

farming **finance**

The hard questions that need to be asked before leasing land

Leasing out some or part of your farm requires detailed consideration, writes **Martin O'Sullivan**



February will see many new land leases signed sealed and delivered while others will be under negotiation.

The decision to lease out part or all of one's farm is not easily arrived at and for many it represents a life-changing decision involving an act of faith in another farmer to look after your land and pay the agreed rent when due.

The decision to lease should be well thought through and professional advice should be sought. The following questions need to be considered when making such an important decision:

- Does it make financial sense?
- Are you ready to accept that another farmer will be farming your land?
- Will you lease some or all of your farm?
- Are you comfortable with whom you are leasing your farm to?
- How long do you want the lease to run for?
- Will you grant access to or lease farm buildings?
- What if the tenant wants to erect buildings on your farm?
- How will your BPS entitlements be dealt with in the lease?
- What special conditions do you want to include in the lease?
- Have you checked out the capital taxation implications of leasing?

I will not be able to cover all of these topics in a single

article, so this week I will deal with the first five and cover the remainder in my next column (March 3).

THE FINANCIAL CASE

In the most recent Teagasc National Farm Survey figures the return from drystock and sheep farms was in the range €130-€140 per acre. This figure may be subject to tax so you may end up with considerably less than that.

Accordingly, the option of leasing will generally be financially attractive when compared to the return from beef or sheep farming, most especially because some or all of the rent will be free from income tax.

If you have Basic Payment Scheme (BPS) entitlements to include in the lease, the net

return may even give dairying a run for its money.

That said, if your land is not of great quality and the rent is not particularly attractive you should not dismiss the option of forestry which for softwood plantations can typically yield over €240 per acre in premiums for the first 15 years which is also tax-free and which can also attract receipt of the BPS on the afforested lands in many instances.

This could result in a substantial tax-free annual income. Timber is becoming a scarce commodity and its value continues to rise, so by afforesting your land, particularly marginal land, you may be creating a substantial lump sum for your retirement or for the next generation.

LIFESTYLE CHANGE

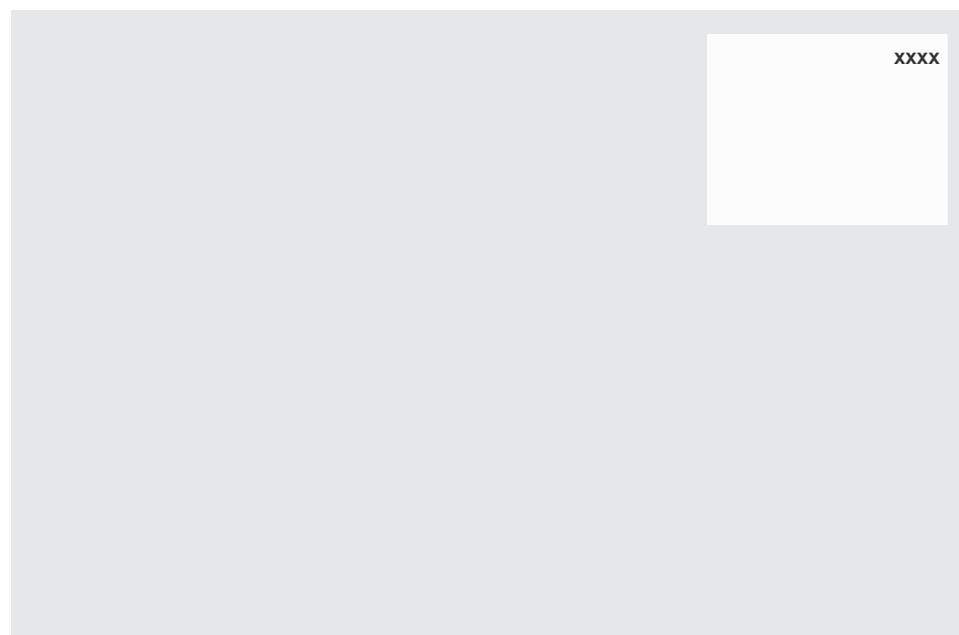
The transition from active farming to leasing out one's land can in most instances be fairly abrupt.

The prospect of waking up and having no set plan for putting down the day can be challenging.

It is vital that this aspect is well thought through beforehand as otherwise you may become an interfering menace for your tenant for want of something better to do.

Of the cases I have dealt with in my career where leases collapsed, many were due to a difficult landlord rather than a non-compliant tenant.

Having some activity or purpose in life is vitally important. I currently deal with clients who have turned their hands to vegetable growing in plastic tunnels, restoring old farm buildings, restoring old machinery, converting outhouses to rental or Airbnb accommodation, not



to mention a whole range of what I describe as farm kitchen enterprises.

LEASING SOME OR ALL OF THE FARM

While some may wish to rent all of the farm and get out of farming for good, many may want to hold on to some land for a variety of reasons.

It may simply be for occupational therapy reasons, it may be for the purpose of retaining your 'farmer status' or it may be for privacy reasons.

Retaining some land in order to carry on a small farming enterprise certainly has its attractions for some but don't do it in the expectation of making money as it probably won't. Such enterprises do not attract the economies of scale of larger enterprises and may prove to be costly occupational therapy.

Under the Single Farm Payment Scheme it was possible to retain one's farmer status by retaining one hectare and making an annual declaration on same.

It would be pure conjecture to assume the same rule will apply next time round or if the limit will be as low as one hectare. I will deal with this issue in greater detail in part two of this article in two weeks' time.

YOUR TENANT

If I have learned anything from my dealings with landowners and tenants and indeed from my own personal experience over the years, it is to know your tenant or at least check him/her out to the extent that you are satisfied that they are reliable people with no prior history of troublesome tenancies.

Invariably, in the few isolated cases where problems did arise, the landowner had little or no prior knowledge of the tenant and had not done any background checks.

Unfortunately, Murphy's Law nearly always applies in regard to tenants who have a dodgy record; if they can cause bother they will cause bother. Where your lease is associated with claiming CAT Agricultural Relief it is vital that you establish that your tenant is a full-time or qualified farmer.

DURATION OF LEASE

The minimum term for a lease is five years in order to qualify for tax relief. The longer the term, the greater the tax relief. I will deal with the taxation aspects in my next article.

Most tenants will be anxious to lease for a longer rather than a shorter term as it gives them security of tenure and enables them to plan for the longer term.

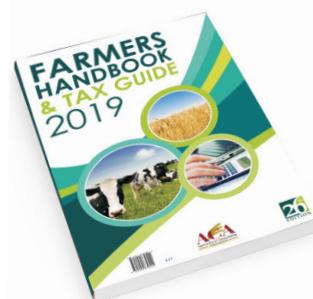
Personally, I favour longer

term leases as the tenant is more inclined to invest in the holding in terms of general care, fertility, reseeding and possibly the installation of infrastructure such as roadways, fencing and water.

The maximum recommended term is 25 years as going longer than that may expose the landowner to Capital Gains Tax issues with any subsequent sale or transfer.

Ideally, for larger holdings my recommended term is 15 years at it attracts the maximum tax relief and will also attract the maximum number of prospective tenants for the reasons stated above.

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