BRIEFING NOTE ON FINANCE BILL 2017

The Finance Bill was published on Thursday 19th October. It will go through the Oireachtas over the coming months and will be enacted into legislation by 31st December. It puts into legislation the taxation measures that are announced on Budget day. In addition, it puts into legislation other non-budgetary taxation measures (i.e. measures that have little or no taxation revenue impact). This note contains a summary of the main measures of relevance to farming contained in the Bill.

It should be noted that, as part of the Finance Bill communications, the Minister for Finance has announced that officials from Departments of Finance and Agriculture are commencing work on a new review of agri-taxation measures. The review will concentrate mainly on the issue of income stabilisation, and of information collection to comply with EU State Aid reporting requirements. The process will be commenced following completion of Finance Bill 2017 (likely in early 2018).

STAMP DUTY

Stamp duty on commercial property – general

- Stamp duty on commercial property, including farmland, is increased from 2% to 6%, effective from the 11th October 2017

Stamp duty on transactions agreed but not concluded – transitional arrangements

- Where purchasers had a binding contract in place before 11th October 2017, and where the transfer is executed (i.e. the purchase is completed) before 1 January 2018, then the 2% rate of stamp duty will apply to those transactions.

Stamp duty on family transfers

- A reduced stamp duty rate of 1% will apply for the next 3 years (i.e. to end 2020) on farm transfers that take place between family members. This reduced rate is known as consanguinity relief.
- There is no age restriction on either the transferor or the transferee in this time period – i.e. a transfer can take place with the parties involved of any age and it will qualify for the 1% rate. This relief is subject to the person receiving the transfer either farming the land themselves or leasing it out to an active farmer.
- It should be noted that the Stamp Duty Exemption for the Young Trained Farmer remains in place. That is, a farmer under the age of 35, who has the required agricultural qualification, can benefit from a full exemption from stamp duty on farm transfers (includes transfers by sale or gift)
- **In summary, therefore, for family transfers, there is a 0% rate of stamp duty where the transferee is a Young Trained Farmer, and a rate of 1% for all other family transfer**s.

Abolition of Stamp Duty on Long Term Leases

Legislation on data sharing between the Revenue Commissioner and the Minister for Agriculture is contained in the Finance Act, which will allow for the abolition of stamp duty on long term leases (currently 1% of one year's rent). Following the passage of the Finance Bill, it is expected that the abolition of stamp duty on long term leases will come into effect in early 2018.

Stamp Duty Relief for Young Trained Farmers – Business Plan
To qualify for the Stamp Duty Exemption for Young Trained Farmers, a business plan must be furnished to Teagasc. This is **not a new condition** and has been in place for several years. It is simply a tidying up of the legislation to ensure that the Stamp Duty Exemption for Young Trained Farmers is fully compliant with EU State Aid requirements.

CAPITAL TAXES

CGT Retirement Relief – Solar panels
Where farmland is leased out for solar energy production, it will not affect entitlement to CGT Retirement relief. Land shall be treated as a qualifying asset for the purpose of CGT retirement relief where the area of the land on which the solar panels are installed does not exceed 50% of the total area of the land. This is subject to all other qualifying conditions of CGT Retirement Relief being met (e.g. age of person disposing, use of assets in farming for a minimum of 10 years prior to disposal/prior to lease)

Agricultural Relief – Solar Panels
Land that has solar panels installed on it will be regarded as agricultural land for the purpose of the definition of 'agricultural property'. In other words, land that has solar panels on it will be classified as agricultural land for the 80% asset test for Agricultural Relief. This only applies if the area of land on which the solar panels are installed does not exceed 50%.

CGT Relief for Farm Restructuring
Where an individual avails of Capital Gains Tax Relief for Farm Restructuring, they will be required to provide to the Revenue Commissioners, on a form provided for that purpose, the following information:

- Name and address
- Amount paid for the qualifying land, sold or exchanged
- Amount received for land sold, or
- Market value of land exchanged
- Incidental costs relating to the acquisition/sale/exchange of qualifying land

This applies to disposals made on or after 1st July 2016. It will allow the Revenue Commissioners to calculate the amount of the gain that would have arisen if the relief had not applied, and, again, is to ensure that there is compliance with EU State Aid requirements.

CGT 7-year Relief
Relief from CGT was provided for land or buildings which were purchased between 7 December 2011 and 31 December 2014, where such land/buildings were held for a minimum of 7 years. The 7-year requirement has been amended and a full exemption from CGT is now available where the land /buildings are disposed of in the period commencing 4 years from the time they were acquired and ending 7 years after this date. This applies to disposals made from 1 January 2018.

OTHER

SEAI Accelerated Capital Allowances Scheme

The SEAI scheme which provides for accelerated capital allowances (100%) on investments in energy efficient equipment, which is available to farmers and all other businesses, is extended until 31 December 2020. The scheme was due to run out on 31 December 2017.

Key Employee Engagement Scheme (KEEP)

This scheme for SMEs provides for any gain arising on the exercise of qualifying share options to be subject to CGT at the time of disposal of the shares, in place of income tax, USC and PRSI at the time of exercise of the share option (which is the general treatment for share option schemes). Some of the key qualifying conditions are:

- A **qualifying company must be incorporated** and resident in the State – i.e. the company must be a limited company. The majority of farm enterprises are sole traders (not incorporated), and therefore would not qualify for the KEEP scheme
- A qualifying individual must be a full-time employee/director of the qualifying company and work at least 30 hours per week for the qualifying company.
- A qualifying share option means a right granted to the employee/director to purchase a pre-determine number of shares at a per-determined price, and must be exercised within 10 years from the date of grant.

VRT – Vehicle Classification

The definitions of 'Category A' and 'Category B' vehicles have been amended to allow the Revenue Commissioners to specify additional qualifying criteria. Specifically:

- A 'Category A vehicle' will now include both category M1 vehicles (passenger vehicle) and a category N1 vehicle that has 4 or more seats, and to which a BE bodywork code has not been assigned
- A 'Category B vehicle' means a category N1 vehicle that has 3 seats or less and a category N1 vehicle to which a BE bodywork code has been assigned
- A 'BE bodywork code' is a code assigned to a vehicle at the type approval stage, where the vehicle has a maximum mass not greater than 3,500 kg, and **the seating positions and cargo area of the vehicle are not located in a single compartment.**

This re-classification of vehicles will come into operation on 1 April 2018

Note:

A Category A vehicle attracts a VRT rate based upon CO_2 emissions and OMSP (Open Market Sales Value) (ranging from 14% to 36% of the OMSP, depending on the CO_2 emissions)
A Category B vehicle is one which attracts a VRT rate of 13.3% of the OMSP.