

Succession farm partnerships

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With almost one in three farmers over the normal retirement age but only one in twenty farmers under the age of 35, the Department of Agriculture, Food and the Marine launched the Succession Farm Partnership initiative in 2017, to try and change the apparent reluctance to legally transfer lands to the next generation.

What are the objectives?

The main aim is to encourage the transfer of farm assets while also providing security for the transferors, by allowing them to retain ownership of up to 20% of their farm assets.

The initiative allows for young farmers to become involved in the farm business with their parents and to integrate them into the management side of the farm business at an earlier stage.

In order for farms to remain competitive, the partnership also provides an opportunity to increase scale, maintain security of labour and improve quality of life through better work-life balance and enhanced safety on-farm. It will also reduce rural isolation and improve the social demographics of Irish farms.

What are the benefits of joining a Succession Farm Partnership?

- Defined succession and inheritance plan: Under this initiative, both generations are aware of the succession plan. The Succession Farm Partnership allows the successor to integrate themselves into the farm business with their parents.
- The partnership gives them responsibility and decision making powers and is an important step in the development of the young person as a farmer. It provides an ideal transition of the farm business from parent to child.
- All parties remain involved in the day-to-day running of the enterprise. Responsibilities are shared as outlined in the partnership agreement. As the young farmer now has a share in the profits, they are incentivised to really get involved, take responsibility and develop the farm business.

Work-life balance

Improved work-life balance can be achieved when there is additional labour, skills, new enthusiasm and expertise available on the farm.

Workload can be scheduled and managed, and a rota completed so that all partners enjoy time off and can plan holidays safe in the knowledge that the other partner is familiar with the running of the farm.

The enhanced range of skills makes the partnership more capable and can lead to better decision making, as well as more timely and safer work practices. Any investments required can be shared to reduce the burden on the individual partners.

Financial benefits

Financial incentives include taxation benefits and Common Agricultural Policy (CAP) scheme benefits.

Taxation benefits

Succession Farm Partnership tax credit

An annual tax credit of €5,000 is available to Succession Farm Partnerships, for a maximum of five years from the date of receipt of a valid application to the DAFM registration office, up until the year the successor is 40 years old. The partnership will not be eligible for this tax credit in the tax assessment year that the successor turns 40 years of age.

The tax credit is split in the same ratio as the profit-sharing ratio in the partnership. For example, when Tom (father) and John (son) entered a succession farm partnership, their profit sharing ratio in the partnership agreement was a 60:40 split. Therefore, they will receive a tax credit of €3,000 for Tom and €2,000 for John. Another advantage to this credit is that it can be set against off-farm income.

Income tax

As farm profits are shared between the partners, and each partner is treated separately for taxation purposes, depending on the profit sharing ratio the low rate of income tax can be maximised.

This means that a partnership with two sole trading partners can potentially earn up to €70,600 at the low tax rate.



Stock relief

Stock relief is a tax relief given on the increase in value of stock from the start of the tax year to the end of a tax year. A young trained farmer who forms a partnership with their parents can avail of 100% stock relief on their share of the farm profits for a period of four years after joining the partnership.

In addition, there is an enhanced stock relief scheme available to registered partnerships. This allows the parents' stock relief to increase from the standard rate of 25% to 50% in a registered partnership.

Common Agricultural Policy scheme benefits

Young Farmer Scheme

Where a son or daughter (who qualifies as a young trained farmer) forms a partnership with their parents, they may receive a Basic Payment Scheme top-up of in the region of €60-€68 on up to 50 activated entitlements. This equates to a potential €3,000-€3,400 per year for up to five years, depending on the number of years that the young person is eligible for.

National Reserve Scheme

The National Reserve Scheme, where funds are available, will be part of the Basic Payment Scheme. There are two key benefits:

- **New entitlements:** Where a young farmer farms land that has no existing entitlements, they may apply to the National Reserve for new



entitlements at the national average payment rate.

•**Low-value entitlements:** Where a young farmer farms land that has below average value entitlements, they may apply to the National Reserve to have the low-value entitlements topped up to the national average payment rate.

A maximum of 90ha can be applied for. The young farmer must be included on the herd number, the bank account and also sign a declaration of “long-term and effective control of the holding”. The scheme is also subject to an off-farm income limit of €40,000. For further details, it is advisable to discuss with your agricultural advisor.

TAMS II

A doubling-up of the €80,000 investment ceiling to €160,000 is permitted with a Registered Farm Partnership. A parent and child (who is an eligible young farmer) in a Registered Partnership may qualify for 60% on the first €80,000 and the parents may qualify for 40% on the second €80,000. There is a potential grant of €80,000 on an investment of €160,000 or greater, which is a significant boost to any partnership aiming to make a substantial investment.

Collaborative Farming Establishment Grant

This grant is to help farmers with the costs of setting up a Registered Partnership. It is a 50% grant on a maximum spend of €5,000. It covers

administrative costs such as a solicitor; accountancy and consultancy fees.

What do I need to do to establish a Succession Farm Partnership?

There are a number of key criteria that have to be met:

- You must already be in a Registered Farm Partnership (RFP).
- In order to form a RFP, at least one member of the farm partnership must have been engaged in the business of farming on farmland, owned or leased, consisting of at least 3ha of useable farm land, for at least the previous two years. This person is defined as the “Farmer”.
- The other member of the Succession Farm Partnership must not have reached the age of 40 and they also must have completed a minimum Level 6 agricultural qualification or equivalent. They must hold an entitlement to at least 20% of the profits of the partnership. This person is defined as the “Successor”.
- A farm business plan must be completed and submitted to Teagasc for certification, using the Teagasc My Farm, My Plan, booklet. This is available from Teagasc offices and the Teagasc website.
- There are two essential parts in this planning process. The first part is the farm plan, where the process behind what you are intending to do is analysed.
- The financial plan analyses your financial process, to ascertain if your proposed farm plan is viable.

• Complete a Succession Agreement

The “Farmer” and the “Successor(s)” must enter a legally binding Succession Agreement to transfer at least 80% of the farm assets to the “Successor(s)”. This transfer must take place between the end of year three and before the end of year 10 from the date that the application is made to register the succession partnership.

The Succession Agreement will:

- Identify the Farmer and the Successor(s).
- Identify the transfer date.
- List the farm assets to be transferred. This must include the land, farm buildings, BPS entitlements, livestock and machinery.
- Include details of burdens, right of residence, input of banks where securities, guarantees, charges exist, etc.

What should I look out for?

- Be careful where the successor is 31/32 years of age. As the land cannot transfer for three years, the successor could be over 35 years of age at date of transfer, ruling them out of the Young Trained Farmer stamp duty relief. If this is the case, it will be a balancing act as to which is more beneficial – the €5,000 tax credit per year or the Young Trained Farmer stamp duty relief.
- The Successor cannot claim the tax credit in the year they turn 40 years old, so in order to maximise the five years of tax credit, it is best to join before the successor turns 35.
- Companies do not qualify.
- The farm partnership must have at least two natural persons, therefore it doesn't apply to limited companies.

Updating/making a will

It is vital that any previous will made is updated in line with the succession agreement, to ensure that the 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.

Clawback

A clawback of the amount of tax credits claimed will apply where the farm assets do not transfer as specified in the succession agreement (a clawback of up to €25,000 will apply where the full tax credit has been claimed).

As with any major decision, Farm Partnerships should not be entered into without the independent legal advice of your solicitor; advice on taxation from your accountant/tax advisor and related advice from your agricultural advisor.

PROFILE

Succession farm partnership works well on Kilkenny dairy farm

Matt and Brian O'Sullivan farm just outside Kilmanagh, Co Kilkenny. Up until 2018, Matt milked 75 dairy cows on the family farm. In the preceding years, Matt had developed the farm by installing farm roadways, improving grazing infrastructure, embarking on a routine reseeding programme, increasing cubicle accommodation, updating the milking parlour and increasing cow numbers to 75.

In 2018, Matt's son Brian graduated from an agricultural science degree course in Waterford Institute of Technology.

During 2017 and 2018, Matt and his wife Bernie felt they were at a crossroads. "The farm was at a stage where I couldn't progress it further on my own while at the same time I appreciated that Brian was still young and with a third-level qualification, he may well want to explore the world and gain employment for a few years.

"Not having had this opportunity myself I didn't want to curtail Brian's options," says Matt.

Matt and Bernie decided it was best to sit down with the family and discuss what was best for all parties. Bringing all family members together can often be a difficult step but it's hugely important.

Farm development

Following the open discussion the O'Sullivans decided that the time was right for Brian to return home and develop the farm in conjunction with Matt. They agreed, as a stepping stone, to join a registered farm partnership.

This meant that Brian was now fully included in the decision-making processes on the farm in terms of both physical and financial decisions. Matt retained ownership of the lands and buildings and, as well as his work contribution, he was still a guiding figure in terms of day-to-day management of the farm.

Having sought the advice of their local Teagasc advisor (then Gordon Peppard), a solicitor and accountant, the registered farm partnership agreement was drawn up and a profit sharing arrangement was agreed between Matt and Brian.

Following on from this registered farm partnership agreement, the O'Sullivans felt that the time was right to implement a succession plan



Matt and Brian O'Sullivan farm just outside Kilmanagh, Co Kilkenny.

for the farm and therefore decided to enter into a succession farm partnership agreement.

“The farm was at a stage where I couldn't progress it further on my own

The aim of this was to outline a clear succession pathway for all involved parties with everyone aware of what is going to happen in the next few years.

“For us, the main advantages of the succession farm partnership is that I know that between the end of year

three and year 10 of the agreement I am going to transfer a minimum of 80% of the farm assets to Brian,” says Matt.

He and Bernie can adjust themselves over the next number of years by gradually letting Brian take on more and more responsibility.

Brian, on the other hand, now knows that he can develop his farming business, safe in the knowledge that any monies and time committed are not in vain. Further details on the requirements and benefits of succession farm partnerships can be found on pages 16 and 17.

The herd has since grown to 90 cows with plans to expand to 100 in the next year or two and possibly 110 in four or five years' time.