Introduction

Capital Acquisitions Tax (CAT) is charged on gifts and inheritances where the relevant group threshold has been exceeded. There are few reliefs from CAT and the tax charge can be significant.

Agricultural Relief is a valuable CAT relief which reduces the market value of agricultural property by 90% for CAT purposes. This can substantially reduce a CAT liability.

Agricultural Property

Property which qualifies as agricultural property includes:

- Agricultural land, pasture and woodlands situated in the EU
- Crops, trees and underwood growing on such land
- Farm buildings, farmhouses and mansion houses (together with lands occupied with such buildings) which are of a character appropriate to the property
- Farm machinery, livestock and bloodstock
- Single farm payment entitlements

Revenue, in the CAT Manual, refer to a case in which 2.5 acres of land with buildings was held not to be agricultural land. If land of 2.5 acres or less is connected to other agricultural land owned by the beneficiary, then a benefit consisting of the 2.5 acres of land should be considered agricultural property.

An off-farm dwelling house would not qualify as agricultural property, but a farmhouse of a character appropriate to agricultural land would usually qualify.

The assets received must constitute agricultural property at the date of the gift, or at the date of death, in the case of an inheritance.

The assets must also constitute agricultural property on the valuation date. The valuation date is a, sometimes complex, CAT concept.

Where a gift or inheritance is taken subject to the condition that it is invested in agricultural property, and this condition is met within two years, then the benefit is deemed to have consisted of agricultural property on the date of the gift or inheritance and on the valuation date.

The Farmer Test

A farmer is defined as an individual in respect of whom not less than 80% of the market value of the property to which he is beneficially entitled in possession (following the taking of the gift or inheritance) consists of agricultural property.

An individual is deemed to be beneficially entitled in possession to an interest in expectancy, so if an individual is a remainderman following a life interest trust in favour of another person, the value of the remainder interest would be taken into account when reviewing the farmer test. However, Revenue accept that a future entitlement to a pension fund need not be included in the farmer test.

Generally, no deduction is made from the market value of property for any debts or encumbrances (such as a mortgage or other charge on property), but if an individual’s principal private residence is an off-farm dwelling house which is not agricultural property, any mortgage or charge attaching to this property is deductible.

Where the agricultural property consists of trees or underwood, the beneficiary does not have to be a “farmer” for the purposes of claiming relief on the woodlands. The trees or underwood must be growing on land and cannot be cut or harvested.

The Relief

As outlined above, agricultural relief operates so as to reduce the market value of the agricultural property by 90% when calculating the CAT liability.

In order to qualify for the relief, the following conditions
must be met:

- The benefit consists of agricultural property at the date of the gift or at the date of inheritance
- The benefit consists of agricultural property at the valuation date
- The beneficiary is a farmer on the valuation date (after taking the benefit)

**Expenses and Deductions**

The general CAT principle is that liabilities, costs and expenses are deductible where they are properly payable out of a benefit.

Where agricultural relief applies, the liabilities, costs and expenses relating to the agricultural property must also be reduced by 90% when taking a deduction from the market value of the agricultural property. This mirrors the 90% deduction in the market value of the agricultural property.

Where a benefit consists of a combination of agricultural and non-agricultural property, the expenses must first be apportioned between the agricultural and non-agricultural property.

The portion relating to the non-agricultural property is unaffected, but the portion relating to the agricultural property is reduced by 90% as described above.

**Clawback**

Any relief given may be wholly or partly clawed back within 6 years of the gift or inheritance if:

- The agricultural land (other than crops, trees or underwood) is disposed of and not replaced within a year of the disposal by other agricultural property, or
- The agricultural land is compulsorily acquired and is not replaced within 6 years of the compulsory acquisition by other agricultural property.

Where the agricultural property has development value and is disposed of between 6 and 10 years following the date of the gift or inheritance, a clawback of the relief on the development value would also arise.

It is worth noting under this provision, that there is no allowance for a continuation of the relief where the sales proceeds are reinvested in agricultural property.

**Conclusion**

As outlined above, agricultural relief can be a valuable CAT relief, resulting in significant tax savings where the conditions are met and the relief is claimed.

A certain element of tax planning can be implemented where an individual is to receive a gift or inheritance, by transferring assets, or effecting a Deed of Family Arrangement, so that a beneficiary meets the farmer test on the valuation date.

This element of flexibility can reduce the tax liability of a beneficiary where the proper steps are taken.

If tax advice is required on any of the points covered in this article, please contact O’Hanlon Tax Limited.

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*Caveat: These notes are intended as a general guide to CAT agricultural relief. OHT has endeavoured to provide an accurate commentary but the notes cannot cover all circumstances so OHT strongly recommends that formal tax advice be obtained before any steps are taken that may have a tax effect.*