Cahill Taxation Services

Tax Update

February 2015

Finance Act 2014 was enacted on 23 December 2014. The Act contained a range of tax measures impacting on farmers which reflect key elements of the recommendations of the Agri-Tax Review announced by the Minister for Finance in 2013. We have outlined below some of the key measures introduced in Finance Act 2014 which may be of interest.

1. Income Tax

Income Tax Relief for Income from Leasing Farmland

There is an exemption from income tax for leasing income where lands are leased for 5 years and upwards. The amount of leasing income to which the exemption applies depends on the duration of the lease.

Finance Act 2014 increased the exemption thresholds by 50%, removed the age restriction, which required the lessor to be aged 40 or over, and introduced a new threshold of €40,000 for leases of 15 years and upwards.

From 1 January 2015, the amount of annual leasing income that may qualify for an exemption from income tax is as follows:

- €18,000 for a qualifying lease of 5 to 6 years duration; or
- €22,500 for a qualifying lease of 7 to 10 years duration; or
- €30,000 for a qualifying lease of 10 to 15 years duration; or
- €40,000 for a qualifying lease of 15 years and upwards.

The relevant exemption limited applies irrespective of the number of qualifying leases in place.

Leases between close relatives do not qualify for this relief.

Income Averaging

Due to fluctuations in farming income and expenditure, a farmer can opt for income averaging, to reduce the tax impact of such fluctuations. Finance Act 2014 has increased the number of years across which farming income can be averaged from 3 to 5 years.

Income averaging has also been extended such that from 2015 this option will be available to farmers who derive income from another trade or profession relating to on-farm diversification. There are transitional measures in place for farmers who first elected for income averaging in 2014 or who elect to opt out of farm averaging in 2015 or 2016.

Stock Relief

Finance Act 2014 increases the maximum amount of stock relief that can be claimed by Registered Farm Partnerships to €15,000 over 3 years from 1 January 2014.

An additional qualification, Bachelor of Science (Honours) in Sustainable Agriculture, has been added to the list of qualifications which an individual may attain in order to meet the criteria necessary to be a qualifying farmer for 100% Stock Relief purposes.

2. Capital Gains Tax

Farm Restructuring Relief

CGT relief for farm restructuring was introduced in Finance Act 2013. This provides a rollover relief from CGT where there is a sale, purchase or exchange of farmlands within a 24 month period and the purpose of the transactions is to reduce distance and fragmentation.

In order to increase the uptake of this relief, this relief has been extended to include whole farm replacements. Furthermore, the deadline for this relief has been extended by 12 months to 31 December 2016. However, it should be noted that the relief is also now restricted to apply to farmlands only (not farm buildings) in order to comply with EU State Aid Rules.

Single Farm Payment Entitlements

The Minister announced in 2014 that he would provide an exemption from CGT on chargeable gains arising on the disposal by farmers of payment entitlements under the EU Single Payment Scheme.

Finance Act 2014 provides a CGT exemption where these entitlements were fully leased in the Scheme Year 2013 (16 May 2012 to 15 May 2013) and disposed of in the Scheme Year 2014 (16 May 2013 to 15 May 2014).

Retirement Relief

Finance Act 2014 has extended CGT retirement relief to individuals who lease out lands for up to 25 years prior to disposal (provided, amongst other conditions, the lands were owned and farmed for 10 years prior to leasing).

In order to encourage movement away from short term conacre use, retirement relief has also been extended such that it is now available where land let under conacre is disposed of to third party before 31 December 2016 provided certain conditions are satisfied. Furthermore, retirement relief has been extended to provide that where lands are converted from conacre letting to long term letting (of 5 years to 25 years) before the end of 2016, a subsequent disposal of those lands may also qualify for retirement relief.

3. Capital Acquisitions Tax

Agricultural Relief

Agricultural relief provides a CAT relief on the receipt of a gift/inheritance of agricultural assets by reducing the value of the gift/inheritance by 90% for CAT purposes. Prior to 1 January 2015, agricultural relief was available to the recipient of a gift or inheritance of agricultural property where 80 per cent or more of his/her assets on the date of the gift or inheritance were agricultural assets. Where this relief was claimed, the beneficiary could use the lands after the gift/inheritance as he/she wished and there was no requirement to put the lands to an agricultural use.

In order to encourage active use of farmlands, Finance Act 2014 has introduced an additional requirement in order for agricultural relief to be available by providing that the recipient of the gift/inheritance, in addition to satisfying the 80% test outlined above, must:

a) Hold a relevant qualification ("Green Certificate" qualification as listed in Schedules 2, 2A or 2B of the Stamp Duty Consolidation Act 1999), or obtain same within 4 years of the transfer, and farms the lands with a view to realising profit from the "valuation date"; or
b) Be an "active farmer" (spending not less than 50% of his/her normal working time farming the lands with a view to realising profit); or
c) Lease the lands to a farmer as defined at a) or b) above for a minimum of 6 years.

Revenue have confirmed that "normal working time" is 40 hours (including on-farm and off-farm working time) - i.e. the lands must be farmed for a minimum average of 20 hours per week in order to satisfy the requirement at b) above.

There will be a clawback of the agricultural relief claimed where the conditions outlined above are not satisfied for 6 years from the "valuation date". Broadly, the "valuation date" is the date on which the value of the gift/inheritance is assessed for Capital Acquisitions Tax purposes. Generally, in the case of a gift, it is the date of the gift whereas, in the case of an inheritance, this may fall sometime after the date of death.

There will also be a clawback of the relief where the farmlands are sold within 6 years of the valuation date unless the proceeds are reinvested in further farmlands (previously this 6 year period ran from the date of gift/inheritance).

Business Property Relief

Finance Act 2014 has amended the definition of business property for business property relief ("BPR") with effect from 23 October 2014. A gift/inheritance of land or buildings which are used by a company for the purposes of its trade may qualify for BPR where the person who owns the property also owns shares in the company and he/she transfers the property and the shares by way of gift/inheritance at the same time. However, BPR is only available where that person controls the company at the time of the transfer.

The definition of "control" for the purposes of this relief has been extended by Finance Act 2014 to include the person who is disposing of the property and his/her spouse/civil partner. Therefore, the shares owned by an individual's spouse/civil partner can be taken into account in assessing whether that individual controls the company for the purposes of this relief.

4. Stamp Duty

Consanguinity Relief

Consanguinity relief provides a 50% reduction in stamp duty on transfers of non-residential land to blood relations. This relief was due to expire on 31 December 2014.

Finance Act 2014 extends this relief to 31 December 2015 provided:

a) The person who acquires the land is a "trained farmer" who holds a relevant qualification and who farms the land with a view to realising profit; or
b) The person who acquires the land is an "active farmer" (spending not less than 50% of his/her normal working time farming the land with a view to realising profit); or
c) The person who acquires the land leases the land to a farmer as defined at a) or b) above.

The conditions set out above must be satisfied for a period of at least 6 years from the date of the transfer.

The 31 December 2015 deadline is further extended to 31 December 2018 where the person who is disposing of the land is under 67 years of age.

Stamp Duty Relief on leases of farmlands

A new stamp duty exemption has been introduced on leases of farmlands of 6 to 35 years duration where the lands are leased to a farmer as defined at a) or b) above. This relief is subject to a Commencement Order.

5. Value Added Tax

The flat-rate addition payable to farmers not registered for VAT has increased from 5% to 5.2% from 1 January 2015. This compensates non-registered farmers for irrecoverable VAT incurred on farming inputs.