ACCOUNTANCY | PLANNING | ADVICE

Agriculture and Food Development Authority

Farm Succession Challenges

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Ifac Office Locations

- Over 30 Offices across Ireland
- Expertise ranging from Farming, Food Production, Agribusiness and SME to Renewables

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1. Farm Succession

Succession Planning

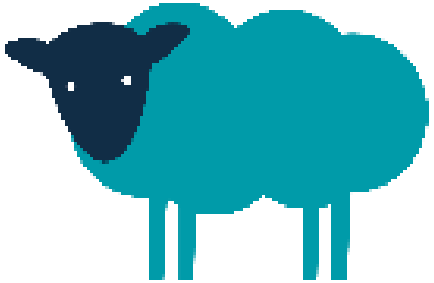
- Orderly and tax efficient transfer of assets/wealth, usually to the next generation
- Covers both gifts and inheritances

Core Elements:

- *Legal effectiveness*
- *Tax efficiency*
- *Practicality*

Remember the Forgotten Issues

- Looking after oneself – income wise & security wise
- Income tax – cessation
- Income of successor – look at structure
- Fair Deal Nursing Home Scheme
- Updating of Will – inclusion of all assets (e.g. BPS)



Succession Act – Will versus No Will

Will = Testate Estate;

- *Control over where assets fall*
- *Facilitates tax planning*

No Will = Intestate Estate;

- *Succession Act dictates where assets fall*
- *Tax planning can be complex and sometimes not possible*

Taking the Complexity Out of Transfers in order to:

- Maximising the Reliefs
- Minimise the Tax
- Minimising the cost to farm
- Protecting one’s own security
- Consider other Family Members

Taxes

- Capital Gains Tax (“CGT”)
- Gift/Inheritance tax (“CAT”)
- Stamp duty
- Income tax

Transfers – Who is liable to tax cost?

Lifetime transfers – Succession

- *Capital acquisitions tax*
- *Capital gains tax*
- *Stamp duty*

Death transfers – Inheritance

- *Capital acquisitions tax*
- *No capital gains tax*
- *No stamp duty*

CAT – Recap!

- Rate @ 33%

- Tax free thresholds
  - *Class A: €335,000*
  - *Class B: €32,500*
  - *Class C: €16,250*

- Gifts/inheritances aggregated – 5th December 1991

Capital Acquisitions Tax

- Gift/Inheritance Tax is a tax on the person receiving the property.
- Tax rate currently 33% (was 20% in 2009)
- Tax-free exemptions slashed e.g.

Tax Free	Jan 2009	December 2019
Parents to child	542,544	335,000
		(38% reduction)

- Planning is vital

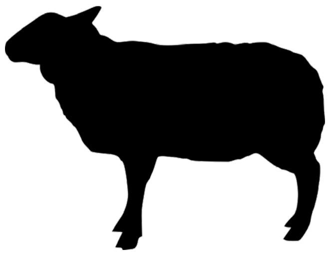
Relevant Reliefs

- Annual “Small Gift Exemption” - €3,000
- Agricultural relief - 90% reduction in value
- Conditional Gift/Inheritances
- Business relief - 90% reduction in value
- Favourite nephew/niece
- Use of land leasing post transfer

Capital Acquisition Tax - Business Relief

<u>Conditions:</u>

- Carrying on a business - Transferor
  - *Lifetime Transfer - 5 years*
  - *Death Transfer - 2 years*
- Continue for 6 years – Transferee
- Clawback period – 6/10 years
- Business must be transferred – not just asset(s)
- Leasing not permitted either side of the transfer
- Farmhouse excluded



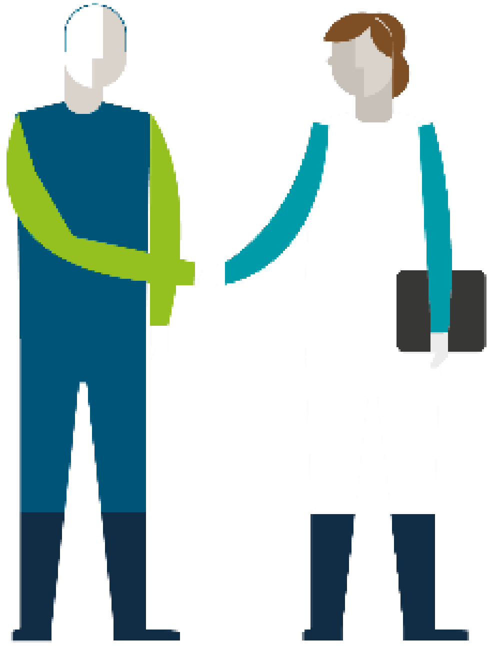
Capital Acquisition Tax - Favourite nephew/niece

- Serves to elevate the transferee from Class B to Class A

Conditions - Transferor;

- Help in business
- 5 years
- 15 hours per week

- Must be a "business" transferred or inherited.



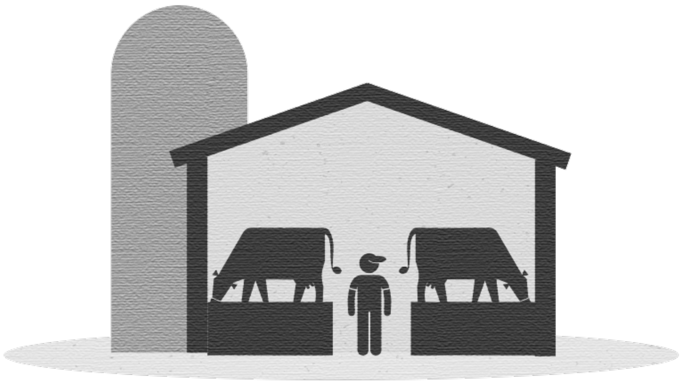
Capital Gains Tax

What is liable?

- Land & Buildings
- Business Assets
- Houses (Principal Private Home Exempt)
- Company Shares
- Basic Payment Entitlements

CGT Rates:

- Headline Rate - 33%
- Entrepreneurs Relief – 10%



CGT Reliefs & Exemptions

- Transfer between spouses
- Annual Exemption
- Principal Private Residence
- Small Disposals (Chattels)
- Transfer of site to a child
- Retirement Relief
- Solar Panels
- Restructuring Relief
- Entrepreneur Relief

CGT - Retirement Relief

Conditions;

- Transferor aged 55 years or more
- Owned for continuous 10-year period
- Used for trade for 10-year period

Different Rules Depending On Recipients:

- To child – proceeds limit €3m if transferor > 66 years old (***Budget 2024*** *New limit of €10m if transferor < 66 years old from I January 2025*)
- To person outside the family – proceeds limits, €750k/€500K
- Clawback period; 6 years (on child)

Stamp Duty

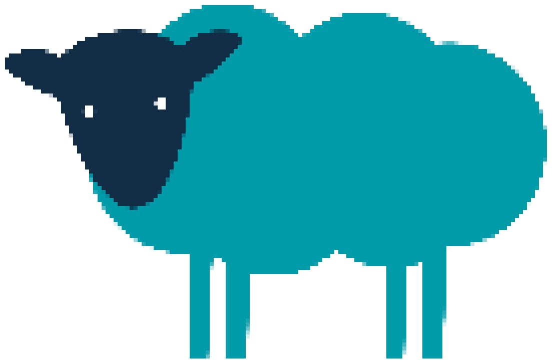
- Lifetime transfer = stamp duty
- Non-residential property(incl. farmland) @ 7.5%
- Residential property including up to one acre
  - *First €1m @ 1%*
  - *Excess @ 2%*
- Shares @ 1%
- Leases @ 1% on full open market annual rent
- Farmland lease exemption

Stamp Duty Reliefs & Exemptions

- Consolidation Relief – until 31.12.25 (1% on excess)
- Consanguinity Relief – until 31.12.28 (1%)
  - *Active farmer conditions*
- Young Trained Farmer Exemption – until 31.12.25 €70k lifetime cap – Finance Act 2018 (Budget 2024 €100k cap from 1 January 2024)
  - Succession RFP credit
  - YTF Stock Relief
  - YTF Stamp Duty exemption

Stamp Duty – Young Trained Farmer & Companies

- Young trained farmers who are farming through a company or a partnership can now qualify for 0% Stamp Duty relief on the transfer of agricultural land.
- For the relief to apply, the induvial must be the main shareholder and working director of the company and must farm on behalf of the company.



To finish

"A plan in the head is not a formal succession plan – it's an idea"

"Tax considerations facilitate rather than drive the succession plan"

2. Farm Structures

Farming Structures

(i) Sole Trader

(ii) Partnership;

- Non-Registered/Informal
- Registered/Formal
- SRFP

(iii) Limited Company –
Since April 2008

(i) Sole Trader

- Most common & straightforward
- No legal agreements

Tax:

- Individual taxed in personal name
- Assets owned in personal name

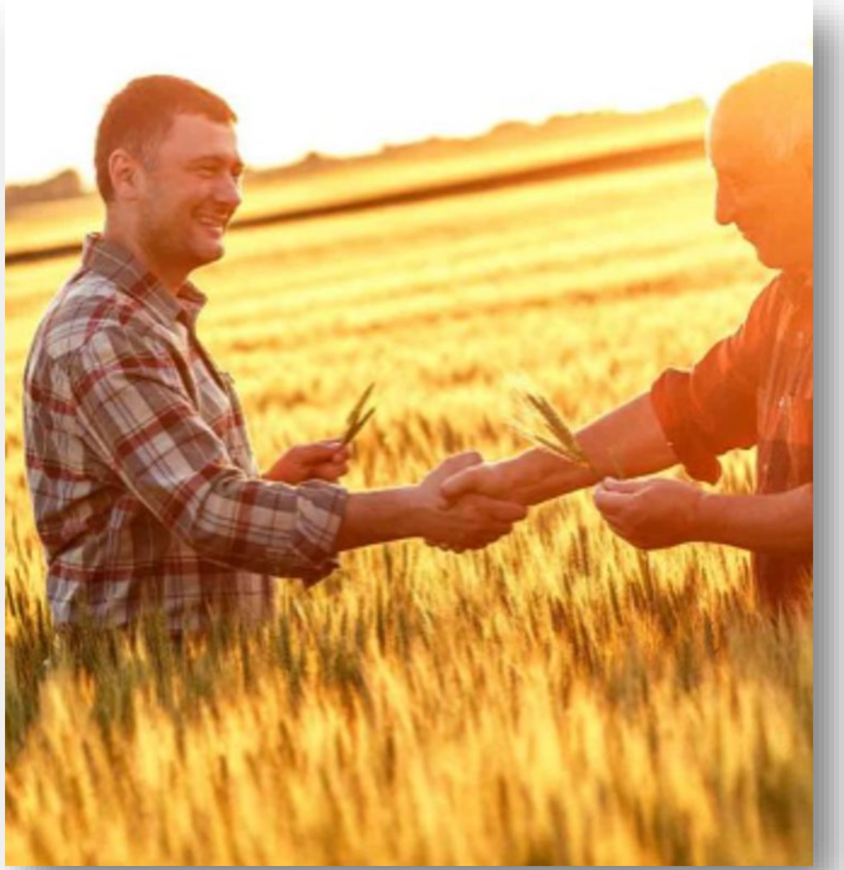
Tax Reliefs:

- Stock Relief – 25%/100%
- Income averaging – combat volatility

(ii) Partnerships

Types:

- **Informal**
  - *no written agreement*
  - *Partnership Act 1890 decides*
- **Formal**
  - *partner agreement in writing*
  - ***Partners decide***

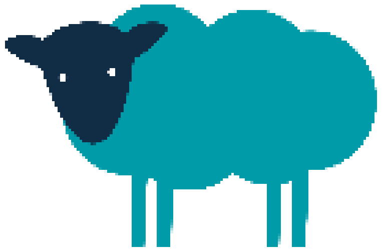


- **Registered Farm Partnership (“RFP”)** – Dept. of Ag.
- **Succession Registered Farm Partnership (“SRFP”)** – Dept. of Ag.

Registered Farm Partnerships - RFP:

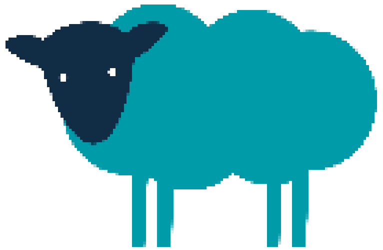
Benefits:

1. **Dept. of Ag:**
   - Grants,
   - BPS
2. **Tax:**
   - Increased stock relief – 50%
3. **Practical:**
   - Family – stepping stone to succession
   - Non-Family – effective amalgamation of skills & resources, economies of scale



Important Considerations re Partnerships

- Assets are partnership assets – no longer personal unless planned carefully at the outset - need for written agreement
- Can only be in one RFP
- A partnership can be a non-RFP
- Partners can be an individuals or a company (excluding SRFP)
- Separate partners' capital accounts must be maintained



Tax Treatment of Partnerships

Income Tax

- Each partner taxed on their share of profits
- Stock relief available to each – 25%/50%/100%
- Income Averaging – applied independently to each
- Similar to Sole Trader tax treatment

Partnership Summary

- Formal partnership agreement advised in all cases
- Complete capital accounts essential in all cases
- Partnerships facilitate succession tax planning and income tax planning on farms

(iii) Farming through a Limited Company

Complex Set-up;

Get Advice on;

(i) Accounting & Company Law
(ii) Tax – Income Tax, Corporation Tax, Capital Taxes
(iii) Dept. of Agriculture – Herd No., BPS Entitlements

Benefits;

1. **Tax:**

- 12.5% Corporate Tax rate versus 55% marginal Income Tax rate

2. **Practical:**

- Allows build-up of funds for future farm investment & wealth generation
- Enhances borrowing power

Who Does It Suit?

- Developed farmer with high tax
- Developing Farmers with high investment/borrowing requirement
- Farmers with high borrowings
- Farmers looking to create wealth
- Farmer with low drawings outside of debt repayments and rising tax bills

Limited Company

Advantages:

- 12.5% Corporation Tax Rate
- Enhanced ability to repay debts
- More generous pension contribution allowances
- Limited liability
- Expenses/Subsistence

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Thank you