

LONG-TERM LAND LEASING

Introduction

Short-term renting (conacre) of lands previously played a huge role in Irish farming. Recently, land owners have moved away from conacre agreements and are availing of more permanent arrangements like long-term land leasing. These leases are a written legal agreement between a landowner (lessor) and an active farmer (lessee) utilising the land. The lease is signed by both parties, witnessed by an independent person, and stamped by Revenue.

Why are landowners now considering long-term land leasing?

- **Profitability of existing enterprise:** some farmers work part-time away from the farm to provide an additional income to support their family. Many of these farmers are now looking at other options to provide a stable long-term income from their farm assets.

- **Successor situation – allows owner to step back/retire from farming:** many farms have no identified successor or the successor may not be ready to take over the running of the farm.

The current farmer may wish to step back or retire. Long-term land leasing facilitates this, while allowing ownership of lands and buildings to be retained.

The lessor now has time to pursue activities of interest.

Land and buildings will still be available in the future should a successor return to farm.

- **Enhanced tax relief incentives:** income tax incentives introduced in 2014 made long-term land leasing more attractive to landowners who did not wish to farm the land themselves. These incentives are still in place today (see **Table 1**).

Table 1: Income tax incentives for long-term land leasing.

Term of lease (years)	Maximum tax-free income/year
5-7	€18,000
7-10	€22,500
10-15	€30,000
>15	€40,000

Benefits for the lessee

- 1. Security of tenure:** long-term plans can be made on the basis of having security of tenure for a number of years. Lessees can plan their business better in terms of lands available, stock numbers and crops grown. It provides more certainty and the opportunity for expansion.
- 2. Better financial justification for the required investment:** the lessee can justify financial investment in improvement works such as reclamation, soil fertility, reseeding, roadways, fencing and the provision of adequate water supplies that are necessary, in order to farm the land more productively.
- 3. Farm buildings may come with the land reducing capital investment:** where the lessee is expanding their farm business, making use of existing facilities can greatly reduce capital investment required in buildings such as the provision of animal housing, slurry storage and silage facilities.

02: Long-term Land Leasing

■ **Opportunity for development/investment in the land:** many lessees develop and invest in the land during the term of the lease. Due to security of tenure, there is now an incentive to develop the lands and make them more productive for the duration of the lease. Development may include liming, soil fertility improvements, reseeded, and fence maintenance, etc.

■ **Qualify for retirement relief from Capital Gains Tax on transfer or sale of the farm¹:** where land is let on a conacre basis, the landowner may not qualify for Retirement Relief from Capital Gains Tax if the farm is sold or transferred in the future. Leasing the land long-term provides the structure to avoid this happening. Land can now be leased for up to 25 years without impacting on the landowner's ability to qualify for Retirement Relief from Capital Gains Tax, provided all requirements are met.

¹ Ensure to seek legal and financial advice in relation to future Capital Gains Tax reliefs.

Stamping and registering of the lease

The lease must be stamped by Revenue. Where the land lease is for six years or greater, the lease is exempt from stamp duty. Stamp duty on a five-year lease is charged at 1% of the annual lease fee. This should be paid within 30 days. The lease should also be registered by the lessee with the Property Services Regulatory Authority (PSRA). There is no fee to register the lease. Further details can be found on www.psr.ie.

Requirements for tax incentives

1. The land:

- must be located in the State and wholly or mainly occupied for the purposes of farming;
- buildings (except for dwellings) used for the purposes of farming the land, are treated as part of that land;
- Basic Payment Scheme (BPS) entitlements can be leased with the land – entitlements should be detailed in the lease agreement; and,
- any income received from the BPS entitlements will also qualify as tax-free income under the relevant threshold.

2. Qualifying lease:

- the lease must be for a minimum of five years and maximum of 25 years;
- the exchange of land parcels between two farmers is not permitted for income tax incentives; and,
- the lease should be in writing, with a minimum of the following details included:
 - name and address of lessor and lessee;
 - area, address and location of leased lands;

- term length of the lease;
- annual payment and payment procedure;
- details of the land use and the upkeep of the land;
- insurance;
- treatment of BPS entitlements;
- a clause preventing subletting; and,
- signatures of both parties, and a witness.

3. Qualifying lessor:

- the lessor must be an individual and cannot be a company;
- there is no upper age limit on the lessor;
- where lands are co-owned, the relevant thresholds shown in **Table 1** can be doubled – legal proof of co-ownership such as land registry folios naming both parties as co-owners may be required; and,
- where the only income obtained is from long-term leasing of lands, then this is regarded as non-reckonable income for PRSI contributions, and the lessor may be best advised to make voluntary contributions to Revenue to ensure social insurance benefits, including the State

Pension (contributory), are met.

Landowners should seek advice from their accountant/the Department of Employment Affairs and Social Protection, and Revenue, in relation to PRSI contributions and Universal Social Charge payable on this income.

4. Qualifying lessee:

- the lessee may be an individual or a company – a person connected with the company cannot lease to his/her connected company and avail of the income tax exemptions;
- the lessee must carry on a trade of farming on the leased lands;
- as the lessee cannot be connected to the lessor, lands can only be leased to non-relatives, except in the case where an aunt/uncle leases to a niece/nephew; and,
- if leasing to a niece/nephew, it is very important to seek taxation advice, as to transfer the land to this person in the future could have significant tax implications.

Future CAP and national policy agreements may change the conditions around Basic Payment Scheme entitlements and tax reliefs.

Further information

For further information please contact your local Teagasc advisor. Contact details available at: www.teagasc.ie/contact

The following resource is also helpful:

🌐 <https://www.teagasc.ie/media/website/publications/2019/Long-Term-Land-Leasing.pdf>

www.teagasc.ie/ruraldev



🌐 www.teagasc.ie

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