



Corporation Tax Act 2009

2009 CHAPTER 4

PART 3 U.K.

TRADING INCOME

CHAPTER 8 U.K.

TRADE PROFITS: HERD BASIS RULES

Preventing abuse of the herd basis rules

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- (1) This section applies if—
 - (a) a person carrying on a trade (the “transferor”) transfers the whole or part of a production herd to another person (the “transferee”),
 - (b) the transfer is not by way of sale or is by way of sale but for a price other than that which the animals sold would have fetched if sold in the open market, and
 - (c) the control condition or herd basis benefit condition is met.
- (2) The control condition is met if—
 - (a) the transferor is a body of persons over which the transferee has control,
 - (b) the transferee is a body of persons over which the transferor has control, or
 - (c) both the transferor and transferee are bodies of persons and another person has control over both of them.
- (3) For this purpose “body of persons” includes a firm.
- (4) The herd basis benefit condition is met if—
 - (a) the transferor or transferee (or both) might (but for this section) have been expected to obtain a herd basis benefit as a result of the transfer or the transactions of which the transfer is one, and

Changes to legislation: Corporation Tax Act 2009, Cross Heading: Preventing abuse of the herd basis rules is up to date with all changes known to be in force on or before 03 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (b) the herd basis benefit is the sole or main benefit, or one of the main benefits, that the person in question might have been expected to obtain.
- (5) For this purpose a “herd basis benefit” is a benefit resulting from—
- (a) the obtaining of a right to make a herd basis election,
 - (b) the herd basis rules applying or not applying, or
 - (c) the herd basis rules having a greater or lesser effect.
- (6) For the purpose of calculating the profits of—
- (a) the trade carried on by the transferor, and
 - (b) any trade carried on by the transferee,
- the animals transferred are treated as having been sold at the price which they would have fetched if sold in the open market.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 322(2A)(zb) inserted by [2016 c. 24 s. 73\(5\)](#)
- s. 1058B(5)(ea) inserted by [2023 c. 20 Sch. para. 57](#)
- s. 1094(2A)-(2C) inserted by [2012 c. 14 Sch. 3 para. 13\(3\)](#)
- s. 1106(4A)-(4C) inserted by [2012 c. 14 Sch. 3 para. 14\(3\)](#)