IFA's submission on the consultation of the implementation of the 2014 Agri-taxation review

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Introduction and overview

Introduction

The Irish Farmers' Association is the representative organisation for 72,000 farm families throughout the country and is the recognised voice of Irish farmers in Europe and internationally. The objective of IFA is to provide focused leadership to deliver improved income and living standards for all farm families. The Association promotes the ongoing development and competitiveness of Irish agriculture and the food industry, which is making an important contribution to Ireland's economy.

IFA believes that this consultation of the review provides an opportunity to ensure that the taxation system provides a coherent support for the achievement of the key policy goals for agriculture outlined in *Food Wise 2025.* These include promoting on-farm investment, encouraging new entrants to farming and greater numbers of lifetime transfers, increasing land mobility, and improving the overall structure, efficiency and productive capacity of agriculture, which will result in an increase in output, employment and exports.

Market and policy environment facing Irish agriculture

IFA fully supports the objective of maximising the contribution of the agri-food sector to the Irish economy and acknowledges Government action in recent years to support restructuring, farm investment and land mobility.

At a national economic level, the agri-food industry is contributing to economic growth, and in 2017 delivered €12.6bn in food and drinks exports. The clear message is that the primary productive sector is contributing to the overall economy and growing export earnings.

The tax system must support the clear policy objectives set out in the medium term Agri-Food development strategy *Food Wise 2025,* which targets expanded farm production and which will require significant on-farm investment.

Food Wise 2025 outlines how the agri-sector can make the maximum contribution to our export-driven economy and includes ambitious growth targets, including an increase in 85% increase in exports to €19 billion; 70% increase in value added to €13 billion; 60% increase in primary production to €10 billion and the creation of 23,000 additional jobs all along the supply chain from producer level to high end value added product development.

Despite this significant contribution of the farming sector to the economy, particularly in rural communities, the pressure on farm incomes in most sectors continues to threaten both the viability and sustainability of the Irish family farm and the sector's growth prospects. In 2017, the average family farm income was just €31,300[1] compared to €34,300 for average industrial earnings and €47,400[2] for average public-sector earnings.

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[1] https://www.teagasc.ie/media/website/publications/2018/NFS-Publication-2017.pdf (24/5/18)

[2] *Economic Insights, Public Sector Pay – avoiding the mistakes of the past.* Davy, March 2017

The past number of years has highlighted the major challenges farmers face in dealing with huge volatility in both weather and product prices. These extremes were particularly evident during the fodder crisis, where a combination of prolonged bad weather, major cost increases for inputs and reduced output prices in some commodities resulted in significant income and cashflow problems for thousands of farm families.

Brexit
Irish farming and the agri-food sector are particularly vulnerable to Brexit for a number of reasons:

- Ireland's agri-food sector has a high dependence on the UK market. Disruptions to this market, through the imposition of tariff barriers, border checks, certification requirements, or other regulatory changes could all render this trade uneconomic.
- High EU tariff protection applies to products of major importance to Irish farmers, namely beef, dairy products and lamb. In the event of a significant reduction in import tariffs by the UK for other exporting countries post Brexit, the competitive positioning of Irish products in the UK market will be undermined.
- The existence of the land border between Ireland and Northern Ireland created an additional challenge, with the potential to disrupt the highly integrated trade flows in agri-food products and to undermine the strong cooperation that exists on animal health and welfare.
- Finally, as a net contributor to the EU budget, the UK exit from the EU creates uncertainty on the size of the EU and CAP budgets post 2020. A reduction in the CAP budget post 2020 would directly and negatively impact on Irish farm incomes across all sectors.

Specific characteristics of Irish agriculture
Family farming in Ireland has the following characteristics, which need to be taken into account when reviewing the taxation system:

1. ***Farming is a capital intensive industry with significant investment requirements*:** an exceptionally high level of capital is required in farming (land, farm buildings, machinery, livestock and environment control facilities) to generate an income equivalent to average industrial earnings. Furthermore, a significant amount of capital upgrading or replacement is required annually.
2. ***Inter-generational Transfer:*** Ireland has a high level of owner-occupancy of farms, and the sustainability and viability of the sector requires that the family farm can be transferred between generations with the minimum of administrative complexities, legal costs and tax exposure.
3. ***Sole Trader:*** the main business structure of family farms continues to be that of sole trader, reflecting their self-employed status, relatively small scale and also the significant administrative and compliance costs associated with corporate structures.
4. ***Structural reform and competitiveness:*** as Irish and EU agriculture becomes progressively more exposed to international competition, the scale of individual viable family farms increases. Developments in technology, larger machinery and equipment, better disease control, etc. all facilitate increased scale and improved competitiveness.

Key objectives for IFA in the consultation of the implementation of the agri-taxation review

- Ensure tax reliefs, which are critical to the development and growth of the agri sector, are maintained.
- Improve tax incentives that are necessary to drive structural improvements by incentivising land transfer, mobility and investment for genuine farmers.
- Enhance the taxation system's ability to address volatility in farm incomes.
- Assist farmers for the potential implications of Brexit.

1. Implementation of the Agri-taxation review 2014

The specific policy areas which the Agri-taxation review 2014 has set out to address included increased mobility and productivity; assisting succession and entrance of young farmers; income volatility and environment sustainability. The vast majority have been addressed successfully and several must be maintained as they have been instrumental in the growth of agriculture and encouragement of timely succession.

IFA would strongly recommend that the below outstanding issues and changes are addressed, as well as the extension of existing reliefs.

1.1 Stamp Duty relief for Young Farmers

The exemption from Stamp Duty for Young trained farmers has been of huge benefit in supporting the next generation to enter into farming without additional financial burdens, but it is due to expire at the end of 2018.

IFA believes there should be an extension of this relief, which will continue to encourage the timely transfer of family farms.

1.2 Farm re-structuring

Whilst recognising that there is relief in terms of CGT for farm re-structuring, the proposed stamp duty relief has not yet been introduced.

IFA calls for the immediate introduction of stamp duty relief for farm re-structuring and to have it effective from 1st January 2018.

1.3 Focus Agricultural Relief for Capital Acquisitions Tax for the genuine farmer

Whilst IFA welcomed the Agricultural Relief for Capital Acquisitions Tax, which supports timely transfer of farms and assists with succession, there is a need to protect the active farmer and maintain its integrity as a targeted incentive for farmers, as referenced in objective 2, recommendation 9 of the Agri-taxation report 2014. There is concern that there is a potential abuse of the relief in terms of transference of wealth by non-farmers.

IFA proposes that to avail of the Agricultural Relief the transferor or transferee, or a combination of both, has to farm or have farmed the land for a minimum of 10 years, similar to the qualifying business asset definition in the existing CGT relief.

Furthermore, that the retention period of the individual receiving the gift / inheritance should be increased from 6 to 15 years.

1.4 Tax treatment of payments received for use of forestry land by a third party.

An appeal Revenue Commissioner's ruling has deemed that money received for use of forestry lands by a third party (e.g. payment from a utility company for use of the land) is deemed to be compensation for a partial disposal of the land, and therefore subject to Capital Gains tax.

In a number of instances however, some of the payment received is due to the fact that the forestry premium (i.e. an income stream) will be lost to the land owner as a result.

IFA believes that the Appeal's interpretation that Forestry premium has an exemption from income tax/Capital Gains Tax and therefore payment for the loss of this income should not be subject to income or Capital Gains Tax. IFA believes that the Revenue interpretation is incorrect and that the tax treatment should be based upon the purpose for which the payment is received.

2. How the tax system might further address income stability in the primary agriculture sector?

2.1 Deposit scheme / income volatility

ICOS has a proposal of an additional income stability tool for the agri sector, the voluntary mechanism would permit farmers to defer up to 5% of their annual receipts. The deferred funds could subsequently be drawn down at any time within the next five years subject to income tax at the time of draw down. The money would be retained in the farmers name in a recognised, interest bearing fund, which would be managed by their co-op. This fund would be secure and available to the farmer when needed.

It is vital that the scheme is available to farmers operating across different sectors, so for enterprises other than dairy, it is proposed that farmers would, on a voluntarily basis, be allowed to put 5% of their receipts in special bank accounts, which would take the said receipts out of their taxable income for the year, with the same provisions as the 5-5-5 operating.

IFA supports the introduction of an adapted ICOS' proposal based on the 5-5-5 model, which allows all farmers to put aside 5% of their gross receipts, whether in their co-op or specially assigned bank account. This money is then available for drawn down within the next five years and the tax due would be paid at that time of withdrawal. It is also critical that the accounts are ring-fenced and secure.

2.2 Extension of Income Averaging to self-employed farmers with other income

Income Averaging is prohibited where the farmer or spouse has an additional self-employed source of income either by themselves or in partnership with others. This includes cases where either the farmer or their spouse is a director, employee or office holder of a trading company and own or can exercise control over more than 25% of the ordinary share capital of a company. In addition, if a farmer is carrying on farm contracting work, for example, they are disallowed from availing of Income Averaging.

IFA proposes that, where a farmer or their spouse has an additional self-employed source of income, Income Averaging should be allowed on his farm profits.

2.3 Increasing Flexibility in Income Averaging 'Step-Out'

Income averaging for farmers is a recognition that income in the sector is volatile and that the annual tax liability can vary significantly. The step-out facility for exceptional years (once in a five-year period) introduced in last October's budget allows farmers to pay their tax on the basis of actual income in that year, rather than the averaged income. A farmer may only elect to 'step out' once in a five year period.

IFA believes that an amendment to the measure, which would allow for the 'step out' more than once in the five year period would provide greater flexibility to the scheme, while at the same time providing a strong incentive to farmers for early repayment of the deferred amount.

IFA proposes that a farmer should be allowed to 'step-out' of income averaging more than once in a five year period, where he is not carrying an unpaid deferred tax amount from a previous 'step-out'.

3. How developments such as Brexit, climate change, the abolition of milk quotas etc. affect the context in which the recommendations of the 2014 Agri-tax Review were made?

IFA recognises the importance of the extension of land leasing to assist meeting one of the objectives of the Agri-tax Review of dairy expansion.

3.1 Supporting SMEs through market disturbance due to Brexit – structural and adjustment support

IFA recognises the increased funding to state agencies to support exports on the UK market and the diversification of products into new markets. However, the volatility of the euro-sterling exchange rate during the negotiations presents a clear threat to the competitiveness of Irish exports, with the potential to undermine the viability of small businesses.

Furthermore, any long-term changes to the trading relationship between the EU and UK that reduce access and increase barriers to trade, could have a negative impact on incomes and employment in exposed sectors if trade flows are disrupted and the value of exports are reduced.

IFA proposes direct support for farmers/small businesses through CAP Market Support or other measures must be made available in the event that sterling further depreciates during exit discussions, impacting negatively on incomes and livelihoods. The EU must make available structural and adjustment funding to small businesses that are negatively impacted due to changes in the relationship that is negotiated between the EU and the UK.

Funding support would protect incomes and livelihoods that have been disproportionately impacted by the depreciation of sterling, as well as new taxes and levies, and whose competitiveness versus their EU trading partners has been undermined.

3.2 Assisting the competitiveness of the Irish agri-food sector

Due to the uncertainty of Brexit, it is vital that the rural economy remains competitive and indirect costs are kept as low as possible. Transportation requirements from farm to fork are a major cost input for agri-food businesses and any rise in these would have a severe impact on the viability of the sector.

IFA proposes that there is no increase in excise on diesel.

4. Given the ambition to grow the sector and the urgent need to reduce emissions, the question arises, what is the role of agri-taxation in the achievement of this target in the context of Food Wise 2025 and the increased global demand for food?

Since 1990 agriculture's emissions have fallen by 2%, demonstrating a decoupling of growth in the sector from negative impacts on the environment. Farming, with the support of Government, can and will do more to assist in the delivery of Ireland's climate and renewables obligations.

However, due to the tight timeframe of this consultation, IFA proposes that a separate review process to consider the potential taxation measures to encourage the increased uptake of renewables needs to take place.

IFA believes there are some issues addressing this critical area that could be implemented immediately.

4.1 Accelerated capital allowances for emission efficient equipment

IFA believes that investment in emission efficient farm equipment should be incentivised, similar to the incentive applied under the SEAI ACA scheme for energy efficient equipment. Increased investment in emission efficient equipment should be encouraged as part of the comprehensive response of the Irish agriculture sector to contributing to meet the COP 2030 climate change targets.

IFA proposes that farm equipment, which contributes to increased emission efficiency, should qualify for accelerated capital allowances. This would be provided through an enhanced SEAI Accelerated Capital Allowances Scheme, or through a parallel scheme, which would operate under the same structures – i.e. 100% capital allowances for investment in equipment that is independently certified and listed by a qualifying authority.

4.2 Home Renovation Incentive

Ireland currently faces the considerable climate and renewables compliance challenges of reducing national greenhouse gas emissions by 20%, while producing 16% of our energy requirements from renewable sources, by 2020.

IFA proposes that confirmation of qualifying works under the Home Renovation Incentive (HRI) scheme shall include fossil fuel displacing renewables technologies such as solar, heat pumps, micro wind and battery storage. Qualifying works under the HRI are currently generally restricted to trades such as plastering, painting and insulation.

4.3 Biomass Supply Chain development

Government support for farm level development of biomass energy production systems is required to improve residue recovery, handling, processing and storage technologies. Improved biomass supply chains must be developed to support farmers to cost effectively produce larger quantities of biomass feedstock to compete with conventional fuels

IFA believes that funding/ tax incentives, including 100% Capital Allowance, is required for an integrated Biomass Mobilisation Programme, to support farmers to invest in farm based infrastructure, such as specialised machinery, storage and drying units.

5. Other priority areas or future challenges that the tax system should seek to address in the context of the primary agriculture sector?

5.1 Joint ownership of land by spouses
In many farms, the land is jointly owned by both spouses. When considering transferring and in order to avail of the reliefs, both spouses must meet the conditions for the active farmer role i.e. 10 years ownership and farming. This is proving to delay succession in order to avoid Capital Gains Tax, as it is often the case that one spouse does not meet the criteria.

IFA proposes that where one of the spouses meets the conditions, relief is available on the transfer for both parties. This is in order to assist in timely succession and remove the deterrent of extra tax costs.

5.2 CGT Relief on Farm Partnership dissolution
Prior to 2008, owners of land held in joint tenancy were potentially liable for CGT arising from the dissolution of a partnership. This disincentive to enter partnerships was removed in Finance Act 2013, whereby relief from CGT was given to individuals where there was a break up of a partnership. However, this provision did not help to alleviate transfer barriers where joint tenancies existed and land was not farmed in partnership.

IFA believes that, in order to continue to encourage farmers to enter into farm partnerships, as per Government policy, the Joint Tenancy Ownership Relief from Capital Gains Tax that was available until December 2013 where there was the dissolution of a farm partnership, should be reinstated and the definition of partnerships and entities qualifying should be extended. IFA proposes that this relief be restored to individual partners that continue to farm for a minimum of 5 years post the breakup and the definition of entities qualifying should be extended. This would also facilitate timely transfer.

5.3 Interaction of CGT Entrepreneur's Relief and CGT Retirement Relief
IFA recognises the introduction of CGT Entrepreneurs Relief in recent budgets to encourage investment in businesses and to reward risk-taking and entrepreneurial behaviour. From 1 January 2017, a reduced CGT rate of 10% applied to the disposal in whole or in part of qualifying business assets up to an overall lifetime limit of €1m of chargeable gains.

CGT Retirement relief for disposals outside of the immediate family (i.e. disposals other than to a child) on lifetime amounts up to €750,000 provide a valuable safety net to many small business owners, allowing them to provide for their retirement.

Under the current legislation, there is an interaction between the two reliefs, which are both subject to a lifetime limit. This means that, where some or all of the CGT Entrepreneur's Relief has been used up by an individual, the amount of CGT Retirement Relief that remains available to them will be significantly diminished, or, in some cases, fully used up.

IFA believes that the interaction between the two CGT reliefs should be removed, and that the two reliefs should standalone. An individual should be able to avail, in full, of the CGT Entrepreneur's Relief and the CGT Retirement Relief over the course of their lifetime, subject to satisfying the qualifying conditions of each relief.

5.4 Reintroduction of indexation
When CGT was reduced to 20%, the indexation relief ceased as of 31st December 2002.

IFA proposes with rising land prices and inflationary pressures, there is a need for the reintroduction for inflation or indexation relief.

5.5 Stamp duty
In Budget 2018, stamp duty was increased from 2% to 6% for commercial property. Agriculture is a low margin, highly capital intensive business, which requires investment in the primary asset, which is land. The increase has prohibited expansion in farming via purchase of land.

IFA proposes that agriculture is removed from the commercial definition and revised it to be in line with residential stamp duty charge of 1% up to €1m and 2% thereafter.

5.6 Barriers to female participation in farming
There is currently an imbalance in the number of female participants in agricultural employment, which needs to be addressed.

Where a spouse working full-time on the farm is paid a wage, IFA proposes that the employee tax credit should be available for that person. Since 2014, the welfare system has facilitated the payment of PRSI contributions to enable the assisting spouse to build up their entitlements to social insurance benefits.

5.7 Labour incentive for farms
The present rate of PRSI for employers is 10.75%, which is a significant cost to farm businesses.
There is also an issue of securing employees in agriculture and making jobs in agriculture viable.

IFA proposes that a reduced rate of PSRI is introduced for employers for a max of €500/week to incentivise people to work on farms by increasing their wages, whilst not adding extra financial burden to the farmer.

5.8 Vacant Site Levy
Land that is being genuinely farmed cannot be deemed 'vacant' or 'idle'.

IFA proposes that agricultural land that is being genuinely farmed is excluded from the Vacant Site Levy.

5.9 Favourite grandchild for purposes of Agricultural Relief for CAT
Due to societal changes, it is sometimes necessary for families to transfer the farm to a favourite grandchild. Currently a grandchild comes under Category B, however in order to encourage transfer of a viable farm, it is necessary to introduce a Favourite Grandchild relief as an important incentive.

IFA proposes that, similar to the existing Favourite Nephew / Niece relief, there should be a Favourite Grandchild relief.