Teagasc

AGRICULTURE AND FOOD DEVELOPMENT AUTHORITY

Notes

Teagasc Notes for week ending Friday 17th December 2021

Everything You Need to Know About Transferring the Family Farm

Traditionally in Ireland, family farms have been passed on to the next generation on death. In recent times, social and economic changes have resulted in more transfers taking place during the owner's lifetime.

It is a very personal decision and every family has a different set of circumstances. It is always better to have a plan in place, and by not having one it can be even more difficult if the transfer is unplanned through illness or the death of the owner.

T.I.M.E.

T = Time: now is a good time to organise yourself. By having no succession plan or will in place, your assets are distributed by the rules of intestacy; this means that the state decides for you. Delay making a plan and it will be more difficult to achieve your desired outcome.

I = Involve: involve all your family in a discussion. An open conversation is recommended with all those involved so misunderstandings can be avoided.

M = Make a plan as to how the 'farm' is going to be passed on, your other children looked after, and your own future care.

E = Engage professional experts by making appointments with solicitors, accountants, mediators, agricultural advisors and government agencies. These experts will help you to make informed decisions. For example, form both a tax and a legal point of view, early planning is the key to reducing potential cost of transfer.

The First Step

Make a will. Many people put off this task as they probably do not want to think about the inevitable; in some cases there is total denial.

Starting the conversation about making the will: "I don't want our family to end up fighting like what happened with jack's family when he passed away."

If there is no will the state decides what happens to your estate using the Succession Act of 1965.

Teagasc recommends you seek professional advice. Transferring your largest asset requires careful planning and TIME. Seek the best advice available covering all aspects that need to be considered when writing a succession plan.

Issues

Transferring the family farm is so much more than just a simple business transaction; there are a number of complex issues to be addressed including:

- The family home is normally inseparable from the business.
- A number of family members/siblings/children to be catered for fairly.
- If the transfer is during the owner's lifetime, the owner will require an income, as well as possibly the recipient depending on the circumstances.
- Creating an arrangement that can provide a solution for the different opinions of the family members involved the discussion.
- If there are no successors, what are the options: perhaps a partnership with a neighbour, changing to a less labour intensive enterprise, leasing out or selling some land, planting some forestry could form part of the solution.
- Sharing your story with a professional or a mediator may help you to find the answer.

Communication

Family involvement in planning for succession is essential. A key aim should be to have an open conversation with the people involved so that misunderstandings can be avoided.

Professionals to discuss with should include:

- Accountants/tax advisers.
- Solicitors.
- Succession mediators.
- Social welfare advisers.
- Citizens' information.
- Teagasc education officers/collaborative farming/financial specialists.

Some topics you can discuss with the professionals include:

- Writing a will/forming trusts.
- Starting the conversation within the family.
- Income security after retirement and pensions.
- Fair deal scheme and its pitfalls.
- Options to cater for other siblings.
- Forming a partnership with your children.

Taxes

There are also a number of tax issues to be considered. On life-time transfer of farm assets, Capital Acquisitions Tax (CGT), Capital Gains Tax (CGT) and Stamp Duty are the taxes for which a return must be filed.

Reliefs may be claimed from each of these taxes. With the drop in property values 10 years ago, the threshold of each relief has also dropped, so care must be taken in planning the transfer to reduce any tax bills.

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