

# Agricultural Relief

## Capital Acquisitions Tax Part 11

This document should be read in conjunction with section 89 Capital Acquisitions Tax Consolidation Act 2003.

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## 11.1 Introduction

Section 89 of the Capital Acquisitions Tax Consolidation Act (CATCA) 2003 provides for relief from Capital Acquisitions Tax (CAT), in certain circumstances, for gifts and inheritances of agricultural property. It is generally referred to as “agricultural relief”. For the relief to apply, a number of qualifying conditions must be met, the main condition being that the agricultural property is taken by an individual who is a “farmer” (as defined in section 89(1)). The primary policy rationale for the relief is to promote the intergenerational transfer of family farms and ensure they continue to be actively farmed.<sup>1</sup>

The purpose of this document is to explain the operation of agricultural relief.

## 11.2 Calculation of relief

Where the qualifying conditions are met, the relief operates so as to reduce by 90% the taxable market value of the gifted or inherited agricultural property (section 89(2)).

Where the relief applies, any liabilities, costs and expenses to be deducted from the value of the agricultural assets, or consideration paid for the assets, must also be reduced by 90%.

## 11.3 Qualifying conditions

To qualify for the relief, the following conditions must be satisfied:

- On the date of the gift or inheritance **and** on the valuation date of the gift or inheritance<sup>2</sup>, the assets received must constitute **agricultural property** (as defined in section 89(1)). (See [11.4](#))
- On the valuation date, the beneficiary must satisfy the ‘80% agricultural property’ **asset test** after taking the assets. (See [11.5.1](#))
- For 6 years from the valuation date, the beneficiary, or lessee where the beneficiary leases the agricultural property, must satisfy the **active farmer** requirements. (See [11.5.2](#))

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<sup>1</sup> As stated in paragraph 69 of the **Agri-Taxation Measures Tax Strategy Group – 24/05** papers issued by the Department of Finance in July 2024.

<sup>2</sup> The valuation date in the case of a gift is the date of the gift. In the case of an inheritance, it is usually the date on which the grant of probate or administration issues in the estate. Further guidance is contained in [Tax and Duty Manual Part 8 -Valuation Date](#).

## 11.4 Agricultural property

In order to qualify for the relief, the assets must comprise **agricultural property** on both the date of the gift or inheritance and on the valuation date (where different).

However, a beneficiary may qualify for agricultural relief on a gift or inheritance of non-agricultural property (such as cash) where the gift or inheritance is made subject to the condition that it is invested in agricultural property and that condition is satisfied within 2 years after the date of the gift or inheritance. (See [11.7](#))

“Agricultural property” is defined in section 89(1) as:

- Agricultural land<sup>3</sup>, pasture and woodland situated in the European Union or the United Kingdom;
- Crops, trees and underwood **growing** on agricultural land (but not where they have been harvested or cut down);
- Farm buildings and dwelling houses (and the land on which they are situated) that are proportionate in size and character to the requirements of the farming activities;
- Farm machinery situated on such property;
- Livestock and bloodstock situated on such property;
- European Union ‘single farm payment’ entitlements.

Market gardens, ‘factory’ farms used for intensive rearing/production and fish farms do not constitute agricultural property unless they are part of the agricultural land.

### 11.4.1 Farm buildings and dwelling houses

The relief will only apply to farm buildings and dwelling houses if they are of a character appropriate to the agricultural land being transferred. A transfer of farm buildings and dwelling houses on their own will not qualify for the relief.

While a farmhouse transferred to a farmer on its own does not qualify for the relief, if the farmland is then subsequently transferred to the same beneficiary, thereby ‘re-joining’ the house and land, the farmhouse will be treated as agricultural property for the purposes of the asset test (see [11.5.1](#)) in relation to any **subsequent** gift or inheritance taken by that beneficiary.

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<sup>3</sup> Land on which solar panels are installed is regarded as agricultural land for the purposes of the definition of agricultural property provided that the area of land occupied by the solar panels and ancillary equipment does not exceed half of the land comprised in the gift or the inheritance and the remaining agricultural land is actively farmed (subsection (1B)).

On the contrary, where agricultural land is gifted to a beneficiary and the donor retains the house, the house will not be 'agricultural property' on its own should it be later gifted or devised to the same beneficiary. Although it may "re-join" the agricultural property, it was not agricultural property at the date of the gift or inheritance.

### Example

Tom receives a gift of a farmhouse from his father located on the family farm. This gift does not qualify for agricultural relief. Upon his father's death, Tom inherits the family farm which qualifies for agricultural relief. Should Tom be gifted or inherit further agricultural property, the farmhouse will be treated as agricultural property for the purposes of the asset test which Tom will have to meet in order to be eligible for the relief.

#### 11.4.2 Small parcels of land

Claims for agricultural relief in relation to small parcels (acreages) of land are determined by reference to the particular circumstances of each case. Whether the agricultural activities make the land 'agricultural property' is a question of fact and degree. The Appeal Commissioners, in February 2012, determined that a small parcel of land of 0.14 acres was not agricultural property. Also of interest is the UK case of **Starke (executors of Brown deceased) v IRC [1996] 1 All ER 622** in which 2.5 acres of land with a farmhouse and other buildings was held not to be agricultural property. The use of the property is fundamental to agricultural relief. In **Rosser v IRC (2003) SPC 368**, two acres with a barn on them was regarded as agricultural while a house on the same holding was not regarded as agricultural.

As a general rule, Revenue considers that small parcels of land of less than two acres may be too small to constitute agricultural property. The purpose of the relief is to encourage the productive use of agricultural land and to support intergenerational transfers of farms, not to give relief to a private residence with agricultural activities attached. The relief applies to land or pasture used to grow crops or to rear animals.

#### 11.4.3 Machinery, livestock and bloodstock situated on agricultural land

Farm machinery, livestock and bloodstock **situated on agricultural land** qualify for agricultural relief. Such assets owned, for example, by a dealer in livestock, bloodstock or farm machinery, would not qualify for agricultural relief unless they are situated on agricultural land. They may, however, qualify for business relief – see [Part 12 Manual on Business Relief](#). Revenue accepts that it is not necessary for the agricultural land on which the farm machinery, livestock or bloodstock are situated is part of the gift or inheritance or owned by the donor.

### 11.5 Qualification as a 'farmer'

The relief will only apply to benefits taken by a person who is a **farmer** on the valuation date and after taking the gift or inheritance (subsection (2)). This requires the satisfaction of both an **asset test** ([see 11.5.1](#)) and an **active farmer test** ([see 11.5.2](#)).

There is one exception to this requirement; the asset test and the active farmer test are not applicable to agricultural property that consists of **trees or underwood growing on agricultural land**. However, it is important to note that the beneficiary must still satisfy both the asset test and the active farmer test in relation to the underlying agricultural land on which the trees and/or underwood are grown in order to avail of the relief. For further guidance on this aspect of the relief, see 11.5.2.3.

### 11.5.1 80% agricultural property asset test

To qualify as a **farmer** at least 80% of the gross market value of the property to which a person is beneficially entitled in possession, including the relevant gift or inheritance, must comprise **agricultural property** (see [11.4](#)). This test is applied on a once-off basis on the valuation date of the gift or inheritance.

For the purposes of the test, an individual is deemed to be beneficially entitled in possession to an interest in expectancy and to property held through a discretionary trust where that individual is the object of the trust. Revenue accepts that a future entitlement to a pension fund need not be included for the purposes of the asset test.

#### Example

Mary inherits land and other agricultural property from her father. The remainder of the estate (mostly non-agricultural assets) was inherited by Mary's mother for life, with remainder to Mary. In assessing whether Mary is a farmer for the asset test, the assets to which she will become beneficially entitled on her mother's death must be taken into account.

#### 11.5.1.1 Retention period

The agricultural property must be retained by the beneficiary for a period of at least 6 years (subsection (4)).

In the case of gifts and inheritances taken **on or after 1 January 2024**, this 6-year retention period commences on the **valuation date** of the gift or inheritance.

In the case of gifts and inheritances taken **before 1 January 2024**, this 6-year retention period commences on the **date of the gift or inheritance**.

#### 11.5.1.2 Expenses and deductions

For the purposes of the asset test, no deduction from the market value of agricultural property is allowed in respect of any debts or encumbrances (such as a mortgage or other charge on property). It is the gross value of assets that is taken into account.

However, there is an exception in respect of an off-farm private principal dwelling house of the beneficiary that is not agricultural property. Any mortgage or charge attaching to this property is deductible where the relevant loan was used to purchase, improve or repair the dwelling house. A loan taken out for any other purpose, even if secured on the only or main residence, is not taken into account for the purposes of the asset test (subsection (1A)).

### Example

Alex receives an inheritance from her father of a farm worth €1,000,000, machinery worth €100,000 and livestock worth €75,000. Alex owns her own home which is not a farmhouse, and which has a market value of €300,000 and is subject to a mortgage of €200,000. She also has a car worth €10,000 which has outstanding finance of €3,000. For the purposes of the asset test, the mortgage is deducted from the gross value of the dwelling house but the car loan is disregarded.

Agricultural Assets		Assets prior to inheritance	
Farm	€1,000,000	House (less mortgage)	€100,000
Machinery	€100,000	Car	<u>€10,000</u>
Livestock	<u>€75,000</u>	Total Own Assets	€110,000
Total Agricultural Assets	€1,175,000		
Combined Assets	<b>€1,285,000</b>		

#### Asset test:

Agricultural assets	<u>(€1,175,000)</u>
All assets	$(€1,175,000 + €110,00) \times 100 = 91\%$

Alex satisfies the asset test.

### 11.5.2 Active farmer test

In addition to meeting the asset test set out above, the beneficiary must also satisfy one of the following three conditions:

1. farm the land on a commercial basis and with a view to the realisation of profits for a period of not less than 6 years commencing on the valuation date and **hold a specified qualification** (either on the valuation date of the gift or inheritance or within 4 years of the date of the gift or inheritance),
2. farm the land on a commercial basis with a view to the realisation of profits and **spend not less than 50% of the individual's normal working time** farming agricultural property for a minimum of 6 years from the valuation date, or
3. **lease the whole or substantially the whole of the agricultural property** for a minimum of 6 years from the valuation date to a lessee who satisfies the conditions in requirements (1) or (2).

Failure to actively farm all (or part) of the agricultural land during the 6-year qualifying period will result in a full (or partial) clawback of the relief. (See [11.10.2](#)).

### 11.5.2.1 Qualifying period

A beneficiary must actively farm the agricultural property, or lease the farm to an active farmer, for a period of at least 6 years, commencing on the valuation date. It is the beneficiary themselves who must meet conditions for the relief. Farming by the beneficiary's spouse will not satisfy the requirement.

Where a beneficiary intends to start farming but is genuinely unable to do so immediately from the valuation date because of existing work commitments or other personal circumstances, the relief will not be refused once the beneficiary begins actively farming the land **within one year after the valuation date** of the gift or inheritance. In such circumstances, the 6-year period will commence from the date that the farming is taken up.

Where relief is claimed in respect of a gift or inheritance that is conditional upon investment of that gift or inheritance in agricultural property within two years, the 6-year period commences on the date that gift or inheritance is so invested in agricultural property (subsection (4B)).

### 11.5.2.2 Commercial basis

The agricultural property must be farmed on a commercial basis and with a view to the realisation of profits. The satisfaction of this requirement will be determined by reference to the facts in each case.

The fact that a farmer may make a loss in a particular year will not, in itself, result in relief being refused or withdrawn. If a farmer continuously makes losses year on year, the circumstances must be examined carefully to establish whether the person is actually farming on a commercial basis and with a view to the realisation of profit.

Single farm payments are to be included as farming income in the computation of profits or losses in the normal way.

### 11.5.2.3 Normal working time

A beneficiary or a lessee, who does not have a specified agricultural qualification, must farm the agricultural property for at least 50% of his or her normal working time. Revenue will accept, for the purposes of this relief, that a person's normal working time (including on-farm and off-farm working time) approximates to 40 hours per week. Therefore, farmers with off-farm employment may qualify for agricultural relief where, averaged over a year, they work on the farm for at least 20 hours per week, even where he or she spends more than 20 hours per week in an off-farm employment.

If a farmer can show that his or her normal working time is somewhat less than 40 hours per week, the 50% requirement will be applied to the actual hours worked, subject to the farmer being able to show that the farm is farmed on a commercial basis and with a view to the realisation of profits.



In the majority of situations, it should be clear from the level of farming activity being carried on whether the normal working time requirement is satisfied. If there is any doubt, Revenue will consider all information (including standard farming and taxation records) provided by a farmer in relation to his or her normal working time and farming activities.

Revenue recognises that certain farming activities (such as the occupation of woodlands) can be actively farmed on a commercial basis with a view to making a profit even though it may not require 50% of a person's normal working time. If a farmer can demonstrate that the farming activities are carried out on a commercial basis, Revenue will take this into consideration in determining whether the relief is due.

#### 11.5.2.4 Agricultural qualifications

A beneficiary or a lessee who does not farm the agricultural property for at least 50% of his or her normal working time must be the holder of a **trained farmer qualification** or a qualification set out in Schedule 2 or Schedule 2A to the Stamp Duties Consolidation Act 1999 (see [Appendix](#)).

A **trained farmer qualification** is:

- any qualification that is listed in the table to section 654A of the Taxes Consolidation Act 1997, and
- any additional qualification which Teagasc certifies as being equivalent to a qualification that is listed in the table and as being deemed by the Qualifications and Quality Assurance Authority of Ireland to be at least at a level equivalent to that qualification.

Teagasc is responsible for publishing the list of all trained farmer qualifications on its website and for keeping it up to date. The up-to-date list can be accessed through the information page on the [Teagasc website](#).

If not already held, the qualification must be achieved within the period of 4 years commencing on the date of the gift or inheritance. Failure to obtain the qualification within this 4-year period will result in the withdrawal of the relief.

#### 11.5.2.5 Leasing of agricultural property

Where a beneficiary is not in a position to farm the land personally, they may lease the agricultural property to an **active farmer**. In order to qualify for the relief two conditions must be met:

- the beneficiary must lease **substantially the whole** of the agricultural property. Revenue will accept that substantially the whole of the property means at least 75% of the property by value, and
- the lessee (or each lessee, where there is more than one) must farm the land on a commercial basis with a view to the realisation of profits and must either hold a specified qualification or spend not less than 50% of their working time farming the agricultural property.

The onus is on the beneficiary to ensure that the above conditions are met by the lessee. For example, the beneficiary may wish to consider including clauses in the lease agreement which require satisfaction of the active farmer requirements for the duration of the lease, and for termination of the lease where these conditions are not met.

The agricultural property may be leased to a number of lessees as long as each lessee satisfies the requirements for the relief. Revenue will accept that a lease may be to another individual, to a partnership or to a company. In the case of a lease to a company, the main shareholder must be a working director of the company and must farm the agricultural property on behalf of the company. Where land is leased to a company that is owned equally by a person and his or her spouse or civil partner, at least one of them must satisfy the working director and farming requirements to qualify for the relief.

In circumstances where a beneficiary takes a gift or inheritance of agricultural property that includes land and a farmhouse and leases the land but retains the farmhouse to reside in it as their only or main residence, Revenue accepts that the agricultural relief referable to the farmhouse will be allowed provided that the land leased comprises the whole, or substantially the whole, of the agricultural property. Similarly, if the agricultural property includes plant and machinery or livestock, but a lessee requires only the land, agricultural relief will not be restricted where the land comprises substantially the whole of the agricultural property.

If, during the 6-year period, a beneficiary farms the agricultural land and then decides to lease it, the relief will not be withdrawn, provided the lessee satisfies the requirements for the relief for the remainder of the 6-year period. Similarly, if a beneficiary initially leases the agricultural land and decides, within the 6-year period, to end the lease and to personally farm the agricultural land for the remaining period, relief will not be withdrawn.

Where a person inherits or is gifted agricultural property which is subject to a lease to an active farmer prior to the gift or inheritance, and the pre-existing lease ends within the 6-year period, Revenue accepts that the beneficiary can either commence actively farming the land themselves or may grant a qualifying lease for the remainder of the required period.

#### 11.5.2.6 Solar panels

In accordance with subsection (1B), the 'active farmer' requirement will be met in circumstances where a beneficiary leases land for the installation of solar panels provided that:

- not more than half of the land comprised in the gift or the inheritance is occupied by the solar panels and ancillary equipment, and
- the beneficiary actively farms the land not occupied by solar panels or leases it to a lessee who will meet the active farmer requirements as set out above.

## 11.6 Development land

The relief is available in respect of gift and inheritances of land with development potential provided it is **agricultural land** and is taken by a **farmer**. The development potential is not taken into account in determining whether the land is agricultural land but the market value to be reduced by 90% must include any development potential.

## 11.7 Conditional gift

A beneficiary may qualify for agricultural relief on non-agricultural property (such as cash) where a gift or inheritance is made subject to the condition that it is invested in agricultural property and that condition is satisfied within 2 years after the date of the gift or inheritance (subsection (3)). Any part of the non-agricultural property that is not invested in agricultural property does not qualify for relief and may impact the satisfaction of the asset test. (See [11.5.1](#)).

## 11.8 Appropriation

Agricultural relief is available on agricultural property which has been appropriated to a beneficiary who qualifies as a **farmer** (see [11.5](#)) in satisfaction of a benefit under an estate (subsection (5)).

A personal representative may appropriate a holding of agricultural property in satisfaction of a legacy under section 55 of the Succession Act 1965. Section 55 of the Succession Act 1965 deals with the powers of the personal representatives to appropriate any part of the estate of a deceased person in satisfaction of any share in the estate.

If the agricultural property was part of the deceased person's estate at the date of death (i.e., the date of the inheritance), the appropriation will be retrospective to that date. This will enable the legatee to qualify under subsection (2) by treating that agricultural property as being comprised in the inheritance at the date of the inheritance and at the valuation date. As a result, agricultural relief will be available provided all the other conditions are satisfied.

## 11.9 Transferees who become entitled to an interest in expectancy

Agricultural relief is available to beneficiaries who become entitled to an interest in expectancy<sup>4</sup> in agricultural property under section 32 CATCA 2003 (subsection (7)). In these circumstances, the transferee beneficiary and not the original remainderman must qualify as a **farmer** (see [11.5](#)) in order for agricultural relief to apply.

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<sup>4</sup> An interest in expectancy means a benefit to which a beneficiary is entitled to but will not come into possession of until a future date.

### Example

David received an inheritance from his uncle Tom consisting of a life interest in agricultural property with remainder to his sister Louise. Louise dies before David, leaving her estate to her daughter Niamh. Under section 32(2) CATCA 2003, Niamh takes as transferee from Louise on David's death and CAT will be calculated based on the relationship between Louise and Tom. However the farmer tests will be applied to Niamh. She will be entitled to claim the relief subject to satisfying the relevant conditions for the relief.

## 11.10 Withdrawal of the relief

A clawback of agricultural relief will arise in the following circumstances:

- where the **agricultural property is disposed of** within 6 years of the **valuation date** of the gift or inheritance, and the proceeds are not used to replace it with other agricultural property (section 89(4)), or
- where the person who claimed the relief, or a lessee, **ceases to qualify as an active farmer** within 6 years of the **valuation date** of the gift or inheritance (section 89(4B)).

Where relief is claimed in respect of a gift or inheritance that is conditional upon investment of that gift or inheritance in agricultural property within two years, the 6-year clawback period will commence on the date that gift or inheritance is so invested in agricultural property.

Where there is a clawback of agricultural relief, the tax is recalculated on the gift or inheritance as though the asset to which the clawback relates were not agricultural property.

### Example

Ben received an inheritance of agricultural property from his uncle with a value of €500,000 in 2020. He claimed agricultural relief on the inheritance which reduced the value of the land for CAT purposes to €50,000 (i.e., reduced by 90%). Ben had no remaining tax-free threshold in Group B due to previous benefits taken and so had a CAT liability of €16,500. In 2022, he sold the land for €500,000 and used the proceeds to purchase an investment property. The agricultural relief claimed is clawed back and the CAT due recalculated as though the property was not agricultural property. This resulted in a recalculated CAT liability of €165,000 (500,000 x 33%).

### 11.10.1 Disposal of agricultural property

A clawback of agricultural relief will arise where all or any part of the agricultural property (other than crops, trees and underwood) is disposed of<sup>5</sup>, in whole or in part, within 6 years of the valuation date of the gift or inheritance (section 89(4)(a)) or within 6 years of the date on which the taxable gift or inheritance is invested in agricultural property (see [11.7](#)).

For gifts and inheritances taken **before 1 January 2024**, the 6-year clawback period in relation to disposals of agricultural property **commenced on the date of the gift or inheritance**.

It is important to note that agricultural relief will not be clawed back where the donee or successor dies before the property is disposed of.

A clawback of agricultural relief can be avoided where the proceeds of a disposal are reinvested in other agricultural property within one year of the disposal or, where the disposal arises as a consequence of a compulsory acquisition, within 6 years of the compulsory purchase.

It is not necessary that reinvestment is made in the same type of agricultural property. For example, the proceeds from the sale of livestock could be reinvested in land or machinery without losing the relief.

The extent of the clawback depends on the amount of the proceeds reinvested, if any. If the full proceeds are reinvested there is no clawback of relief; if only part of the proceeds are reinvested, there is a partial clawback of relief.

Land that is acquired from a spouse or civil partner does not qualify as the replacement of property (subsection (4A)).

If Capital Gains Tax (CGT) is paid on a disposal, only the net proceeds available after payment of the CGT need be reinvested.

Where all or any part of the agricultural property has been disposed of (in whole or in part) and the proceeds have not been fully reinvested in acquiring other agricultural property, the CAT payable arising from a clawback of relief is to be calculated in accordance with a formula which is set out in section 89(4)(aa), as follows:

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<sup>5</sup> A lease of agricultural land to an active farmer is not a disposal for these purposes (see [11.5.2.5](#)).

$$V1 \times \frac{N}{V2}$$

$$V2$$

Where:

V1 is the market value of all of the agricultural property on the valuation date (ignoring the disposal or compulsory acquisition);

V2 is the market value of that agricultural property immediately before the disposal or compulsory acquisition; and

N is the amount of proceeds from the disposal or compulsory acquisition of all the agricultural property or, as the case may be, the part of the proceeds that **was not** expended in acquiring other agricultural property.

Prior to **18 December 2023**, a gift of agricultural property was not treated as a disposal for the purposes of the calculation and therefore a gift did not trigger a claw back of the relief. Where there is a gift of agricultural property **on or after 18 December 2023**, the market value of the agricultural property, before it was disposed of, is deemed to be the **proceeds** for the purposes of the clawback formula (subsection (4)(aa)(ii)).

### Example

Sam receives a gift of agricultural property worth €1,000,000. She qualifies as a farmer and claims agricultural relief. Three years later she sells the land for €1,400,000. Within one year she reinvests €1,000,000 of the proceeds of sale in other agricultural property. The amount on which the clawback is to be calculated is as follows:

$$\begin{aligned} \text{€1,000,000} \times \frac{\text{€400,000}}{\text{€1,400,000}} &= \text{€285,714} \end{aligned}$$

CAT is then recalculated and chargeable at 33% on this €285,714, without applying agricultural relief.

Where agricultural land is exchanged for other agricultural land for the purposes of Stamp Duty farm consolidation relief<sup>6</sup> (section 81C Stamp Duties Consolidation Act 1999) or Capital Gains Tax farm restructuring relief<sup>7</sup> (section 604B Taxes Consolidation Act 1997), Revenue accepts that a clawback of agricultural relief will not apply where:

<sup>6</sup> For further details see [Stamp Duty Manual Farm Consolidation Relief Part 7: section 81C](#).

<sup>7</sup> For further details see [Part 19-07-03B Relief for farm restructuring \(S.604B\)](#).

- a Farm Restructuring Certificate from Teagasc is obtained within one year of the disposal of the land on which the relief has been claimed, **and**
- the replacement land is worth at least the same as the land for which the relief was initially claimed.

A Farm Restructuring Certificate may be issued by Teagasc where a qualifying exchange of land is not simultaneous and there is a period of time between disposal and purchase. Agricultural relief will not be clawed back provided the exchange is certified by Teagasc within the required period of one year of the disposal of the land on which agricultural relief was initially claimed.

Where a Farm Restructuring Certificate has been obtained in the required period, but the replacement land is worth less than the value of land for which the relief was claimed, there is a partial clawback of the relief.

#### 11.10.1.2 Development land

Section 102A CATCA 2003 provides for an extended clawback period of 10 years where agricultural relief has been granted in respect of development land.

The term **development land** is defined in section 102A to mean land in the State, the market value of which at the date of a gift or inheritance exceeds the **current use value** of that land at that date and includes shares deriving their value in whole or in part from such land.

The term **current use value** is defined to mean:

- (a) in relation to land, the amount which would be the market value of the land if the market value were calculated on the assumption that it was at that time and would remain unlawful to carry out any development in relation to the land other than development of a minor nature, and
- (b) in relation to shares in a company, the value of the shares at that time if the market value were calculated on the same assumption, in relation to the land from which the shares derive all or part of their value, as is mentioned in paragraph (a).

The clawback period in relation to a disposal of development land is extended for a further four years commencing on the sixth anniversary of the valuation date of the gift or inheritance.

For gifts and inheritances taken **before 1 January 2024**, the extended clawback period commences on the sixth anniversary of date of the gift or inheritance.

The amount of the clawback relates to the development potential of the land and not its full value. Unlike agricultural land, a clawback of relief granted on development lands cannot be avoided by reinvestment of the proceeds.

### Example

Andrew, an active farmer, receives a gift of development land from his father on 1 June 2015. The market value of the land on that date was €20 million. The land qualified in full for agricultural relief. The current use value of the land on that date was €2 million and, due to its development potential, the development value of the land was €18 million. Andrew sells the land in 2023. As the sale occurs within the extended clawback period, a clawback will arise in respect of the relief granted on the development value of €18 million. The CAT is recalculated as though the development value of the land (i.e. €18 million) was a non-agricultural asset. The current use value (i.e., €2 million) will still qualify for the relief as the sale is after the clawback period of 6 years for non-development land.

#### 11.10.2 Ceasing to be an “Active Farmer”

A clawback of agricultural relief will also arise where all or any part of the agricultural property (other than crops, trees, or underwood) comprised in a gift or inheritance<sup>8</sup> ceases to be farmed by an active farmer (see 11.5.2), or by a lessee who is an active farmer, **throughout** the 6-year qualifying period from the **valuation date** of the gift or inheritance or where the relief is claimed in respect of a gift or inheritance that is conditional upon investment of that gift or inheritance in agricultural property within two years, the date that gift or inheritance is so invested in agricultural property subsection (4B)).

A partial clawback of the relief arises where only part of the land is not actively farmed throughout the 6-year qualifying period. Where there is a clawback of agricultural relief, the CAT is recalculated on the gift or inheritance as though the property to which the clawback relates were not agricultural property.

Relief will not be clawed back where solar panels are installed on the agricultural land during the 6-year qualifying period provided the conditions set out above are met (see 11.5.2.6).

#### 11.11 Filing Obligations

With effect from 21 December 2021, where agricultural relief is claimed the beneficiary is required to file an [IT38 CAT return](#) regardless of the value of the benefit or whether any CAT liability arises (section 46(4) CATCA 2003).

Where a clawback of agricultural relief applies, the individual is required to file an additional CAT return to reflect the clawback of relief and pay any outstanding tax due (section 89(4C)).

The IT38 CAT Return must be filed electronically via myAccount or Revenue Online Service (ROS).

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<sup>8</sup>In circumstances where agricultural property is reinvested, the reinvested property should be treated as if it were the agricultural property comprised in the original gift or inheritance.



## Appendix

Schedules 2 and 2A to the Stamp Duties Consolidation Act 1999.

### SCHEDULE 2

#### **Qualifications for Applying for Relief from Stamp Duty in Respect of Transfers to Young Trained Farmers**

1. Qualifications awarded by Teagasc:

- (a) Certificate in Farming;
- (b) Diploma in Commercial Horticulture;
- (c) Diploma in Amenity Horticulture;
- (d) Diploma in Pig Production;
- (e) Diploma in Poultry Production.

2. Qualifications awarded by the Farm Apprenticeship Board:

- (a) Certificate in Farm Management;
- (b) Certificate in Farm Husbandry;
- (c) Trainee Farmer Certificate.

3. Qualifications awarded by a third-level institution:

- (a) Degree in Agricultural Science awarded by the National University of Ireland through University College Dublin, National University of Ireland, Dublin;
- (b) Degree in Horticultural Science awarded by the National University of Ireland through University College Dublin, National University of Ireland, Dublin;
- (c) Degree in Veterinary Science awarded by the National University of Ireland through University College Dublin, National University of Ireland, Dublin;
- (d) Degree in Rural Science awarded by the National University of Ireland through University College Cork — National University of Ireland, Cork or by the University of Limerick;

- (e) Diploma in Rural Science awarded by the National University of Ireland through University College Cork — National University of Ireland, Cork;
- (f) Degree in Dairy Science awarded by the National University of Ireland through University College Cork — National University of Ireland, Cork;
- (g) Diploma in Dairy Science awarded by the National University of Ireland through University College Cork — National University of Ireland, Cork.

4. Certificates awarded by the National Council for Educational Awards:

- (a) National Certificate in Agricultural Science studied through Kildalton Agricultural College and Waterford Institute of Technology;
- (b) National Certificate in Business Studies (Agri-business) studied through the Franciscan Brothers Agricultural College, Mountbellew, and Galway-Mayo Institute of Technology.

## SCHEDULE 2A

### **Qualifications for Applying for Relief from Stamp Duty in Respect of Transfers to Young Trained Farmers**

1. Qualifications awarded by the Further Education and Training Awards Council:

- (a) Vocational Certificate in Agriculture — Level 3;
- (b) Advanced Certificate in Agriculture;
- (c) Vocational Certificate in Horticulture — Level 3;
- (d) Vocational Certificate in Horse Breeding and Training — Level 3;
- (e) Vocational Certificate in Forestry — Level 3;
- (f) Awards other than those referred to in *subparagraphs (a) to (e)* of this paragraph which are at a standard equivalent to the standard of an award under *subparagraph (a)* of this paragraph.

2. Qualifications awarded by the Higher Education and Training Awards Council:

- (a) National Certificate in Agriculture;
- (b) National Diploma in Agriculture;
- (c) National Certificate in Science in Agricultural Science;
- (d) National Certificate in Business Studies in Agri-Business;
- (e) National Certificate in Technology in Agricultural Mechanisation;
- (f) National Diploma in Horticulture;
- (g) National Certificate in Business Studies in Equine Studies;
- (h) National Certificate or Diploma awards other than those referred to in *subparagraphs (a) to (g)* of this paragraph.

### 3. Qualifications awarded by other third-level institutions:

- (a) Primary degrees awarded by the faculties of General Agriculture and Veterinary Medicine at University College Dublin;
- (b) Bachelor of Science (Education) in Biological Sciences awarded by the University of Limerick;
- (c) Bachelor of Science in Equine Science awarded by the University of Limerick;
- (d) Diploma or Certificate in Science (Equine Science) awarded by the University of Limerick.