Early action brings taxation rewards

Timely planning is the key to successful farm asset transfers that minimise tax payable

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When it comes to formulating a succession plan, good tax advice is essential to maximise the benefits of a timely transfer. But seek your taxation advice before the transfer is completed, as taxes fall due on the act of transferring and cannot be unwound.

There are two elements to consider: the potential taxation due, but also the potential reduction in existing taxes being paid. There are reliefs to significantly reduce the taxation that is due if a farm transfer is timed correctly and there are also tax reliefs to help out the successor.

In addition, CAP payments are structured strongly favour of the "young" successor. Given all these factors, it would be a pity to miss out on all the benefits of an early transfer.

Making a start

Calculating the taxation due cannot be completed until the succession plan is worked out. In many cases, that might be the most difficult part. Once it is decided who gets what asset, then you look at the taxation implications.

If the tax due once the proposed plan is completed is very small, then it is best to proceed, because a delay could result in a higher tax burden. If the tax due is high when the farm succession plan is worked out, adjusting the time lines or adjusting the asset mix involved in the calculation, could reduce the cost.

This is why having a good accountant experienced in dealing with capital taxes is important.

I've seen cases where a large tax bill on receipt of a farm, has resulted in a significant drain on the resources of the young person starting out in farming.

The taxes

Capital taxes are applied on the transfer of an asset. These are the main taxes to be aware of when completing a farm transfer. Income tax also needs to be carefully managed as parents may be ceasing business and a successor starting.

It is important to maximise the reliefs and credits available against both types of tax. In this article I will concentrate on capital taxes.

There are three capital taxes to watch out for when planning a farm transfer. A tax return on each of these must be made within a specific timeframe after the asset transfer.

- **Capital Gains Tax (CGT)** Payable by the disponer, i.e. the person who provides the gift or inheritance
- **Capital Acquisitions Tax (CAT)** Payable by the recipient or transferee
- **Stamp Duty** Payable by the transferee

Capital Gains Tax

CGT is a tax on the increase in value of assets such as land and buildings while these assets were in the hands of the person now transferring them. The tax applies only to the disponer (the person who owns the asset) who is transferring the asset during his/her lifetime.

This increase in value (the gain) can be crudely calculated as follows:
Gain = current value of the assets at the date of disposal minus the value of the assets when first acquired by the current owner

The gain can be adjusted to take account of improvements and, in some cases, inflation.

This gain is currently taxed at a rate of 33%. There are a number of reliefs that are available. These may even reduce the tax due to zero.

The main relief is called CGT Retirement Relief which can greatly reduce or eliminate the tax completely. To avail of this relief a number of conditions must be met:

- The owner must be over 55 years of age at the time of the transfer
- The owner must have owned and used the asset in question for the previous ten years

Some advance planning may be required to avail of this relief.

There are some upper limits, and these depend on the timing and relationship of the disponer to the recipient.

Entrepreneurial relief is another type of relief that is also available, but is not as advantageous as CGT Retirement Relief.

Capital Acquisitions Tax

This tax targets the person receiving

Table 1: CAT tax class groups and thresholds

Relationship to Donor	Tax Class Thresholds	2023 Threshold
Child, favourite niece/nephew	Group A	€335,000
Brother, sister, children of brother, sister	Group B	€32,500
Any other person	Group C	€16,250

Revenue tax reliefs and CAP payment structures strongly favour an early and well planned farm succession plan

the assets via a gift (lifetime transfer) or via an inheritance (on a death). It can apply to assets such as land, buildings and cash. However there are also some useful measures and reliefs to reduce or eliminate the exposure to CAT.

Tax free exemptions are available and the value depends on how closely related you are to the disponer. (see Table 1) You can also claim reliefs to maximise the benefit of these thresholds.

The main relief used is called Agricultural Relief which, if applicable, will reduce the value of the assets for calculation of the tax to 10% of their actual value.

To qualify for agricultural relief the receiver of the gift or inheritance must pass what is known as the 'farmer test'.

Passing this test requires that the receiver has at least 80% of their total assets invested in agricultural assets.

There is an additional requirement which is that the receiver must be an "active farmer".

Knowing all of your asset values is essential to complete a calculation. An auctioneer can value assets as part of a transfer. Business Asset Relief is another relief that is sometimes used to reduce CAT.

Stamp Duty

Stamp duty is a tax levied where an official Revenue stamp is applied to the official transfer document (called a deed) for an asset. It applies to assets such as land, farm buildings, commercial property or private dwellings that require official documentation to effect the transfer.

Payment entitlements, livestock, and machinery are some of the assets that are not liable to stamp duty since they don't require a Revenue stamp to give legal effect to the transfer.

The stamp duty charge is levied on the recipient of the asset on the stamping of the deed or within 30 days of the transfer.

The rate of stamp duty that applies differs depending on whether the asset is residential property or not.

This tax also has valuable reliefs and the main one requires planning. This is the Young Trained Farmer Relief from Stamp Duty whereby a young farmer (less than 35) with the appropriate qualifications (minimum Level 6 Specific Purpose Certificate in Farming) can get full relief.

As with some of the other reliefs, there are conditions applying to the length of time the young farmer must hold on to the asset and also how long they must remain classed as a farmer after availing of the relief.

Another popular relief, Consanguinity Relief, reduces the rate applied to the transfer of non-residential property (land, farm buildings), provided the transfer is between blood relatives.

This relief has additional 'active farmer' conditions.

Expert advice for free at Teagasc succession events

Teagasc is holding a series of 'Transferring the Family Farm' events this October. These free-of-charge events will give you free access to all of the relevant profes sionals. Check out our events page in this publication or online at www.teagasc.ie/events or scan the QR code below to book in.The events will be run in a clinic format allowing you and your family to discuss your individual farm succession circumstances.

Transferring the Family Farm event dates & locations

Tuesday 3 October Ballygarry Estate Hotel and Spa, Leebrook, Tralee, Co. Kerry
Wednesday 4 October Celtic Ross Hotel, Englishisland, Rosscarbery, Co. Cork
Thursday 5 October Newpark Hotel, Castle comer Road, Newpark Lower, Kilkenny
Monday 9 October Landmark Hotel, Carrick-on-Shannon Co. Leitrim
Tuesday 10 October Lady Gregory Hotel, Ennis Rd, Gort, Co. Galway
Friday 13 October Errigal Country House Hotel, Cavan Rd, Errigal, Cootehill, Co. Cavan.