

## Weather-Related Sales of Livestock\*

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### Introduction

There are two provisions in tax law which attempt to cushion producers from the consequences of adverse weather-related livestock sales. Under the first provision, livestock held for draft, breeding or dairy purposes and sold due to adverse weather are provided a two-year reinvestment period. This replacement period can be extended if weather conditions persist for more than three years. The second provision, which applies to all livestock (other than poultry), allows cash basis taxpayers whose primary trade or business is farming to defer receipt from sales in excess of normal business practices due to weather-related conditions that result in a disaster declaration area. Both provisions apply only to those sales which are in excess of “normal sales” for the producer. The two tax provisions for weather-related sales of livestock have similar but different requirements. Producers should evaluate their circumstances to see which would be of greater tax benefit.

### Involuntary Conversion of Draft or Breeding Animal IRC Sec 1033(e)

A livestock producer who sells more draft, breeding, or dairy animals than normal due to weather-related conditions may defer recognition of the gains for up to two years. The animals must be replaced within two years with other animals used for identical purposes. This applies only to the number of animals sold in excess of normal business practices. Declaration of a disaster area is not necessary, but the producer must be able to show that weather-related conditions forced the sale of more livestock than would normally be sold. Tax basis of the replacement livestock is equal to the basis in the livestock sold plus any additional amount invested in the replacement livestock that exceeds the proceeds from the sale. If the animals are not replaced, or if replacement cost is less than the gain from their sale, the difference must be reported as a gain for the sale year by amending the tax return. The return will be subject to additional tax and interest.

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**Example 1:** Bo Vine normally sells five cows per year. This year Bo sells 20 cows because of weather-induced limited forage and feed supplies. Gains from the sale of the 15 cows sold in excess of normal business practice would not be reported as income if Bo purchases replacement animals that cost as much or more within the next two tax years.

a) Bo sells 20 raised beef cows (with a \$0 tax basis) for \$500 each. The gain of \$7,500 (15 cows X \$500) is deferred. If Bo purchases 15 cows for \$500 each, the tax basis in the replacement animals would be zero. If the replacements cost \$600 each, the tax basis in the replacement animals would be \$100 each (\$600 cost minus the \$500 proceeds from sale).

b) Bo sells 20 purchased beef cows (with a remaining \$200 tax basis) for \$500 each. If Bo purchases 15 cows for \$500 each, the tax basis in the replacement animals would be \$200 each. If the replacements cost \$600 each, the tax basis in the replacement animals would be \$300 each (\$600 cost minus the \$500 proceeds from sale plus \$200 remaining basis).

## Making the Election

The producer makes this election by attaching a statement to his or her tax return. The election must include the following information:

- Name, address, and ID number.
- Evidence of the weather-related conditions that forced the sale or exchange of animals.
- Explanation of how the sale is related to weather conditions.
- Number and kind of livestock sold or exchanged.
- Number of livestock of each kind that would have been sold or exchanged under normal business circumstances. Generally use number of animals sold the three preceding years
- Computation of the amount of gain realized on the sale or exchange.
- The amount of income to be postponed



only the livestock sales in excess of normal business practice qualify for deferral. The animals are not replaced and the elected gain is simply put off to the next year.

**Example 2:** Due to weather-related conditions, Guy Wyre sold 150 head of calves in 2011 instead of the usual 75. He received \$50,000 for the 150 head. Guy makes an election under IRC Section 451(e) by the due date of the return (including extensions) for the tax year in which the area was designated a federal disaster area.

## **Making the Election**

The producer makes this election by attaching a statement to his or her tax return. The election must include the following information:

- Name, address, and ID number.
- A declaration that the elections is made under I.R.C. §451(e).
- Evidence of weather-related conditions that forced the sale or exchange of animals and federal disaster designation.
- Explanation of how the sale is related to weather conditions.
- Number of livestock of each kind that would have been sold or exchanged under normal business circumstances. Generally use number of animals sold the 3 preceding years.
- Total number of animals sold in the current year, and the number sold due to the weather-related circumstance.
- The amount of income to be deferred.



## IRS Publications

To access IRS Publications go to [www.irs.gov](http://www.irs.gov) and click on “Forms and Publications”. Then click on “Publication number” under “Download forms and publications by:” Type the publication number in the find box to search for the publication. Publications may be viewed online or downloaded by double clicking on the publication.

- **IRS Publication 225, Farmer’s Tax Guide.** Chapter 11 discusses casualties, thefts, and losses including weather-related sales of livestock.

## Additional Topics

This fact sheet was written as part of Rural Tax Education a national effort including Cooperative Extension programs at participating land-grant universities to provide income tax education materials to farmers, ranchers, and other agricultural producers. For a list of universities involved, other fact sheets and additional information related to agricultural income tax please see [RuralTax.org](http://RuralTax.org).

Related articles that might be helpful include:

- Involuntary Conversion of Business Assets
- Like-kind Exchange (Trade) of Business Assets
- Sale of Business Property

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