farming **finance**

Tax worries and income fears the biggest stumbling blocks to smooth farm transfers

Survey highlights the need for heightened action to accelerate succession, writes **Martin O'Sullivan**

I could write an article every week on farm succession and I'm not sure I would be able to satisfy the demand for information on this topic. I have dealt with the many aspects of succession in previous articles, but the queries keep on rolling in.

I recently carried out a survey of a random sample of 200 of our farm accounts clients for the purpose of establishing where they stood in regard to farm succession.

Of the total surveyed, 31pc were of an age (all under 55 years) that they felt the issue was not yet relevant to their circumstances.

However, 69pc agreed that it was relevant and while they may have made some enquiries, nothing concrete had actually happened. This was for a variety of reasons, the most common one being the lack of an obvious successor which applied in 47pc of cases. Interestingly, in 53pc of cases, there was an obvious successor but no action had been taken.

The reasons given for no action were numerous but, generally, fell under these five headings:

- taxation fears;
- the prospect of insufficient income post transfer;
- the intended successor had not attained the necessary farm training qualifications;
- the transferor was awaiting receipt of the State pension before committing;
- a reluctance to part with what they saw as their security.

The average age of the entire sample surveyed was 58 years, but the average age of those who had not dealt with the succession issue was 65, which meant that a significant number of prospective successors are in their 40s. The results of the survey highlights the need for heightened action to accelerate farm succession. Teagasc and the Agricultural Consultants Association (ACA) have a perfect opportunity to disseminate relevant information through knowledge transfer (KT) groups and through their one-to-one contact with farmers.

> **THERE IS AN OPPORTUNITY IN UPCOMING CAP REFORM MEASURES TO INCLUDE SOME FORM OF RETIREMENT INCENTIVE**

There is also an opportunity in the upcoming CAP reform measures to include some form of retirement incentive along the lines of the old Farm Retirement Scheme. It is interesting to note that none of the 138 farmers who had an identified successor had entered a succession partnership. There were a number of reasons given for this, but the most common reason provided was that the intended successor was between 32 and 35 years and would miss out on the Stamp Duty exemption if they entered a succession partnership. Clearly, the rules of this scheme need to be revisited if it is to prove an effective impetus to farm succession.

I will briefly address some of the issues that were highlighted in the survey as being the main impediments to handing over the family farm, namely taxation, insufficient income and farm training.

Taxation

■ When it comes to succession, there are three taxes to be concerned with, namely Stamp Duty, Capital Acquisitions Tax and Capital Gains Tax.

There will be no Stamp Duty on transfers to young trained farmers who are being set up for the first time and who undertake to farm the land for more than 50pc of their normal working hours. However, Stamp Duty will apply to all transfers from living persons to persons who are over 35 or who do not possess the necessary training qualifications or who are not being set up for the first time. Such persons will pay 1pc of the value of the property being transferred provided they are a close relative of the transferor and that they undertake to farm the land for more than 50pc of their normal working hours for a six-year period or, alternatively, lease to a full time or qualified farmer for the six-year period. Otherwise, the rate is 6pc.

■ Capital Acquisitions Tax will rarely be a problem because of the availability of reliefs known as Agricultural Relief or Business Relief. That said, there are rules to be obeyed, such as farming the land for the six years following transfer in the case of Business Relief. Those who avail of Agricultural Relief have the option of leasing the land to a qualified or full-time farmer.

■ Capital Gains Tax may apply in the unlikely event that the transferor is under 55 years or where he/she has not owned or has not farmed the land for 10 consecutive years since acquiring it.

Income post transfer

In the vast majority of cases, the transferor will have entitlement to the contributory old age pension, but this may not be sufficient to meet their needs. Assuming they have no personal pension entitlement, income supplementation may have to come from the family farm. This could take the form of a wage, a partnership salary or perhaps rent for lands which were not transferred.

Married couples over 65 years can earn up to €36,000 free of tax, which for many may be adequate to meet their needs. It is worth noting that persons in receipt of a contributory pension are not subject to means testing and may receive unlimited income from any source. However, the Qualified Adult Allowance (spouse's allowance) is subject to a means test, but they are still permitted to earn up to €100 per week without affecting their allowance. From next March, married couples, where both are over 66 and where one spouse is in receipt of the Qualified Adult Allowance, will receive a combined weekly pension of €470.80, which amounts to €24,952 per annum (including the Christmas Bonus). Where both spouses qualify for the full pension, the annual value is €26,320.

Farm training requirements

The minimum training standard is the QQI Level 6 or higher. This can be achieved by acquiring a qualification listed by the Revenue Commissioners as a Schedule 2B course (*revenue.ie*). These courses range from two to five years in duration and are on offer from UCD, the Institutes of Technology and Teagasc.

It can also be achieved by being the holder of a qualification which Teagasc certifies as the equivalent of a Schedule 2B qualification or, alternatively, be the holder of a letter issued by Teagasc confirming satisfactory completion of a course of training approved for persons with learning difficulties. The Green Cert is the most commonly used passport to qualification as a 'Young Trained Farmer'. These courses are typically, but not exclusively, run by Teagasc and can be in differing formats, ranging from a full-time option based in an agricultural college with practical experience on the home farm or on an approved farm, to a distance learning option for those people who already hold a level 6 or higher qualification. Typically, fees for such courses can run up to €3,000.

Costs

The vast majority of transfers will have no associated tax cost if the successor is a young trained farmer. Accordingly, the only cost may be your solicitor's fees which will include Land Registry fees and VAT. There is no set fee for this work and you should negotiate a figure prior to commencing the process.

Publications

Teagasc have published a very useful booklet called 'A Guide To Transferring the Family Farm'. This is available online and can be downloaded by googling the title.

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