

# Transferring the family farm

Planning and communication will help take the stress out of it

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**S**tart planning early is one of the most important pieces of advice for any farmer who wishes to transfer a farm. A well-considered plan gives farmers, and all involved, time to figure things out and avoid family disagreements and high tax bills.

Let's look at some aspects of the succession process:

- Communication.
- Wills.
- Policy and tax.
- Fairness and equality.
- Where to get more help.

## Communication

Succession can be a delicate subject. The first step is always to sit everyone together and talk it out. Family involvement and open conversation is important to avoid disagreements later on, which no one wants but unfortunately do occur within families.

It is important to have these conversations early and to avail of all the incentives, some of which are complex and may come with specific conditions.

## Wills

Have you made a will? The importance of making a will cannot be overstated. It is always better to have a will in place. Not having one can make things extremely difficult, particularly if there is sudden illness or death. Many people put off the job of making a will as, understandably, they do not want to think about their own death.

A will gives the farm owner a sense of relief that no matter what happens, their wishes for the farm have been noted and will be implemented. Review your will regularly, particularly if circumstances change.

If there is no will, the State will decide what happens to your estate using the Succession Act of 1965. The intestacy rule outlines both the number of shares that each person is entitled to receive in the estate of the deceased as well as their priority order.

Preferences verbally expressed by the deceased, personal feelings, past



disagreements with them, or any other similar reasons are not taken into consideration.

If the deceased leaves behind a spouse and children, the spouse will receive two-thirds of the estate, while the children will receive one-third of the estate in equal shares.

## Policy and taxes

The Government sets the tax laws, and encourages the early transfer of land to the younger generation.

There are three common taxes when it comes to farm transfer. Reliefs from these taxes are available once certain conditions are met:

### •Stamp duty

- Does not apply to inheritances.
- Young trained farm relief.
- 1. Must start farming before the age of 35.

2. Hold a minimum Level 6 agricultural certificate.

### •Capital Acquisitions Tax (CAT)

-Agricultural relief can be claimed.

### •Capital Gains Tax (CGT)

-A retiring parent can claim retirement relief, but doesn't have to retire.

There are also benefits from EU CAP payments where a young/new farmer is in place.

The new CAP will commence in 2023 with a strong emphasis on generational renewal, so it is a good time to make a plan and get the benefit of the extra payment incentives that will become available.

## “What's fair may not be equal”

Farmers are often seen as wealthy; unfortunately due to the nature of the

enterprise, many are “asset rich, but cash poor”.

It is frequently expected that the farm should be divided evenly among the children in terms of money. This could mean that if one child receives the farm, the other children must get financial payments or that the farm be divided equally among them.

In the majority of cases, this is not possible due to the size or layout of the farm. This is where “what's fair may not be equal” can help solve this issue for farmers. Education, sites and other investment property are assets that other children can avail of.

If the farmer wants each child to receive a truly equal share, assets can be sold and proceeds divided.

This tends to be a last resort for farmers in Ireland. We have all heard of a farm that had to be sold because they couldn't agree or bad planning lead to a financial crisis.

This is the type of situation we all want to avoid so, again, communication is vital.

Every family has a different set of circumstances, so this is why sitting down early with everyone included is important.

## Where can I go for succession help?

Teagasc will be running “Transferring the Family Farm” events across the country in six locations. These events are designed to help educate farm families about the many details involved in succession planning.

At the event, farm families can avail of one-to-one consultations with succession specialists such as Teagasc staff, accountants, solicitors, mediation experts and other relevant professionals.

These clinics are open and free to anyone in need of advice in the area of succession. See the events section of this magazine for details.

For further information, log onto the Teagasc farm succession page on [www.teagasc.ie](http://www.teagasc.ie) at the following link <https://www.teagasc.ie/rural-economy/farm-management/succession-inheritance/> or open the camera on your smartphone and scan the QR code.

