Budget 2015 - 2017

Tax Changes for Farmers Explained

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By and large the most recent budgets brought welcome news for the farming and agri-food sector with the main policy objective being to ensure that as much agricultural land as possible is put to productive use on a commercial basis and to encourage the transfer of farms to younger, more active farmers. We have summarised some of the main changes in this flyer.

CAT Agricultural Relief

One measure, when initially announced, gave rise to concerns for potential part-time farmers who are yet to receive the family farm. These concerns were taken on board and the proposed changes to CAT Agricultural Relief were watered down. However the changes introduced created a number of new hurdles for part-time farmers to overcome in order to qualify for this very important relief and it is advisable that you are aware of the measures.

Gift and Inheritance Tax is known as Capital Acquisitions Tax (CAT) for short and is charged at 33% of the market value of assets received. In the case of children, they are entitled to receive up to €310,000 worth of assets from a parent in their lifetime CAT free and any excess is subject to tax at 33%. However, where certain conditions are met, Agricultural Relief provides relief from CAT by reducing the value of the farm gift or inheritance by 90% for CAT purposes.

From 1 January 2015 onwards, in addition to the existing conditions, Agricultural Relief will only be available to:

1. an "active farmer"; or
2. a person who onward leases the farm to an "active farmer"; or
3. a person who farms the land on a commercial basis and who pursues a prescribed agricultural qualification within 4 years of receiving the land.

An "active farmer" is set to be defined as someone who spends more than 50% of their normal working time farming on a commercial basis and that is estimated to be 20 hours per week.

Those individuals who have another job off-farm and cannot satisfy this condition, may not qualify for the relief unless they also pursue a prescribed agricultural qualification within 4 years of receiving the farm or they let the farm to an "active" farmer. Furthermore, those farmers who do not farm on a commercial basis (i.e. "hobby" farmers) will not qualify for the relief.

These changes are likely to impact on two broad categories of people:

- Those who do not intend to farm the land after they receive it (they will have to lease it to an active farmer for 6 years to be entitled to claim the relief).
- Those who only intend to farm the land part-time on a commercial basis (they will have to consider whether or not they will meet the proposed 20 hours test. If they won't, then they will have to pursue one of the prescribed qualifications in order to satisfy the new conditions for the relief).

Therefore, the changes, although less restrictive than when initially announced, do impose additional hurdles for farm recipients to overcome in order to qualify for the relief, and the reliefs are very much now geared towards active farmers.

Taxation Measure to Encourage Family Farm Transfer

In Budget 2016 a 'Family Transfer Partnership' tax mechanism was introduced which aims to promote farm family succession. This is an innovative new mechanism in which family members enter into a partnership. This partnership arrangement agrees an appropriate profit-sharing arrangement and provides for the provision of family farm transfer to the younger farmer at the end of a specified period (not exceeding ten years). To support this transfer, a tax credit up to a maximum of 5,000 per annum for five years, can be allocated to the partnership, thereby incentivising the transfer and mitigating some of the financial concerns. The partnership model enables a gradual transfer of control and also facilitates knowledge transfer from one generation to another.

Stamp Duty

Reduced rates of Stamp Duty are payable on transfers of farmland to family members who are active farmers or who lease the land to active farmers where the transfer takes place before 31 December 2017. From 1 January 2016, the relief from Stamp Duty is only available if the transfer is made from someone who has not yet reached 67 years of age at the time of making the gift. Full relief from Stamp Duty was extended until 31 December 2018 in Budget 2017 and is available to young trained farmers only.

CGT Reliefs

Generally speaking, relief from Capital Gains Tax ("CGT") known as Retirement Relief is available to farmers over 55 on the transfer of their farms owned and farmed for 10 years or more. Up until recently, where those conditions were met but where the farmer had let the land out for in excess of 15 years, they were precluded from claiming the relief on a sale or transfer of the farm.

Changes in Budget 2015 mean that land which has been leased out for periods of up to 25 years prior to disposal can potentially continue to qualify for the relief where certain conditions are met. Transitional measures are in place up to 2016 for farmers who have let land on a conacre basis – those landowners had until 31 December 2016 to convert their conacre lettings to leases of 5 years or more if they intend to avail of Retirement Relief on an eventual transfer or sale of the farm.

Farm Retirement Relief was extended to 31 December 2019 in Budget 2017.

VAT

The flat-rate addition payable to non-VAT registered farmers increased to 5.4% effective from 1st January 2017.

Land Letting

At present, individuals who let their land and who meet certain criteria (e.g. are 40 years of age or more) are entitled to an exemption from income tax in respect of the rents received, up to a maximum limit of €20,000 depending on the length of the lease.

From 1 January 2015, on foot of Finance Bill changes, the limit has increased to €40,000 for leases of 15 years or more and the requirement for the lessor to be 40 years of age or more will no longer apply.

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