (4) of section 459 and paragraph 8 of Schedule 28 shall, with any necessary modifications, apply in relation to a deduction under this section.