

Taxation Decisions and Rulings

Directive No. 263 has recently been issued by the Deputy Minister of National Revenue (Taxation) for "Public Circulation" and is reproduced in full here:—

*Assessments — Establishment of a Basic Herd for Cattle,
Horses, Sheep or Swine*

(Directive No. 263 of March 23rd, 1949)

1. *Introduction*

A taxpayer who is engaged in the business of the production for sale of livestock or livestock products and who maintains a permanent herd of cattle, horses, sheep or swine for that purpose, may have such permanent herd approved as a Basic Herd for income tax purposes on the conditions set forth herein.

If both registered and grade animals are maintained, a separate Basic Herd must be established for each class, provided that where the number of animals in either class does not exceed 10% of the total Basic Herd it will be unnecessary to establish a separate Basic Herd for each class.

2. *Taxpayers eligible*

Application for approval of a Basic Herd may be made by any taxpayer who was engaged in livestock operations on or after 1st January, 1947, and who has filed income tax returns

- (i) for all years since the commencement of the livestock operations, or
- (ii) for the three consecutive years immediately preceding the date as of which the Basic Herd is to be established, whichever is the lesser period.

Provided, however, a taxpayer who was engaged in livestock operations prior to 1st January, 1947, who has filed income tax returns as required above and who

- (a) had a dispersal sale prior to 1st January, 1947;
- (b) has not been assessed for income tax for the year in which

such sale took place or whose assessment for that year has been issued since 4th September, 1947;

(c) makes application hereunder prior to 31st December, 1949, and submits all the facts relating to such sale, will be eligible for the benefits provided for by this Directive in the assessment or re-assessment of his income for the year in which the sale took place.

3. *Date as of which the Basic Herd may be established*

Approval of a Basic Herd may be applied for to be effective as of:

- (1) January 1st, 1947, for a taxpayer who was engaged in livestock operations on that date, or
- (2) The date of commencement of operations, if operations commenced subsequent to 1st January, 1947.

4. *Form and Time of Application*

The application must be made on the form prescribed by the Minister of National Revenue. This form is obtainable from any District Income Tax Office.

(1) In the event of a dispersal sale between 1st January, 1947 and 30th June, 1949 the application must be made on or before 31st December, 1949.

(2) In the event of the death of a taxpayer who was eligible to apply but had not done so, application must be made by his executor or his administrator within six months of the date of death of such taxpayer.

(3) In the event of a dispersal sale after 30th June, 1949 (other than on the death of a taxpayer), an application must have been filed at least 30 days prior to the date of sale.

5. *Determination of a Basic Herd*

The number of animals in the Basic Herd cannot at any time exceed the number of animals on hand.

Animals purchased for feeder operations may not be included in the Basic Herd.

The Basic Herd will be determined as the number of animals or their replacements (expressed in terms of mature animals) which the taxpayer can establish to have been acquired by

- (a) Gift.
- (b) Inheritance.

(c) Purchase in any taxation year provided that no part of the cost was charged against income.

(d) Purchase which has been charged against the income of the 1946 or a prior taxation year but only to the extent that the cost of such animals could have been added to income of the same year without increasing such income to a taxable amount.

(e) Natural increase where the animal became mature in 1946 or a prior taxation year but only to the extent that in the year in which the animal attains maturity the fair market value of such mature animal can be added to the income of that year without increasing such income to a taxable amount.

A taxpayer on an accrual basis who was in the business on 1st January, 1947, will be entitled as of that date to a Basic Herd consisting of the total number of animals in his inventory (expressed in terms of mature animals). If a taxpayer was reporting income for tax purposes for a fiscal period other than a calendar year the inventory of the taxation year which includes 1st January, 1947, will be used.

6. *Increasing Basic Herd*

The number of animals in the Basic Herd may be increased in subsequent taxation years by the addition of mature animals acquired as set forth under Sections (a), (b), and (c) of clause 5 "Determination of a Basic Herd" and by natural increase represented by mature animals provided that the fair market value of such animals is added to the income of the taxation year in which the animals attain maturity.

7. *Decreasing Basic Herd*

Where the total herd is reduced either by sale or any other cause to a point where the total number of animals (expressed in terms of mature animals) on hand is less than the number of animals determined as the Basic Herd, the difference between the number of animals remaining on hand and the Basic Herd will be deemed to be a capital disposition. The Basic Herd will be reduced by this number of animals and the proceeds thereof, if any, shall be deemed to be a capital realization, not subject to income tax.

The average price of all animals (expressed in terms of mature animals) sold in the year in which the Basic Herd is reduced shall be used in determining the account of capital realization.

In arriving at this average price, the sale of a female with progeny, if sold together, shall be counted as the sale of one animal.

8. *Defining Mature Animals*

For the purpose of this Directive a mature animal is one which has attained the actual age of two (2) years in the case of cattle, three (3) years in the case of horses and one (1) year in the case of sheep or swine. Two (2) immature animals will be equivalent to one (1) mature animal.

9. *General*

The principle of a Basic Herd presupposes a permanent herd and continuity of operation. In order that the approval of a Basic Herd may be maintained a taxpayer who has been granted such approval will be required to file income tax returns annually together with such information as may be requested regarding transactions affecting the Basic Herd.

This Directive cancels Directive No. 230 dated 17th November, 1948 and Directive No. 78 dated 4th September, 1947.

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A Heart to Judge

And now, O Lord my God, thou hast made thy servant king instead of David, my father; and I am but a little child: I know not how to go out or come in. And thy servant is in the midst of thy people which thou hast chosen, a great people, that cannot be numbered nor counted for multitude. Give therefore thy servant an understanding heart to judge thy people, that I may discern between good and bad: for who is able to judge this thy so great a people? And the speech pleased the Lord, that Solomon had asked this thing. And God said unto him, Because thou hast asked this thing, and hast not asked for thyself long life; neither hast asked riches for thyself, nor hast asked the life of thine enemies; but hast asked for thyself understanding to discern judgment; Behold, I have done according to thy words: lo, I have given thee a wise and an understanding heart; so that there was none like thee before thee, neither after thee shall any arise like unto thee. (I. Kings 3: 7-12)