



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 2

TRADING INCOME

CHAPTER 8

TRADE PROFITS: HERD BASIS RULES

The herd basis rules

114 Initial cost of herd and value of herd

- (1) In calculating the profits of the trade, no deduction is allowed for the initial cost of the herd.
- (2) In calculating the profits of the trade, the value of the herd is not brought into account.

115 Addition of animals to herd

- (1) This section applies for the purpose of calculating the profits of the trade if an animal is added to the herd, unless it replaces another animal in the herd.
- (2) No deduction is allowed for the cost of the animal.
- (3) If, immediately before it was added to the herd, the animal was part of the farmer's trading stock, the balancing amount is brought into account as a receipt.
- (4) "The balancing amount" means—
 - (a) in the case of an animal bred by the farmer, the cost of breeding the animal and rearing it to maturity, and

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- (b) in any other case, the sum of the initial cost of acquiring the animal and the cost (if any) incurred by the farmer in rearing the animal to maturity.

116 Replacement of animals in herd

- (1) This section applies for the purpose of calculating the profits of the trade if—
 - (a) an animal (“the old animal”) is sold from the herd or otherwise ceases to be part of the herd, and
 - (b) it is replaced in the herd by another animal (“the new animal”).
- (2) The sale proceeds (if any) of the old animal are brought into account as a receipt.
- (3) But this needs to be read with—
 - (a) section 117 (amount of receipt if old animal slaughtered under disease control order),
 - (b) section 120 (acquisition of new herd begun within 5 years of sale), and
 - (c) section 122 (replacement of part sold begun within 5 years of sale).
- (4) Except so far as otherwise allowable, a deduction is allowed under this section for the cost of the new animal.
- (5) But if the new animal is of better quality than the old animal, the amount of the deduction must not exceed the amount that it would have been necessary to spend to replace the old animal with an animal of the same quality.

117 Amount of receipt if old animal slaughtered under disease control order

- (1) This section applies for the purposes of section 116.
- (2) If—
 - (a) the old animal was slaughtered under a disease control order, and
 - (b) the new animal is of worse quality than the old animal,
 the amount brought into account as a receipt under section 116 must not exceed the equivalent amount for the new animal.
- (3) For this purpose “a disease control order” means an order made under the law relating to the diseases of animals by—
 - (a) central government,
 - (b) a devolved authority,
 - (c) a local authority, or
 - (d) another public authority.
- (4) If, immediately before it was added to the herd, the new animal was part of the farmer's trading stock, “the equivalent amount for the new animal” means—
 - (a) in the case of an animal bred by the farmer, the cost of breeding the animal and rearing it to maturity, and
 - (b) in any other case, the sum of the initial cost of acquiring the animal and the cost (if any) incurred by the farmer in rearing the animal to maturity.
- (5) Otherwise “the equivalent amount for the new animal” means the cost of the new animal.

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118 Sale of animals from herd

- (1) This section applies for the purpose of calculating the profits of the trade if an animal is sold from the herd unless—
 - (a) it is replaced in the herd by another animal (see section 116), or
 - (b) it is sold as part of the sale of the whole or a substantial part of the herd that takes place all at once or over a period not longer than 12 months (see section 119).
- (2) A profit arising from the sale is brought into account as a receipt.
- (3) A deduction is allowed for a loss arising from the sale.
- (4) The amount of the profit or loss is the difference between the sale proceeds of the animal and the deductible amount for the animal.
- (5) “The deductible amount for the animal” means—
 - (a) in the case of an animal bred by the farmer, the cost of breeding the animal and rearing it to maturity,
 - (b) in the case of an animal acquired by the farmer for valuable consideration, the sum of the initial cost to the farmer of acquiring the animal and the cost (if any) incurred by the farmer in rearing the animal to maturity, and
 - (c) in the case of an animal acquired by the farmer but not for valuable consideration, the sum of the market value of the animal when acquired and the cost (if any) incurred by the farmer in rearing the animal to maturity.

119 Sale of whole or substantial part of herd

- (1) This section applies for the purpose of calculating the profits of the trade if, either all at once or over a period not longer than 12 months, the herd or a substantial part of the herd is sold unless—
 - (a) section 120 applies (acquisition of new herd begun within 5 years of sale), or
 - (b) section 122 applies (replacement of part sold begun within 5 years of sale),but paragraph (a) is subject to subsection (5) of section 120 (so far as that section provides for a case in which this section is to apply).
- (2) A profit arising from the sale is not brought into account as a receipt.
- (3) No deduction is allowed for a loss arising from the sale.

120 Acquisition of new herd begun within 5 years of sale

- (1) This section applies for the purpose of calculating the profits of the trade if—
 - (a) either all at once or over a period not longer than 12 months, the herd (“the old herd”) is sold, and
 - (b) the farmer acquires or starts to acquire another production herd of the same class (“the new herd”) within 5 years of the sale.
- (2) Section 116 (replacement of animals in herd) applies as if a number of animals equal to—
 - (a) the number of animals in the old herd, or
 - (b) if smaller, the number of animals in the new herd,

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had been sold from the old herd and replaced in that herd (but see section 121 (sale for reasons outside farmer's control)).

- (3) For the purposes of section 116, the sale proceeds of an animal that is treated as a result of subsection (2) above as if it had been—
- (a) sold from the old herd, and
 - (b) replaced in that herd by another animal (“the new animal”),
- are not brought into account as a receipt until the new animal is acquired.
- (4) If—
- (a) the number of animals in the new herd is smaller than the number of animals in the old herd, and
 - (b) the difference is not substantial,
- section 118 (sale of animals from herd) applies as if a number of animals equal to the difference had been sold from the old herd.
- (5) If the number of animals in the new herd is smaller than the number of animals in the old herd and the difference is substantial—
- (a) section 119 (sale of whole or substantial part of herd where replacement not begun within 5 years), or
 - (b) section 122 (sale of substantial part of herd where replacement begun within 5 years),
- applies as if a number of animals equal to the difference had been sold from the old herd.
- (6) If the number of animals in the new herd is larger than the number of animals in the old herd, section 115 (addition of animals to herd) applies as if a number of animals equal to the difference had been added to the old herd.
- (7) For the purposes of this section—
- (a) if the difference between the number of animals in the new herd and the number of animals in the old herd is equal to 20% or more of the number of animals in the old herd, the difference is substantial, but
 - (b) a lesser percentage than 20% is capable of being a substantial difference depending on the circumstances of the case concerned.

121 Section 120: sale for reasons outside farmer's control

- (1) This section applies for the purposes of section 116, as applied by section 120(2).
- (2) If—
- (a) the farmer was compelled to sell the old herd for reasons wholly outside the farmer's control, and
 - (b) an animal (“the new animal”) that is treated as a result of section 120(2) as if it replaced an animal sold (“the old animal”) is of worse quality than the old animal,
- the amount brought into account as a receipt under section 116 must not exceed the equivalent amount for the new animal.
- (3) If, immediately before it was added to the herd, the new animal was part of the farmer's trading stock, “the equivalent amount for the new animal” means—

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- (a) in the case of an animal bred by the farmer, the cost of breeding the animal and rearing it to maturity, and
 - (b) in any other case, the sum of the initial cost of acquiring the animal and the cost (if any) incurred by the farmer in rearing the animal to maturity.
- (4) Otherwise “the equivalent amount for the new animal” means the cost of the new animal.

122 Replacement of part sold begun within 5 years of sale

- (1) This section applies for the purpose of calculating the profits of the trade if—
- (a) either all at once or over a period not longer than 12 months, a substantial part of the herd is sold, and
 - (b) the farmer acquires or starts to acquire animals to replace the part sold within 5 years of the sale.
- (2) Section 116 (replacement of animals in herd) applies so far as the animals included in the part sold are replaced (but see section 123 (sale for reasons outside farmer's control)).
- (3) The sale proceeds of an animal included in the part sold are not brought into account as a receipt until the animal that replaces it in the herd is acquired.
- (4) If some of the animals included in the part sold are not replaced—
- (a) a profit arising from their sale is not brought into account as a receipt, and
 - (b) no deduction is allowed for a loss arising from their sale.

123 Section 122: sale for reasons outside farmer's control

- (1) This section applies for the purposes of section 116, as applied by section 122(2).
- (2) If—
- (a) the farmer was compelled to sell the part of the herd for reasons wholly outside the farmer's control, and
 - (b) an animal (“the new animal”) that replaces an animal sold (“the old animal”) is of worse quality than the old animal,
- the amount brought into account as a receipt under section 116 must not exceed the equivalent amount for the new animal.
- (3) If, immediately before it was added to the herd, the new animal was part of the farmer's trading stock, “the equivalent amount for the new animal” means—
- (a) in the case of an animal bred by the farmer, the cost of breeding the animal and rearing it to maturity, and
 - (b) in any other case, the sum of the initial cost of acquiring the animal and the cost (if any) incurred by the farmer in rearing the animal to maturity.
- (4) Otherwise “the equivalent amount for the new animal” means the cost of the new animal.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A-7D inserted by [2022 c. 3 Sch. 1 para. 3](#)
- s. 31E(4) inserted by [2022 c. 3 Sch. 1 para. 7\(3\)](#)
- s. 649(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 11\(2\)](#)
- s. 679(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(5\)\(b\)](#)
- s. 679A(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(6\)\(b\)](#)
- s. 680(1A) inserted by [2023 c. 30 Sch. 2 para. 11\(7\)\(a\)](#)