Succession Farm Partnerships

Advisory Note

Introduction
Succession farm partnerships are available to farm families in 2017 under Section 667D of the Taxes Consolidation Act 1997. The scheme involves a €5,000 income tax credit for up to 5 years after making a successful registration with the Department of Agriculture, Food and the Marine (DAFM) Partnership Registration Office. The four key requirements of a succession farm partnership are as follows:

1. At least one partner must be a natural person who has farmed at least 3 hectares for 2 years prior to the formation of the Succession Farm Partnership. This person is defined as the "Farmer" in the regulations.
2. At least one other partner must be also be a natural person who: has completed the required level of agricultural education; is under 40 years of age on the date of application and is in receipt of at least 20% of the partnership profits **OR** meets the criteria of 1 above; has the required level of agricultural education completed; is under 40 years of age and is in receipt of at least 20% of the partnership profits. This person is defined as the "Successor" in the regulations.
3. The Teagasc My Farm My Plan booklet must be completed and certified as satisfactorily completed by Teagasc. A copy of this certificate is required for registration purposes.
4. The partners must enter into a legally binding succession agreement where the farmer agrees to transfer to the successor (within 3 to 10 years of registering the Succession Farm Partnership) at least 80% of the farm assets owned by him/her and licensed in the partnership and at least 80% of the "Farmers" share of livestock and machinery owned by the partnership. A date must be fixed for the transfer of farm assets as part of this agreement. The specific area of land to be transferred has to be clearly identified on a map. Once this land has been identified, no part of it can be disposed of otherwise.

The objective of the following advisory note is to highlight areas that may require consideration before entering into a succession farm partnership.

Areas to be considered before entering into a Succession Farm Partnership.

Banking & Security
The Farmer and Successor are strongly advised to complete a thorough review of all loans, guarantees and securities against farm assets such as land prior to entering the Succession Farm Partnership. Example sheets are shown in Table 1and Table 2 on pages 3 and 4 of this document. This is an area which if neglected may give rise to serious problems at later date.

Updating/Making a Will
It is vital that any previous will made is updated in line with the Succession Agreement to ensure that both documents are consistent with each other. In situations where no previous will exists, it is imperative to ensure that a will is put in place that is consistent with the terms of the Succession Agreement.

Value Added Tax (VAT)
VAT regulations are very complex. Where a farmer is VAT registered and he intends to enter into a VAT registered succession farm partnership, specific taxation advice should be taken from an accountant. The Transfer of Business rules and the Capital Goods Scheme may apply to farm buildings, farmyard facilities and land infrastructural developments less than 20 years old that are licensed in the partnership.

Capital Taxes
When farm land transfers during the lifetime of the Farmer, the "Farmer" (transferor) will be concerned with Capital Gains Tax and qualification for "Retirement Relief" against this tax. The "Successor" (transferee) will be concerned with both Capital Acquisitions Tax (CAT) and Stamp Duty. The two main

reliefs against these taxes for "Successors" are "Agricultural Relief" against CAT and "Young Trained Farmer Relief" against Stamp Duty. The "Farmer" and the "Successor(s)" who are taking part in a Succession Farm Partnership should seek detailed advice from a solicitor and tax accountant in relation to planning the transfer of farm assets set out in their Succession Agreement.

My Farm My Plan

To fulfil the Business planning requirement of the Succession Farm partnership Scheme, the Teagasc "My Farm My Plan" business planning booklet must be completed and a certificate of satisfactory completion issued from Teagasc. This booklet is free to download from https://www.teagasc.ie/rural-economy/farm-management/financial-analysis/farm-business-planning/

Completing the Succession Agreement

The Succession Agreement should not be completed without taking detailed and specific legal and taxation advice from your solicitor and tax accountant. The Succession Agreement must be completed professionally ensuring that all blanks [in square brackets] are completed accurately and correctly.

Moving from an Existing Registered Farm Partnership

Partnerships that are already in existence and registered with the DAFM Partnership Registration Office may also opt to register as a Succession Farm Partnership. They will already have met the first two key requirements to successfully register as a Succession Farm Partnership. The partners must submit to the Departments' Farm Partnership Registration Office the following: A completed Teagasc My Farm My Plan business planning booklet; a legally binding Succession Agreement; A completed Succession Farm Partnership Application Form; the Successor's Birth Certificate and evidence of satisfactory agricultural educational qualification of the Successor.

The main partnership agreement may need to be amended to reflect changes made by the "Farmer" and the "Successor" when signing up to the Succession Agreement. In any case the main partnership agreement must be updated to ensure it is kept up-to-date and current at all times during the lifetime of the Succession Farm Partnership. The Partnership Registration Office must be informed within 21 days of any changes and amended and updated documents furnished to them.

What happens after the transfer of assets has taken place?

There are two possible options available after the transfer of assets has taken place as specified in the Succession Agreement. They are: the partnership could continue for a further period of time involving the same partners or the partnership could end after the transfer of assets has taken place.

Where the partnership has ended, the "Successor" can farm in his/her own right on the acquired lands. The partnership must be formally dissolved at this point.

Where the partnership is continuing, the partnership agreement must be updated to reflect the change in ownership of assets licensed in the partnership such as land, buildings and basic payment entitlements (or future equivalents). There is also a need to adjust the amounts of capital contributions of the partners to the partnership. This could arise due to the transfer of ownership of some or all of the Farmer's share of livestock and machinery that was owned by the partnership and transferred to the Successor under the terms of the Succession Agreement. This is done by amending the partnership agreement (Balance Sheet) while also ensuring that the accountant updates the capital account of each partner to reflect the changes. The profit sharing ratio may also be amended in line with the change in asset ownership and changes in the partnership capital accounts but this is at the discretion of the Farmer and the Successor.

Table 1: Review of Loan Security and Guarantees provided by the "Farmer"[1]

	Loan Name/ Lender	Initial Amount Borrowed	Initial Loan Term (years)	Start Date of Loan	Land/Property Provided Against Loan	Security Provided Against Loan	Name of Borrower Guaranteed
Example	*Land Purchase Loan / Bank of Ireland*	*€120,000*	*12 years*	*1st of June 2007*	*Folio CK105*		
Mortgage/Charge over Land		€					
		€					
		€					
		€					
		€					
		€					
		€					
		€					
		€					
		€					
		€					
Overdraft		€					
		€					
Guarantee		€					
		€					
		€					
Other		€					

[1] The farmer is strongly advised to independently complete a full review of all loans secured and guarantees given by them against assets such as land before entering into a Succession Farm Partnership.

Table 2: Review of Loan Security and Guarantees provided by the "Successor"[2]

	Loan Name/ Lender	Initial Amount Borrowed	Initial Loan Term (years)	Start Date of Loan	Land/Property Provided Against Loan	Security Provided Against Loan	Name of Borrower Guaranteed
Example	*Land Purchase Loan / Bank of Ireland*	*€120,000*	*12 years*	*1st of June 2007*	*Folio CK105*		
Mortgage/Charge over Land		€					
		€					
		€					
		€					
		€					
		€					
		€					
		€					
		€					
		€					
		€					
Overdraft		€					
		€					
Guarantee		€					
		€					
		€					
Other		€					

[2] The Successor is strongly advised to independently complete a full review of all loans secured and guarantees given by them against assets such as land before entering into a Succession Farm Partnership.