

**TAXATION ISSUES RELEVANT TO FARMERS**  
IN ASSOCIATION WITH  
CASEY ACCOUNTANTS

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Tax heads for discussion:

- 1) Income Tax and the Universal Social Charge
- 2) VAT
- 3) Capital Gains Tax
- 4) Capital Acquisitions Tax (applicable to gifts and inheritances)
- 5) Stamp Duty

## Income Tax:

### Income Tax rates and cut-off points

	2010		2011	
	20%	41%	20%	41%
Single Person	€36,400	Balance	€32,800	Balance
Married couple, one income	€45,400	Balance	€41,800	Balance
Married couple, two incomes	Up to €72,800 (increase limited to the amount of the second income)	Balance	Up to €65,600 (increase limited to the amount of the second income)	Balance
One parent family	€40,400	Balance	€36,800	Balance

### Other Income/Off-farm Income

- Many farmers and their spouses are in receipt of social assistance/insurance payments. While no tax is deducted from such benefits on receipt, many are actually taxable. For a comprehensive listing of taxable and non-taxable benefits, see appendix (1)
- You may also have a liability to income tax in respect of rental income, for example: easements, letting of land or buildings for non-farm use and straight forward letting of land, (some reliefs are available however)

### Farming Losses

- Farming losses can be used to reduce total income.
- Unused farming losses can be carried forward against the profits of the next and subsequent tax years
- Revenue do not allow carry forward if the farm is a "hobby" as opposed to a serious commercial endeavour
- Offsetting of losses is denied if you made a loss in each of the three preceding tax years (with some exceptions). Plan to make a profit in yr 4

### Farming Capital Allowances

- 12.5% rate relevant to plant and machinery
- 15% rate relevant to farm buildings
- Pollution Control Structures: expenditure during 6 April 1997 to 1 January 2011. Write off over three years with an accelerated allowance in year 1 of the lesser of €50,000 or 50% of the qualifying expenditure. Various conditions must be satisfied.
- Capital allowance can be used to create a farm loss which can be offset against total income

## Some Tax Reliefs For Farmers

- Farming wages (spouses, children, parents etc)
- Stock Relief
- Farm Profits averaging
- Young trained farmer stock relief
- Tax free Farm Income

## Stock Relief

- A deduction of 25% of any increase in the value of stock will be allowed against your trading profits
- The relief cannot create or increase a loss
- **NOTE:** Excess capital allowances or unused losses may not be carried forward from a period in which stock relief is claimed

## Farm Profits Averaging

- You may class as your farming profits for a tax year the average annual profits over three years; the current tax year and the two immediately preceding tax years.
- You may elect for income averaging only if you were charged to tax on your farming profits for the two immediately preceding tax years
- Income Averaging is good when profits are rising as it delays the tax charge.
- Income averaging is bad when profits are falling as it accelerates the tax charge
- You do not qualify for Income Averaging if you are a part-time farmer or a director or employee of a company and are able to control 25% of the ordinary share capital

## Young Trained Farmer Stock Relief

- Young qualifying farmers are individuals who are under 35 years of age at the start of the year and meet specific training requirements
- 100% of any increase in stock values for the year in which an individual commences and for the three successive years

## Tax Free Income

- Income, including the grants and premiums, from forestry carried out in the state which is managed on a commercial basis are exempt from income tax but not from PRSI or the USC
- Where a person is aged 40 years or over, or is permanently incapacitated by reason of mental or physical infirmity, leases his or her land for a period of five years or more, some or all of the income may be exempt from tax (subject to conditions).
  - o 10 year lease €20,000 per annum
  - o 7 year lease €15,000 per annum
  - o 5 year lease €12,000 per annum

## Universal Social Charge:

For self assessed individuals under 70 years the 2011 annual rates are

Universal Social Charge	
Rate	Annual Threshold
2%	€0 to €10,036
4%	€10,037 to €16,016
7%	€16,017 to €100,000
10%	The remainder

For self assessed individuals over 70 years or individuals under 70 who hold a full medical card, the 2011 annual rates are

Universal Social Charge	
Rate	Annual Threshold
2%	€0 to €10,036
4%	€10,037 to €100,000
7%	The remainder

## What is Exempt from the Universal Social Charge

- Where an individuals total income for the year does not exceed €4,004
- All Dept of Social Protection Payments
- Payments as listed in **Appendix 2**
- Income already subject to DIRT

## VAT

### VAT Rates

- Exempt - Short term letting of land or Buildings
  - 0% Food Producing trees, plants, seeds, etc
  - 4.8% live cattle, deer, goats, horses, pigs or sheep
  - 13.5% Agricultural Contracting
  - 21% for hire of agricultural equipment, wool, sale or lease of milk quota without the land
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- A Farmer who is engaged solely in farming activities is not required to register for VAT irrespective of the level of his or her turnover
  - A farmer may elect to register for VAT
  - If registered, VAT may be reclaimed on inputs such as diesel, repairs and maintenance etc. VAT may not be reclaimed on any personal items. In addition, if reclaiming VAT on light and heat, telephone etc. Only the portion that relates to the farm trade may be reclaimed
  - The VAT legislation specifically precludes some items on which VAT can be reclaimed. Private motor vehicles, petrol are two such examples
  - VAT may be reclaimed on capital works, land reclamation by unregistered farmers. This is known as a VAT58 claim. Such items would typically be capitalised and not expensed in the year they are incurred

## Capital Acquisitions Tax

- This is a very important tax planning area
- Rate – 25%. A group threshold applies and this depends on the relationship of the disponer/doner to the donee. The excess of the relevant threshold is taxable at 25%
- Small gift exemptions of €3,000 apply in relation to gifts
- Gifts and Inheritances between spouses are exempt
- Where a farmer (as defined) receives agricultural property (as defined), the agricultural value of such property may be reduced by 90%. Two notable reliefs namely Agricultural Relief and Business Relief can result in such a reduction
- Various conditions and claw back provision apply for each relief
- Other Reliefs- Principal Private Residence Relief & Favored Niece/Nephew Relief

<b>CAT thresholds</b>				
	2009 (up to 7 April 2009)	2009 (on or after 8 April 2009)	2010 (up to 7 December 2010)	2010 (on or after 8 December 2010) and 2011
Group A	€542,544	€434,000	€414,799	€332,084
Group B	€54,254	€43,400	€41,481	€33,208
Group C	€27,127	€21,700	€20,740	€16,604

**Group A: Child or minor child of the deceased child of the disponer. Parent of a deceased child, subject to certain exceptions**

**Group B: Brother, sister, or child of a brother or sister**

**Group C: Stranger, anyone not falling within A or B**

## **Capital Gains Tax**

- Where a farmer disposes of property such as land and buildings the disposal is not liable to Income Tax. If there is a gain the gain is subject to Capital Gains Tax. Capital gains tax is payable by the person who disposes of the property.
- If you gift land to an individual, this is still considered a disposal. You may still be subject to capital gains tax despite not receiving any proceeds

## **Some Capital Gains Tax Reliefs**

- Retirement Relief/Transfer of Land within family
- Transfer of Site to Child

## **Retirement Relief/Transfer of land within the family**

This is the most valuable relief for a farmer.

To be eligible:

- He/she must be 55 years
- Have owned and farmed the land for 10 years
- The sales proceeds are exempt up to €750,000(no threshold for a child)
- The exemption applies to both spouses but if one transfers to the other, the passing is taken into account for the exemption

## **Transfer of Site to a child**

- Must be for the construction of the son/daughter's principal private residence
- The area of the site does not exceed one acre
- The value of the site does not exceed €500,000
- When built, the house is occupied for a minimum of three years
- A parent can only transfer one site to each child

## Stamp Duty

Stamp duty is difficult to avoid because it is in your interest, as purchaser, to ensure the deeds to the property are properly stamped

### Exemptions

- Transfers between spouses are exempt
- As a young trained farmer, you receive a transfer of land
- If you acquire woodland, duty is not chargeable on the value of the trees growing on the land

### Reliefs

- If you exchange land with another farmer to consolidate each others holding, stamp duty is charged on the difference in values
- If you buy and sell land to consolidate your own holding

### Rates of Stamp Duty on Land Transfers

Up to 10,000	Exempt
10,001 to 20,000	1%
20,001 to 30,000	2%
30,001 to 40,000	3%
40,001 to 70,000	4%
70,001 to 80,000	5%
Excess over 80,000	6%

## Current Issues

These are not ordinary times and if near retirement, transferring the family farm is relevant now more than ever. Consider the following points:

- Opportunity for tax planning; asset values are low
- Possible changes to the primary tax reliefs pertinent to farm transfers
  - o Difficult to say but a reduction in Agricultural relief to 75% is possible. Other changes or restrictions may be introduced.
  - o Possible limitations to Retirement Relief re capital gains
  - o Will young trained farmer relief always be available?
- Obtain professional advice and plan in advance of any transfers

### Disclaimer

**Terence Casey or Casey Accountants do not accept any responsibility for loss or damage occasioned by any person acting or refraining from acting as a result of the material in this leaflet. Professional advice should always be sought before acting on any issue covered in this leaflet.**

## APPENDIX 1 - Social assistance payments

Jobseeker's Allowance	Not taxable
Pre-Retirement Allowance	Not taxable
Farm Assist	Not taxable
Widow's, Widower's or Surviving Civil Partner's (Non-Contributory) Pension	Taxable
Guardian's Payment (Non-Contributory)	Taxable
Carer's Allowance	Taxable
State Pension (Non-Contributory)	Taxable
Blind Pension	Taxable
Disability Allowance	Not taxable
Deserted Wife's Allowance	Taxable
One-Parent Family Payment	Taxable

## APPENDIX 1 - Social insurance payments

Illness Benefit	Taxable (first six weeks excluded)
Maternity Benefit	Not taxable
Adoptive Benefit	Not taxable
Health and Safety Benefit	Not taxable
Invalidity Pension	Taxable
State Pension (Transition)	Taxable
Jobseeker's Benefit and Short-Term Enterprise Allowance	Taxable (first €13 per week excluded)
Jobseeker's Benefit (paid to systematic short-term workers)	Not taxable
Widow's, Widower's or Surviving Civil Partner's (Contributory) Pension	Taxable
Guardian's Payment (Contributory)	Taxable
Deserted Wife's Benefit	Taxable
Carer's Benefit	Taxable
State Pension (Contributory)	Taxable
Disablement Pension	Taxable
Constant Attendance Allowance (payable with Disablement Pension)	Taxable
Injury Benefit	Taxable
Death Benefit Pension	Taxable

## APPENDIX 2

### Payments made by the Department of Enterprise, Trade and Innovation

- Community Employment Scheme
- Jobs Initiative Scheme
- FAS(non apprentice payments)

### Payments made by the Health Service Executive (HSE)

- Blind Welfare Supplementary Allowance
- Domiciliary Care Allowance
- Mobility Allowance

### Payments made by the Department of Education

- VTOS Training Allowance
- Youthreach Training Allowances
- Senior Traveller Training Allowances
- Back to Education Initiative (BTEI) Training Allowances paid to Youthreach, STTC or VTOS eligible participants on a pro-rata basis.
- Vocational Education Committees' Scholarship Scheme
- Fund for Students with Disabilities
- Student Assistance Fund
- Millennium Partnership Fund for Disadvantage

### Payments made by the Dept of Agriculture

- Farm Retirement Pensions
- Farm Retirement Workers Pensions

### Payments made by the Dept of Social Protection

- Rural Social Scheme
- Farm/Fish Assist Jobseekers Allowance or Jobseekers Benefit
- One-Parent Family Payment, Widow(er)'s Pension or Disability Allowance
- Adult Dependent of a recipient of the non-contributory state pension
- Domiciliary Care Allowance