

**CBO-R-0138.0-2022**

Your Ref: CBO-I-0219-2022

Our Ref: 100229-22

28 April 2022

Neasa Hourigan T.D.,  
Cathaoirleach to the Committee,  
Select Committee on Budgetary Oversight,  
Leinster House,  
Dublin 2.  
[neasa.hourigan@oireachtas.ie](mailto:neasa.hourigan@oireachtas.ie)

Dear Deputy Hourigan,

I refer to your letter of 8 April 2022 on behalf of the Committee requesting information on Capital Acquisitions Tax (CAT) and the impact on the agricultural community and the renewable energy sector, particularly in relation to solar energy.

Section 89 of the Capital Acquisitions Tax Consolidation Act (CATCA) 2003 provides for agricultural relief which takes the form of a 90% reduction in the taxable value of gifted or inherited agricultural property. To qualify for the relief, the person taking the gift or inheritance (the “beneficiary”) of the agricultural property must first qualify as a “farmer”, as defined in section 89 CATCA 2003.

The definition of “farmer” in section 89 requires that at least 80% of the gross market value of the property to which a person is beneficially entitled in possession consists of agricultural property. In addition, following an amendment made to section 89 by Finance Act 2014, the beneficiary (or a lessee where the beneficiary leases the agricultural land) must actively farm the agricultural land on a commercial basis for at least half of his or her normal working time for a period of at least 6 years after receiving the gift or inheritance. 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.

We have published guidance on our website detailing the operation of the relief, which is available at: [www.revenue.ie/en/tax-professionals/tadm/capital-acquisitions-tax/cat-part11.pdf](http://www.revenue.ie/en/tax-professionals/tadm/capital-acquisitions-tax/cat-part11.pdf).

The ‘active farmer’ requirement was introduced by Finance Act 2014 to ensure that agricultural relief was, and is, more effectively targeted at individuals that inherit or are gifted agricultural property and actively farm it themselves (or lease it on a long-term basis to active farmers), thereby ensuring the productive use of agricultural property.

Some alternative use of the agricultural land for the installation of solar panels is allowable in the context of the relief, provided the area of the land on which solar panels are installed does not exceed 50% of the total land area and the remaining agricultural land is actively farmed. Where this 50% threshold is exceeded, agricultural relief will no longer apply, and a clawback will occur.

The Minister for Finance committed to a review of the tax treatment of the installation of solar panels on farmland during the Report Stage of the Finance Bill 2016. An informal working group comprising officials from the Minister’s Department along with officials from Revenue, the Department

of Agriculture, Food and the Marine and the Department of Communications, Climate Action and Environment was subsequently formed to consider options and report to the Minister. Along with CAT, the group also considered capital gains tax and income tax issues.

In the context of CAT, there was a concern at the time that farmers were being discouraged from taking up options with solar development companies due to the potential risk that they would not qualify for agricultural relief or would lose the relief during the 6 year required period of active farming. To address this concern, one of the options put forward by the group in its report, a copy of the report is attached for the information of the Committee, was that the CAT legislation should be amended to allow for the leasing of land for solar infrastructure to qualify for agricultural relief subject to a condition. This condition would involve restricting the amount of farmland that could be used for solar infrastructure to 50% of the total area of agricultural land. In its report, the group stated the advantages of this option would include the fact that “while solar developments on farms will inevitably reduce agricultural production from current levels the 50% condition will at least discourage passive farming which is possible in an unfettered approach and where there is no requirement to have agricultural activity. Farmers would not be able to rely entirely on rental income and must engage in genuine agricultural activity on part of their farm in order to qualify for CAT/CGT relief.”

The Minister for Finance ultimately selected this option and the appropriate amendments to Section 89 were made in Finance Act 2017. Any further proposed legislative amendments to agricultural relief are a policy matter for the Minister for Finance and suggestions in this regard may be raised with the Minister and his officials.

If you have any queries in relation to this matter please do not hesitate to contact Angela O’Gorman at (01) 8589181 or [angelaogorman@revenue.ie](mailto:angelaogorman@revenue.ie)

Yours sincerely,



Niall Cody,  
Chairman.