

**FARM TAX**

The Farm Tax Act of 1985 provided for the introduction of a new Tax on agricultural land called the “Farm Tax”; the Tax was to be an annual one, payable to the Local Authority in the whole functional area in which the land is located. The occupier of land was to be liable for the Tax calculated at a fixed sum per adjusted acre of his holding (“a taxable farm”). It was envisaged that an appropriate rate of Tax per adjusted acre would be assessed each year by the Government.

It was originally envisaged that the Tax would be fully operative from 5th April, 1986, but classification of holdings had not gone as expeditiously as the Government has hoped. The Farm Tax Commissioner and his staff initially focused on classifying farms of over 150 adjusted acres. Statutory Instrument No. 321 of 1986 provided that holdings of 150 adjusted acres and over would be liable for Farm Tax at £10 per adjusted acre. Farm Tax paid before 30th June 1989 could be set as credit against the Income Tax due for the years 1985/86, 1986/87 to 1987/88.

The Minister for Finance in his 1987 budget speech announced the abolition of Farm Tax, and enabling legislation is due to be introduced. Accordingly, Tax was payable for only the year (1986) and then only in respect of farms of 150 adjusted acres or more which were included in the 1986 Farm Classification List. The Local Authority maintains a Farm Tax Record of all farms within its functional area which are liable to the Tax. The time for appealing the classification of an occupiers farm for 1986 has expired.

Section 21 of the Act provides that Farm Tax is a charge on the lands and is to be treated as one of the burdens referred to in Section 72 of the Registration of Title Act 1964 (attaching to the land even though not registered as a burden on the Folio). The Charge is similar to that for Capital Acquisitions Tax, in that the lands do not remain charged as against a bona fide purchaser or mortgagee after the expiration of twelve years from the date on which the Tax became due.

There is an additional provision that if there is a bona fide sale or mortgage for a consideration of less than £20,000 then, if the total consideration between the parties for sale or mortgage within the previous two years do not exceed £20,000, the land should be treated as free of charge.

There is a provision for obtaining a Certificate of Discharge from the Local Authority. The Act envisages that a fee may be charged for such a Certificate. On purchasing, leasing or taking a mortgage or charge on agricultural land where the consideration or the amount of the mortgage or charge exceeds £20,000 enquiries should be made as to whether the property formed part of a holding included in the 1986 Farm Classification List. If it did, evidence of payment of the Tax should be obtained. It should be noted that in assessing the

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liability of a farm to Farm Tax, the Commissioner has regard to all the lands occupied by the farm, even though these might be registered on a number of different Folios or located many miles away from each other. This being the case, it would not be sufficient for a purchaser/lessee/mortgagee merely to check whether the lands acquired formed part of a Folio comprising less than 150 acres.

Enquiries must be directed to the totality of the vendor/lessor/mortgagor's lands.

When purchasing, leasing or taking a mortgage or charge of agricultural land where the consideration exceeds £20,000 it is suggested the following Requisition be raised:

Is the property part or all of a Taxable Farm within the meaning of Section 3 of the Farm Tax Act, 1985? If so, and the consideration/mortgage debt exceeds £20,000 either:

- (i) in this sale/mortgage or
- (ii) in the aggregate of this and previous sales/mortgages in the last 12 years between the parties furnish a certificate of Discharge from Farm Tax for 1986.

It is understood that proceedings challenging the constitutionality of the Farm Tax legislation have been instituted in the High Court. While it is understood that some District Justices have adjourned summonses brought under legislation, purchasers solicitors would of course still be advised to make the appropriate enquiries.

NOTE: Farm Tax was levied only for the Tax year 1986/87