



Agricultural Relief from Capital Acquisitions Tax

LIFE ADVISORY SERVICES

With effect from 1st January 2015 changes have been made to the conditions for agricultural relief from CAT which are designed to confine the relief to genuine farmers and ensure productive use of the agricultural property.

For gifts and inheritances taken on or after 1st January 2015 the beneficiary must satisfy the following additional conditions:

1. Have an agricultural qualification (a qualification of the kind listed in Schedule 2, 2A or 2B of the Stamp Duties Consolidation Act 1999) or obtain such a qualification within 4 years and farms the agricultural property for a period of not less than six years on a commercial basis and with a view to the realisation of profits

Or

2. Spends not less than 50% of his or her normal working time farming agricultural property on a commercial basis with a view to making a profit for a period of not less than six years commencing on the valuation date.

Alternatively, where the beneficiary leases the agricultural property the individual to whom the property is leased must also satisfy condition 1. or 2. above.

Normal working time

“Normal working time” (including on-farm and off-farm working time) has been defined by Revenue as 40 hours per week. This will enable farmers with off-farm employment to qualify for the relief provided they spend a minimum of 20 hours working per week, averaged over a year, on the farm.

Valuation date

These additional requirements apply from the **valuation date of the gift or inheritance**.

In the case of a gift of agricultural property, the date of the gift is the “valuation date”.

In the case of an inheritance, the valuation date can be as early as the date of inheritance if the person inheriting farms the agricultural property from the date of death of the deceased whereas in other situations this can be the date of grant of probate or administration.

Splitting the gift or inheritance

Where a beneficiary receives agricultural property which includes a farm house, and leases the land to an individual or company which will satisfy the farming conditions but retains the farm house and resides in it as his or her only or main residence, Revenue will not seek to restrict the relief.

As a result of these changes the revised conditions for agricultural relief from CAT with effect from 1st January 2015 are as follows:

- The relief only applies to **"agricultural property"** which is defined as "agricultural land, pasture and woodlands situated within a Member State and crops, trees and underwood growing on such land and also includes such farm buildings, farm houses and mansion houses (together with lands occupied therewith) as are of a character appropriate to the property." The relief also applies to stock and farm machinery.
- Any milk quota attaching to lands will also qualify for reduction as part of the market value of the lands.
- The relief only applies to agricultural property acquired by an individual, domiciled in the State, who after taking the agricultural gift or inheritance not less than 80% of his gross assets are represented by the value of agricultural property, including livestock, bloodstock and farm machinery. For gifts or inheritances taken on or after 1st February 2007 a donee is allowed to offset borrowings for the purchase, repair or improvement of on an off farm principal private residence against the value of the property for the purpose of the 80% test.

For gifts or inheritances received after 1st January 2015 the beneficiary must

1. have a relevant agricultural qualification or attain such a qualification within four years of the date of the gift or inheritance, and must farm the agricultural property for a period of not less than six years on a commercial basis with a view to realising a profit.
- or
2. spend not less than 50% of their **normal working time** farming the agricultural property for a period of not less than six years on a commercial basis with a view to realising a profit. Normal working time approximates to 40 hours per week.

Where the beneficiary leases the agricultural property the individual to whom the property is leased must satisfy condition 1. or 2. above.

The relief is withdrawn in certain circumstances:

If within 6 years of the 'valuation date' the beneficiary ceases to qualify as a farmer as set out above and does not lease the land to a lessee who will farm the land for the remainder of the 6 year period. Or if within six years after the date of the gift or the inheritance lands are sold or compulsorily acquired in the lifetime of the donee or successor, and the agricultural property is not replaced within a year following a sale, or within 6 years following a compulsory acquisition where the land was compulsorily acquired on or after 25th March 2002.

If the gift or inheritance consists of development land and is disposed of in the period commencing 6 years after the date of the gift / inheritance and ending 10 years after the date there will be a partial claw back of the relief.

We advise that your client seeks professional tax and legal advice as the information given is a guideline only and does not take into account your client's particular circumstances.

Information is correct as at April 2015 but is subject to change.

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