Tax credit for succession farm partnerships

Part 23-02-11

This document should be read in conjunction with section 667D of the Taxes Consolidation Act 1997

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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Introduction

The succession tax credit is an annual €5,000 tax credit for succession farm partnerships. It was introduced to encourage experienced farmers to form partnerships with young trained farmers and to transfer ownership of their farms to those young trained farmers.

The credit is provided for by section 667D of the Taxes Consolidation Act 1997 ('TCA 1997'), which was introduced by Finance Act 2015 and came into operation on 31 May 2017.

1. Eligibility

To apply for the succession tax credit, the primary participant in a registered farm partnership[1] may apply to the Minister for Agriculture, Food and the Marine to enter the partnership on the register of succession farm partnerships. To be entered on the register of succession farm partnerships, a registered farm partnership must comply with the following conditions:

- The partnership must have at least two members, each of whom must be natural persons;
- One partner must have been engaged in the trade of farming on at least three hectares of useable farm land owned or leased by that person for at least two years immediately prior to the date of formation of the partnership (**the "farmer"**);
- The other partner (or partners) must be under 40 years of age, have a qualification in agriculture specified in regulations made by the Minister for Agriculture, Food and the Marine or a qualification determined by Teagasc to be equivalent to such a qualification and be entitled to at least 20 per cent of the profits of the partnership (**the "successor"**);
- The business plan of the farm partnership must have been submitted to and approved by the Minister for Agriculture, Food and the Marine; and
- The **farmer** must enter into an agreement to transfer at least 80% of the farm assets to which the farm partnership applies to the **successor** (or successors), at some point in the period beginning 3 years after and ending 10 years after the date on which the application to enter the partnership on the register of succession farm partnerships is made. The terms of the agreement must include the farm assets of the partnership, any conditions to which the transfer will be subject, the year in which the proposed transfer may take place and any other terms agreed between the farmer and successor (or successors).

[1] For information regarding registered farm partnerships, please refer to Tax and Duty Manual (TDM) Part 23-02-09, which explains the principal features of the Irish tax system as it relates to farmers establishing, registering and maintaining a registered farm partnership.

2. Calculation of credit

For the year of assessment in which the partnership is registered as a succession farm partnership and the four years of assessment immediately following that, each partner will be entitled to a succession tax credit of the lesser amount of:

- €5,000 per year of assessment divided between the partners in accordance with their profit-sharing ratio; and
- The assessable profits (after deducting any capital allowances) of that partner's "several trade", meaning the assessable profits arising to the partner from the succession farm partnership.

Example 1

A succession farm partnership is formed between Pat (the farmer) and Darragh (the successor). The partnership profit-sharing ratio is 60:40. The partnership profits for the year 2023 are €4,900. The succession tax credit due is calculated as follows:

	Pat	**Darragh**
€5,000 divided 60:40	€3,000	€2,000
Assessable profits of partner's several trade	€2,940	€1,960
Succession tax credit due	€2,940	€1,960

Example 2

Frank is in a succession farm partnership with his daughter Eileen. The partnership profit-sharing ratio is 50:50. For the year 2023, the assessable profits of the partnership are €47,500. Frank's share of the succession tax credit for 2023 is therefore €2,500. In addition to his farm income from the partnership, he is in receipt of PAYE income in the amount of €31,000. His income tax liability for 2023 is calculated as follows:

Assessable profits from partnership	€23,750
PAYE salary	<u>€31,000</u>
Total	€54,750

Income tax on €54,750:

€49,000 at 20%	€9,800
€5,750 at 40%	€2,300
Total	€12,100
Less tax credits:	
Married person credit	€3,550
PAYE credit	€1,775
Succession tax credit	€2,500
Total	€7,825
Net tax payable	€4,275

3. How to claim

For each year of assessment in which a succession farm partnership is eligible for the credit, each individual partner may claim his/her share of the credit by completing the relevant fields in the "Farm details" section of his/her Income Tax Return (Form 11).

No partner in a succession farm partnership is entitled to the credit in a year of assessment where a successor has reached the age of 40 years by the 1 January of that year.

4. Withdrawal of credit

Where it is established that the succession farm partnership did not meet the eligibility requirements for the credit in any year of assessment, the credit will be withdrawn from each partner that claimed it.

The credit claimed by all partners will be clawed back from the farmer if the transfer of the farm assets from the farmer to the successor (or successors) does not take place as agreed. However, where it is shown to the satisfaction of a Revenue officer that the farm assets were not transferred because the successor would not complete the transfer, the credit will instead be clawed back from the successor. Where the farm assets were not transferred due to agreement between all of the partners, the credit may be clawed back from each partner that claimed it.

5. State aid

The succession tax credit is an EU State aid, which is granted in accordance with Commission Regulation (EU) 2022/2472. Article 18 of the Regulation sets out specific requirements for the granting of aid for young farmers and start-up aid for agricultural activities. The aggregate amount of relief granted under relevant schemes, as provided for in Article 18, may not exceed the limit of €100,000 (previously €70,000) with effect from 1 January 2024.

For tax purposes, the relevant schemes are:

- The succession tax credit;
- Enhanced stock relief for qualifying young farmers, which is provided for by section 667B TCA 1997. This includes increased stock relief for qualifying young farmers who are partners in registered farm partnerships within the meaning of section 667C TCA 1997[2];
- Stamp duty relief for transfers of land to qualifying young farmers, which is provided for by section 81AA Stamp Duties Consolidation Act 1999.[3]

The amount of aid granted per young farmer is calculated by reference to the "gross grant equivalent" of the aid. This is the amount of tax that would have been payable by a taxpayer had he or she not been granted the relief.

Example – threshold €70,000 to 1 January 2024

Michael, a qualifying young farmer, formed a registered farm partnership with his mother, Anna, on 1 January 2020. Michael is entitled to 40% of the partnership profits.

On 1 July 2020, they applied to be on the register of succession farm partnerships. In the succession agreement, it is provided that Anna will transfer 90% of the farm assets that she owns or has contributed to the partnership to Michael on 1 July 2023. The assets including land, buildings, livestock and machinery are valued at €1.9 million with the 40 hectares of land and buildings valued at €1 million.

Between the years 2019 and 2021, Michael makes the following claims for tax relief:

Tax relief scheme	Year	Amount	Running total
Stock relief	2020	€3,000	€3,000
Succession tax credit	2020	€2,000	€5,000
Stock relief	2021	€2,500	€7,500
Succession tax credit	2021	€1,960	€9,460

[2] For further information regarding increased stock relief for qualifying young farmers who are partners in registered farm partnerships, please refer to section 3.2 of TDM Part 23-02-09. It should be noted that although stock relief is taken by way of a deduction from income, the meaning given to the word "relief" in the section equates to the tax benefit received by the recipient of the aid. Tax is comprised of income tax and the universal social charge.

[3] See TDM "Section 81AA: Transfers of land to young trained farmers".

In subsequent years, Michael may still claim enhanced stock relief, his share of the succession tax credit and stamp duty relief for transfers of land to qualifying young farmers in the amount €60,540 (i.e. €70,000 - €9,460), provided that the requirements for claiming those reliefs are satisfied.

When Anna transfers the farm assets to Michael in 2023 in accordance with the succession agreement, Michael may claim consanguinity relief on the acquisition of the land and buildings, thus reducing the stamp duty rate to 1%. If he has not yet exceeded the €70,000 limit on aid for young farmers, Michael may then claim stamp duty relief for transfers of land to qualifying young farmers, which will reduce the amount of stamp duty payable from €10,000 to nil. The relief in the amount of €10,000 will be taken into account for determining whether the €70,000 limit has been breached. The applicable limit is increased from €70,000 to €100,000 from 1 January 2024. For further information, please refer to TDM "Section 81AA: Transfers of land to young trained farmers".

6. Jointly owned farm assets

Where farm assets are jointly owned or farmed prior to the formation of the succession farm partnership, each person who jointly owns or holds an interest in the farm assets must agree to the transfer of those assets in accordance with the agreement. Each individual who jointly farms the land which is to be transferred may become a partner in the partnership notwithstanding that the individual may be a non-active partner.

7. Partnership with successor and successor's spouse

A farmer may form a succession farm partnership to transfer or sell farm assets jointly to a successor and the successor's spouse/civil partner even if the spouse/civil partner would be a non-active partner.

8. Additional information

Information regarding the registration of succession farm partnerships can be obtained from the Department of Agriculture, Food and the Marine and Teagasc.