

# IFA Succession



# Ifac Office Locations

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



## Leinster

Carlow, Co. Carlow  
Drogheda, Co. Louth  
Enniscorthy, Co. Wexford  
Kilkenny, Co. Kilkenny  
Mullingar, Co. Westmeath  
Naas, Co. Kildare  
Portlaoise, Co. Laois  
Trim, Co. Meath  
Tullamore, Co. Offaly  
Wicklow, Co. Wicklow

## Munster

Bandon, Co. Cork  
Blarney, Co. Cork  
Cahir, Co. Tipperary  
Castleisland, Co. Kerry  
Dungarvan, Co. Waterford  
Ennis, Co. Clare  
Limerick City  
Mallow, Co. Cork  
Nenagh, Co. Tipperary  
Templemore, Co. Tipperary  
Skibbereen, Co. Cork

## Specialist Services

Audit  
Corporate Finance  
Farm Support  
Financial Planning  
Food & AgriBusiness Advisory  
HR & Payroll Services  
Tax Advisory

## Connacht

Athenry, Co. Galway  
Balla, Co. Mayo  
Collooney, Co. Sligo  
Roscommon, Co. Roscommon

## Ulster

Cavan, Co. Cavan  
Monaghan, Co. Monaghan  
Raphoe, Co. Donegal



# 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 ones 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 – 5<sup>th</sup> 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.

<b>Tax Free</b>	<b>Jan 2009</b>	<b>December 2019</b>
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 – Agricultural Relief

## Conditions;

### 1. Farmer test (asset test)

- 80% assets on valuation date must comprise of agricultural property

**AND**

### 2. Active Farmer Test

- Agri qualification
- 50% time
- Lease to active for 6 years
- Clawback – 6/10 years
- Land used for Solar - relief still available once not > 50% of land is under solar



# Capital Acquisition Tax - Business Relief

## Conditions;

- 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.



# Example

Assume Joe (who has €400K in shares and cash) receives €1.5m market value in land, livestock, plant & machinery from his father i.e. all agricultural assets. Does he satisfy the agricultural relief test?

	Total Assets	Agricultural Assets	Non-Agri Assets
Land & Stock	1,500,000	1,500,000	0
Shares & Cash	400,000	0	400,000
Total	1,900,000	1,500,000	400,000
	<b>100%</b>	<b>79%</b>	<b>21%</b>

*He does not satisfy the conditions, so what is the outcome?*



# Example Continued...



	With Agricultural Relief	Without Agricultural Relief
Land, Buildings etc.	€1,500,000	€1,500,000
Agricultural Relief deduction (90%)	€1,350,000	-
Taxable Value	€150,000	€1,500,000
Tax Exempt Amount	€335,000	€335,000
Taxable at 33%	Nil	€1,165,000
Inheritance Tax	<u>Nil</u>	<u>€384,450</u>
* Business Relief might also be available?		



# Other CAT Issues & Planning

- Insurance policies
- Free use of land
- Free use of money
- Succession RFP Tax Credit - €5000 P.A



# 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
- 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. farm land) @ 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 30.12.23 (**Budget 2023**)(1% on excess)
- Consanguinity Relief – until 31.12.23 (1%)
  - *Active farmer conditions*
- Young Trained Farmer Exemption – until 30.06.23 (**Budget 2023**)
  - *€70k lifetime cap – Finance Act 2018*
    - Succession RFP credit
    - YTF Stock Relief
    - YTF Stamp Duty exemption



# Partnerships







# 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

# Succession Registered Farm Partnerships – SRFP;



## Benefits;

### 1. Dept. of Ag.;

- Grants,
- BPS

### 2. Tax;

- Increased stock relief – 50%
- €5000 income tax credit for 5 years - split in line with profit sharing ratio - Ceases once successor reaches 40

### 3. Practical;

- Encourage transfers to next generation – assets are transferred on a pre-determined date between year 3 and year 10
- Beware of successors age - <35 years v <40 years – plan for transfer reliefs to suit



# 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



# Tax Treatment of Partnerships

## Capital Tax

- Assets become partnership assets if acquired with partnership funds
- Individual Partners own a share in a partnership
- Can also own assets personally and only used by partnership
- Will should be updated for the above on entry to a partnership



# 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



# 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”





# Thank you