

farming **finance**

How to make the most of Agricultural Relief

advice

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THE doomsday scenario for a person who inherits or is gifted a farm could be failure to qualify for Agricultural Relief.

In simple terms, qualifying for Agricultural Relief reduces the taxable value of a gift or inheritance by 90pc. So a farm worth €1m could have a taxable value of €100,000, which in the case of a son or daughter would mean no tax or indeed any related or even unrelated person would have their potential tax liability reduced to very manageable proportions.

Not qualifying for Agricultural Relief could mean a liability of unmanageable proportions. The examples set out further on in this article illustrate the value of this relief.

THE RELIEF

The relief will amount to a reduction of 90pc in respect of the value attributable to relevant business property received by the beneficiary. Relevant business property in the context of a farm business will typically include land, livestock, plant and machinery and Basic Payment entitlements. The farm dwelling is not regarded as a business asset. Individual assets used in the business, such as land, will not qualify for the relief if transferred to the beneficiary without the business. So in

other words, there has to be an active business in existence and it must be continued on. A farm where the land had been leased out at the date of the donor's death will not qualify, however a farm that had been rented out on a long-term or nine-month lettings will qualify as such lands are deemed to be relevant business property on foot of a 2008 Circuit Court ruling.

MINIMUM OWNERSHIP PERIOD

To qualify for the relief, the relevant business property must have been owned for a continuous period of five years prior to the date of the gift or inheritance. However, if the inheritance is taken on the death of the donor, the relevant period is two years prior to the date of the inheritance. Ownership by the donor's spouse, civil partner or by a trustee will count for the purposes of satisfying this requirement.

DETERMINING THE VALUE OF THE BUSINESS

If the business is carried on by a sole trader or by a partnership, the value of the business for the purposes of business relief is the net value. The net value is arrived at by reducing the market value of the assets used in the business by the market value of any liabilities incurred for the purposes of the business. In the case of a business carried on by

a sole trader, every asset owned by the sole trader and used by him or her wholly or mainly for the purposes of the business will be taken into account in arriving at the net value as will all liabilities incurred for the purposes of the business. However, in the case of a partnership, only partnership assets and partnership liabilities will be taken into account.

If the business, or any business which replaced it, ceases to trade within a period of six



A FARM WHERE THE LAND HAD BEEN LEASED OUT AT THE DATE OF THE DONOR'S DEATH WILL NOT QUALIFY

years after the date of the gift or inheritance, the relief will be clawed back unless the business is replaced within one year by other relevant business property. This could be any type of business, not necessarily farm.

The relief will also be clawed back if, within that six-year period, the business is sold or compulsorily acquired and is not replaced within one year by other relevant business property.

Where land which qualified

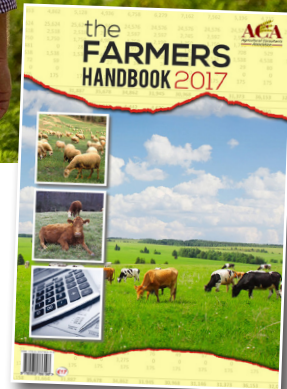


Qualifying for Agricultural Relief reduces the taxable value of a gift or inheritance by 90pc

for business relief is disposed of in whole or in part, by the donee or successor, in the period commencing six years after the date of the gift or inheritance, and ending 10 years after that date, the relief granted will be clawed back in respect of the development value of that land

at the valuation date of the gift or inheritance.

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CASE STUDY 1

JOE FARMER dies and leaves his farm, farm dwelling, stock and machinery — all valued at €1.5m — to his son Pat along with €50,000 worth of Co-op shares.

Pat is single and runs his own company and has a house worth €260,000 with no mortgage. He also has business assets worth €140,000, which includes the value of his own company. Because Pat's non-farm asset value exceeds 20pc of his total asset value after receiving the inheritance, he does not and cannot qualify for Agricultural Relief which would have reduced the taxable value of the farm assets to €150,000.

Pat is now exposed to a Capital Acquisitions Tax (CAT) liability of €409,200 as compared to a nil liability had he qualified for Agricultural Relief. Pat's

fallback position is that he may qualify for Business Property Relief. Because the late Joe had been operating his farm business as a going concern (as compared to having the land leased), Pat has the option of availing of Business Property Relief by continuing on the farm business as a going concern for a minimum six-year period.

Business Property Relief will gain him a 90pc reduction on the value of the farm (business) assets similar to Agricultural Relief. (See example 2). The only difference is that the farm dwelling house will not qualify as it is not regarded as a business asset. Pat would have preferred to lease the land but this he cannot do for at least six years if wants to avoid a liability of €409,000. It is worth noting that Pat does not require any agricultural qualification to avail of this relief.

CASE STUDY 2

Based on the same scenario as example 1, Pat opts for Business Relief and decides to continue the active farming operation by employing some farm labour.

For the purposes of this example, it is assumed that the farm dwelling is valued at €160,000.

Therefore under Business Property Relief rules, Pat has inherited business assets worth €1.34m and other assets worth €210,000 (dwelling house and Co-op shares).

This results in a taxable inheritance of €344,000 on which he will pay €11,220, a saving of €397,980.

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