Transfers of land to young trained farmers

Part 7: section 81AA

This document should be read in conjunction with section 81AA SDCA 1999

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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1 Introduction

Section 81AA provides relief from stamp duty on the transfer of an interest in agricultural land to certain farmers who are under 35 years of age and who hold a relevant agricultural qualification (known as young trained farmers). It applies to deeds[1] transferring land executed on or after 2 April 2007. The latest date on or before which transfers of land must be executed has been extended on a few occasions and is currently 31 December 2021.

The relief has existed in varying forms for a number of years. Most recently, section 81AA took over from section 81A which, in turn, took over from section 81. Part of the transition from one section to another involved, inter alia, the inclusion of new agricultural qualifications and arrangements that enable qualifications held on the previously applicable date to be treated as qualifications held for the purposes of the succeeding relief. A summary of the conditions applicable to transfers at specified times from 2007 is included in Appendix 1.

The relief constitutes an EU State aid and must comply with EU State aid rules. The relevant State aid rules are contained in Commission Regulation (EU) No 702/2014 - in particular, Chapter III, Section 1 (Article 18) dealing with "Start-up aid for young farmers and the development of small farms".[2] This regulation is known as the Agricultural Block Exemption Regulation (ABER). As a result, a 'block exemption' from the requirement to apply for specific State aid approval is available. However, this is dependent on the details of a particular State aid scheme being notified to the EU Commission[3] and on the scheme meeting the requirements set out in the ABER. While a Member State effectively self-assesses that a scheme meets the relevant requirements, the EU Commission can carry out subsequent compliance checks.

Two income tax reliefs are also subject to the ABER: stock relief under section 667B Taxes Consolidation Act (TCA) 1997 and relief for succession farm partnerships under section 667D TCA 1997. Young trained farmer relief under section 81AA and these two income tax reliefs must be aggregated for EU transparency requirements (see section 3.1 below) and the €70,000 ceiling on the amount of relief available under the EU Regulations (see section 3.4 below).

[1] For stamp duty purposes "deed" is the same as "instrument". Instrument is defined in section 1 SDCA 1999 as including every written document.

[2] Published in Official Journal No. L 193, OI.7.2014, p.1 and effective from 1 July 2014.

[3] This notification is done by the Department of Agriculture, Food and the Marine.

In this manual:

- stamp duty relief under section 81AA is referred to as young trained farmer relief;
- the reliefs under sections 667B and 667D TCA 1997 are referred to as the income tax reliefs;
- the combination of young trained farmer relief and the income tax reliefs is referred to as the ABER reliefs; and
- the young trained farmer to whom land is transferred is referred to as the transferee.

2 Qualifying conditions

Certain conditions relating to the type of land, its transfer and subsequent use and the transferee's age and agricultural qualifications must be met for young trained farmer relief to apply. There are also some EU State aid conditions to be met. For example, if the instrument is executed on or after 25 December 2017, a business plan must be furnished to Teagasc before the instrument is executed (see section 2.3.4 below). For other EU State aid conditions, see section 3 below.

2.1 Qualifying land

Only agricultural land can qualify for young trained farmer relief. However, agricultural land includes such farm houses and buildings and the land on which they are situated as are of a character appropriate to the land. For example, a large house used as a guesthouse would not be regarded as of a character appropriate to the land.

For the purposes of young trained farmer relief, land occupied by, or suitable for occupation as, woodlands on a commercial basis is **not** agricultural land.

2.2 Transfers of land

The transfer of land may be by way of a sale or a gift. Transfers by way of a lease do not qualify for young trained farmer relief.[4] Transfers must not be effected in a way that allows the interest in the land to revert to the transferor by the exercise of a power in this regard (power of revocation). However, a transferor may retain certain rights such as rights of residence, support and maintenance.

Where land is transferred into joint ownership (whether as tenants in common or as joint tenants), **all** the joint owners must meet the qualifying conditions unless:

[4] Relief for leases of agricultural land is possible under section 81D SDCA 1999.

(a) the land is transferred into the joint ownership of spouses or civil partners. The land may be transferred from one spouse or civil partner into joint ownership with the other spouse or civil partner or may be transferred by a third party to spouses or civil partners. The relief applies where **one of the spouses or civil partners** meets the qualifying conditions;

(b) the owner of the land is creating a joint ownership; for example, where land is transferred from a parent to the parent and his or her child.

(c) an additional owner(s) is being added to the existing joint ownership; for example, where land is transferred by joint owners to themselves and to another person. Such a situation might arise, for example, with a transaction involving the transfer of a one-third interest in land from parents to their child, with the child's interest to be held on a joint tenancy with the parents.

In the situations set out in (b) and (c), the inclusion of the parents as transferees is a necessary conveyancing requirement where the lands are to continue to be held as a joint tenancy albeit with a new joint tenant being the child. In both situations, the parents are not transferees in the sense of receiving an interest in the land from another person. The only person receiving a benefit under the transfer is the child. The young trained farmer relief will apply to the child where he or she meets the qualifying conditions. When completing the stamp duty return, the transferor in the case of (a) and the transferors in the case of (b) must be shown as vendors and purchasers and the box for fractional interest must be ticked.

Where the land to be transferred is held jointly (whether as joint tenants or as tenants in common) and the interest held by one of the joint owners is transferred, the young trained farmer relief applies to the joint interest being transferred where the transferee meets the qualifying conditions.

2.3 Qualifying 'farmer'

There are three aspects to being a qualifying 'farmer': age, agricultural qualifications and use of the land.

2.3.1 Age

A transferee must be under 35 years of age on the date of execution of the deed of transfer of the land.

2.3.2 Agricultural qualifications

When the deed transferring the land is executed, the transferee must hold a relevant agricultural qualification. However, a person who obtains a relevant agricultural qualification within the period of four years after the date on which the deed transferring the land is executed will be able to claim a refund of the stamp duty paid provided all the other conditions are met (see section 4.1 below). The date of the award of the qualification is the date the person became the holder of the qualification.

As colleges have introduced new courses and dropped older courses, the relevant courses have changed over time since the relief was first introduced. For the most part, the current qualifications are awarded by the Qualifications and Quality Assurance Authority of Ireland[5] and other third-level institutions. These qualifications are listed in Schedule 2B SDCA 1999.[6] In addition to the qualifications that are listed in this Schedule, Teagasc may certify other qualifications as corresponding to a Schedule 2B qualification. Teagasc also approves courses of training for individuals with learning difficulties. In this regard, a letter from Teagasc confirming satisfactory attendance at such a course is accepted as an alternative qualification to a Schedule 2B qualification. While not common, it can happen that transferees who acquire land may have an agricultural qualification that precedes the current qualifications. These qualifications are listed in Schedule 2A SDCA 1999.

Application forms for letters of equivalence are available from local Teagasc offices and agricultural colleges. The completed forms (and any enquiries) must be sent to Carmel Finlay, Teagasc, Grange, Dunsaney, Co. Meath, C15 PW93 or to carmel.finlay@teagasc.ie.

See Appendix 2 for the current lists of relevant agricultural qualifications.

2.3.3 Use of the land

A transferee must intend to:

- spend at least 50% of his or her normal working time farming the transferred land, and
- retain ownership of that land,

for a period of at least five years from the date of execution of the deed of transfer.

Where the relevant agricultural qualification (see section 2.3.2 above) is acquired after the date of execution of the deed of transfer, the five-year period commences on the date on which the claim for a refund is made.

Young trained farmer relief can be clawed back where ownership of the land is not retained for the required five-year period (see section 5.1 below).

For the purposes of young trained farmer relief, farming includes producing crops and raising livestock such as cattle or sheep but does not include the breeding of horses.

[5] Replaced the Further Education and Training Awards Council in respect of qualifications awarded on or after 6 November 2012.

Revenue accepts that normal working time (including on-farm and off-farm working time) approximates to 40 hours per week. This enables transferees with off-farm employment to qualify for the relief where they spend at least 20 hours per week, averaged over a year, farming. Where a transferee works more than 40 hours per week, the minimum requirement for 20 hours of farming still applies. Where a transferee's normal working time is somewhat less than 40 hours per week, then the 50% requirement can be applied to the actual hours worked.

With a self-assessment basis of taxation, it is up to individual transferees to satisfy themselves when claiming young trained farmer relief that they meet the conditions relating to the number of hours spent farming. This will depend on the facts and circumstances of each individual case. Should Revenue decide to do a follow-up compliance check such as an audit on a claim for relief, it will consider all relevant information (including farming records) when deciding on whether relief was correctly claimed or not.

2.3.4 Business plan

Teagasc is the competent body in relation to farm business plans. The young trained farmer must submit a business plan to Teagasc before the execution of the deed transferring the land. Where the relevant agricultural qualification (see section 2.3.2 above) is acquired after the date of execution of the deed of transfer, the business plan must be submitted before a refund is claimed. This requirement to submit a business plan to Teagasc applies to all conveyances or transfers executed on or after 25 December 2017.

Teagasc has published a business plan template (My Farm, My Plan – Planning for My Future)[7] to assist young trained farmers to prepare a farm business plan. When submitting the business plan to Teagasc, the young trained farmer declares that he or she is responsible for the content and implementation of the business plan. A certificate issued by Teagasc then confirms that the applicant has satisfactorily completed a business plan that has been validated by Teagasc ("Teagasc certificate"). This certificate can be accepted by Revenue as evidence of compliance with the requirement to submit a business plan. A business plan should be implemented within the period of nine months after the stamp duty return claiming the relief has been filed, or after the refund has been claimed, whichever situation applies.

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[6] Previous qualifications were listed in Schedule 2 (section 81) and Schedule 2A (section 81A).

[7] Available to download from www.teagasc.ie or get from a local Teagasc office.

3 Additional requirements in EU ABER Regulations

Some of the qualifying conditions set out in the ABER Regulations for the stamp duty relief are also included in section 81AA. The following conditions have already been discussed:

- involvement in primary agricultural production (see section 2.1 above)
- the age of the farmer (see section 2.3.1 above);
- adequate educational skills and competencies (see section 2.3.2 above);
- active farmer (see section 2.3.3 above);
- submission of a business plan to the competent authority (see section 2.3.4 above).

However, there are other conditions contained in the ABER Regulations that have direct effect in Member States and that must also be satisfied.

3.1 Transparency and publication

Member States are required to publish, on a dedicated EU Commission website, details of State aid granted (i.e. amount of tax relief given) to individual beneficiaries after 1 July 2016, where such awards are above €60,000. There are three schemes to be considered for the purpose of the transparency and publication requirements. These are section 81AA SDCA 1999 (young trained farmer relief) and two income tax reliefs: section 667B TCA 1997 (stock relief) and section 667D TCA 1997 (succession farm partnerships). The amount of tax relief allowed **must be aggregated across the three schemes.**

Where the aggregate amount of stamp duty or income tax relieved exceeds €60,000, the following information is to be published on the EU Commission website:

- Identification number of the aid (as provided by the European Commission);
- Name of the beneficiary (i.e. the young trained farmer);
- Type of enterprise (i.e. micro or small size enterprise);
- EU Economic Region in which the beneficiary is located;
- Sector of activity (i.e. agriculture);
- Aid element (i.e. the aggregate amount of the three ABER reliefs – published in a series of monetary ranges rather than actual amounts);
- Aid instrument (i.e. tax exemption);

- Date of granting the aid (in the case of stamp duty, date on stamp certificate issued by Revenue in respect of a stamp duty return filed with Revenue or date refund made by Revenue and in the case of income tax, date return filed with Revenue);
- Objective of the aid;
- Granting authority (i.e. Department Agriculture, Food and the Marine).

The website may be accessed by clicking the following link and then clicking English and Ireland.

Revenue provides the Department of Agriculture, Food and the Marine with the information relating to the three ABER reliefs to be published on the EU Commission website. There is a 12-month deadline for publication, which starts from the date of the last award that causes a beneficiary to exceed the €60,000 ceiling.

The publication rules contained in the ABER Regulations have direct effect in Member States. For the purposes of section 851A TCA 1997 and the disclosure of confidential taxpayer information, the enactment allowing disclosure to the Department of Agriculture, Food and the Marine is the EU Regulations so that a specific provision in section 851A is not required.

3.2 Head of agricultural holding

Part of the definition of "young farmer" in Article 2 of the EU ABER Regulations is a person who is "setting up for the first time in an agricultural holding as a head of **that**[8] holding". This wording indicates that each acquisition of farmland is to be regarded separately from any other acquisition(s). "Head" is not defined and is being given its normal meaning of being in charge of, or control of, the agricultural holding. Therefore, where a young trained farmer is in charge of or controls each parcel of farmland that he or she acquires (whether acquisition happens by way of purchase or gift) the young trained farmer can continue to qualify for young trained farmer relief on the acquisition of additional land at different times (subject to the €70,000 ceiling on allowable relief described in section 3.4 below).

This definition of "young farmer" has effect from 1 July 2014, when the EU ABER Regulations came into effect.

[8] Emphasis added (not included in EU Regulations).

Example

A young trained farmer receives a gift of the family farm from his parents. Following this first transfer he takes the opportunity to buy a small parcel of land adjacent to the farm. Later again he receives a gift of a farm from his uncle. He can qualify for young trained farmer relief on these three transfers of land where he is in charge of or controls the three holdings, assuming, of course, that the other conditions for young trained farmer relief are satisfied and the ceiling on relief is not exceeded.

3.3 Size of farming enterprise

The ABER Regulations restrict tax relief to micro and small enterprises, defined in Annex 1 of these regulations in terms of employee numbers and annual turnover. These size enterprises must have fewer than 10 or 50 employees, respectively, and an annual turnover and/or balance sheet total that does not exceed €2m or €10m, respectively.

3.4 Ceiling on amount of aid granted

A lifetime ceiling of €70,000 applies to the amount of State aid granted to a young trained farmer under the three ABER schemes[9]; i.e. section 81AA SDCA 1999, sections 667B TCA 1997 (stock relief) and 667D TCA 1997 (succession farm partnerships). This means that the amount of State aid (tax relief) claimed **must be aggregated across these schemes with effect from 1 July 2014.**

See section 3.5 below in relation to the interaction of consanguinity relief and young trained farmer relief and the calculation of the amount of young trained farmer relief State aid. **Consanguinity relief does not have to be aggregated with the three ABER reliefs and is not relevant in the context of the €70,000 ceiling.**

The €70,000 ceiling is being applied to claims for relief made in relation to stamp duty (young trained farmer relief) for transfers of land executed on or after 1 January 2019, and for the year of assessment 2019 and subsequent years of assessment for stock relief and succession farm partnership relief. However, anyone submitting a stamp duty return in relation to a transfer executed on or after 1 January 2019, or income tax returns for the 2019 year of assessment onwards, must have regard to the amount of relief already claimed since 1 July 2014 which is the date the EU ABER Regulations came into effect. Any such relief must be aggregated with any later relief claimed. Where the €70,000 ceiling is exceeded, the restriction on relief is to be applied on a self-assessment basis as part of the filing of a tax return (whether stamp duty or income tax) to whichever of the reliefs brings the aggregate young trained farmer relief and income tax relief above the ceiling.

[9] Paragraph 7, Article 18 of the EU Regulations.

3.4.1 Calculating the amount of State aid

In the case of young trained farmer relief, the amount of State aid is the amount of stamp duty that would be payable if the relief did not apply. This would be 6% (stamp duty rate that applies to instruments executed on or after 10 October 2017) of the consideration for, or the value of (in the case of a gift), the land transferred. However, this amount would be reduced where the transfer also qualifies for consanguinity relief (see section 3.4.2 below in relation to the availability of consanguinity relief and its interaction with young trained farmer relief).

In relation to stock relief, the amount of State aid is the reduction in income tax payable as a result of the allowable expense deduction. In relation to a succession farm partnership, the amount of State aid is the tax credit allowed.

Where there are two or more purchasers or transferees in relation to a single holding of land, the calculation of the amount of State aid depends on their particular circumstances. The stamp duty relief is available where **all** of them are young trained farmers. The availability of consanguinity relief depends on the relationship of each of them to the seller/transferor of the land. Their allowable State aid amount is calculated by reference to the share of the holding acquired by each of them; i.e. a 50% share in a holding by two young trained farmers results in the stamp duty relieved being divided between them in the same 50% proportion.

A young trained farmer and his or her spouse or civil partner acquiring land as joint owners may qualify for stamp duty relief without the spouse or civil partner also being a young trained farmer. Where this happens, the stamp duty relieved is apportioned evenly between both of them. Where the spouse or civil partner is not a young trained farmer, the qualifying conditions for the relief and the €70,000 ceiling do not apply to that person.

3.4.2 Consanguinity relief

Consanguinity relief is the relief that applies in relation to transfers of farmland between certain blood relatives whereby the applicable rate of stamp duty is reduced from 6% to 1%.

The relevant relationships for this relief include:

- Lineal descendent (child, step-child, grandchild etc.)
- Parent, step-parent and grandparent
- Husband, wife and civil partners
- Brother, sister, step-brother and step-sister
- Aunt and uncle
- Nephew and niece

Transfers between cousins or in-laws do not qualify for consanguinity relief.

Details of the relevant relationships and the qualifying conditions for the relief are set out in Schedule 1 (paragraph 5) to the SDCA 1999. These conditions are that the transferee must farm the land for a period of at least 6 years following the date of the conveyance or transfer of the land or lease it for a period of at least 6 years to someone who farms the land. The person farming the land must do so on a commercial basis and with a view to making profits for at least half of the person's normal working time **or** be the holder (or become the holder within four years) of one of the young trained farmer relevant agricultural qualifications. The 67 years upper limit on the age of the transferor of the land was removed by Finance Act 2017 (section 60) with effect from 25 December 2017.

For the purpose of calculating the allowable State aid amount in relation to the €70,000 ceiling, consanguinity relief is applied before young trained farmer relief and this reduces the amount of State aid granted.

An important difference between the operation of consanguinity relief and young trained farmer relief is that consanguinity relief does not apply to a farmhouse situated on the land being transferred. This relief applies to **non-residential** property that is suitable for farming and farm buildings of a character appropriate to the farmland. However, as the 1% residential rate that applies to a farmhouse is currently the same as the consanguinity relief rate there is no practical effect on the amount of stamp duty involved.

Examples

1. Interaction of consanguinity and young trained farmer reliefs

A young trained farmer receives a gift of farmland from his father in January 2019 which, for stamp duty purposes, is valued at €1m. Both consanguinity relief and young trained farmer relief apply. Applying consanguinity relief gives a stamp duty liability of €10,000 (€1m @ 1%). Young trained farmer relief then reduces the stamp duty liability from €10,000 to nil. €10,000 is the amount of EU State aid granted. Without consanguinity relief, the amount relieved/State aid would be €60,000.

2. Land with farmhouse

A young trained farmer receives a gift of the family farm from his parents, including the farmhouse, worth €1.5 million. The deed of transfer is executed on 1 May 2019. The farm house is valued at €200,000 and the land is valued at €1.3 million.

The farmhouse is not eligible for consanguinity relief. Applying this relief to the farmland gives a stamp duty liability of €13,000 (1% rate). As stamp duty of 1% applies to residential property[10], the farmhouse is subject to duty of €2,000. As young trained farmer relief applies to both farmhouse and land, €15,000 (€13,000 + €2,000) is the amount of young trained farmer relief.

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[10] The 1% rate applies to residential properties valued at up to €1m. A rate of 2% applies to the value that exceeds €1m.

3.4.3 Examples of operation of €70,000 ceiling

The following examples illustrate the operation of the €70,000 ceiling. For the most part, they focus on young trained farmer relief as this is typically more significant than the two income tax reliefs. Unless stated otherwise in the example, the transferee is not eligible for consanguinity relief.

1. Single transferee with pre-1 January 2019 purchase that exceeded ceiling

A young trained farmer claimed young trained farmer relief of €78,000 in respect of land bought for €1.3m (6% rate) on a transfer executed on 1 March 2018. Full relief was available as the €70,000 ceiling is applied only in respect of transfers executed on or after 1 January 2019. However, she is not entitled to any further ABER relief as such relief claimed between 1 July 2014 and 31 December 2018 must be taken into account in establishing entitlement to further relief after that date and the €70,000 ceiling has already been exceeded.

If, instead of €78,000, she had claimed young trained farmer relief of €30,000 between 1 July 2014 and 31 December 2018 she would be entitled to claim a further €40,000 in ABER relief on or after 1 January 2019.

2. Single transferee with no prior claims and consanguinity relief

A young trained farmer receives a gift of the family farm worth €1.3m from his parents. The deed of transfer is executed on 5 January 2019. The stamp duty liability would be €78,000 (6% rate) in the absence of any reliefs. Because consanguinity relief is claimed the stamp duty payable is reduced to €13,000 (1% rate). However, as young trained farmer relief also applies no stamp duty is actually payable and €13,000 is the amount of State aid granted and not €78,000. The amount of State aid still available to this young trained farmer following the transfer is €57,000 (€70,000 less €13,000).

3. Single transferee with no prior claims and ceiling exceeded

A young trained farmer buys a farm for €3 million. The deed of transfer is executed on 5 January 2019. In the absence of any relief the amount of stamp duty due at 6% is €180,000. The transferee claims young trained farmer relief. The maximum amount of relief that can be claimed is €70,000 as no ABER relief has been claimed since 1 July 2014. The balance of the stamp duty liability of €110,000 must be paid. No further ABER relief may be claimed.

Pending the development referred to in section 4 below, the young trained farmer may file the stamp duty return and claim full relief on the return but should pay €110,000 directly to the National Stamp Duty Office as set out in section 4 below.

4. Single transferee with no prior claims receiving a one-third interest in farmland

A young trained farmer receives a one-third interest in the family farm from both her parents transferring to her and themselves. The deed of transfer is executed on 2 February 2019. She claims both consanguinity relief and young trained farmer relief on her one-third interest. Consanguinity relief reduces the amount of stamp duty due to €20,000. Young trained farmer relief further reduces the amount due to nil. The young trained farmer had not previously claimed any of the ABER reliefs that are aggregated for the €70,000 ceiling. The relief is not apportioned between the young trained farmer and her parents. Therefore, in this example the young trained farmer has used up €20,000 of her allowable €70,000 State aid amount.

5. More than one transferee

Two young trained farmers A and B buy a farm as tenants-in-common; A has a 60% interest and B a 40% interest. The deed of transfer is executed on 4 March 2019. The amount of stamp duty due is €60,000. They both qualify for young trained farmer relief and no stamp duty is payable. The amount of State aid is €60,000, with €36,000 apportioned to A and €24,000 to B. This means that, for the purposes of the €70,000 ceiling on State aid, A can claim a further €34,000 ABER relief and B can claim a further €46,000 ABER relief.

If the farm had been purchased by A and B as joint tenants instead of as tenants-in-common, each of them would have used up €30,000 of their allowable €70,000 State aid amount. If a third joint tenant had been involved in the purchase, each of them would have used up €20,000 of their allowable €70,000 State aid amount.

6. Two transferees, one with prior claim who exceeds ceiling

A young trained farmer X purchases farmland in her sole name. The deed of transfer is executed on 2 January 2019. She claims young trained farmer relief of €50,000. As the amount of State aid granted is €50,000, she can claim further ABER relief up to €20,000.

Three months later she and her partner Y, who is also a young trained farmer, purchase 80 hectares of farmland as joint tenants and the stamp duty is €90,000. As this is Y's first claim for an ABER relief, he can claim his full €45,000 young trained farmer relief. However, as X has already used up €50,000 of her €70,000 allowable State aid amount, she can claim only a further €20,000 in young trained farmer relief. The net result is that €25,000 stamp duty is payable on the deed of transfer (i.e. €90,000 less X's €20,000 relief and Y's €45,000 relief).

7. Purchase with non-farmer spouse not subject to €70,000 ceiling

A young trained farmer and his wife (who is not a farmer) buy a farm as joint owners for €800,000 and get young trained farmer relief of €48,000 (€800,000 at 6%). The amount of young trained farmer relief is split between them. The husband is therefore granted €24,000 in State aid which means that young trained farmer relief of up to €46,000 can be claimed on any further acquisitions of land by him without exceeding the €70,000 ceiling (assuming no income tax relief claimed). The wife is not subject to the €70,000 ceiling.

8. Acquisition by two young trained farmers with one exceeding €70,000 ceiling

Two young trained farmer brothers A and B are jointly gifted the family farm valued at €3m incurring a stamp duty liability of €30,000 having claimed consanguinity relief. The amount of young trained farmer relief claimed is €30,000 (€15,000 each).

A subsequently purchased land for €1.2m from an uncle. He claimed consanguinity relief which reduced his stamp duty liability to €12,000 (€1.2m @ 1%). He also claimed young trained farmer relief which further reduced his stamp duty liability to nil. This brings his aggregate State aid to €27,000 (€15,000 + €12,000) which is below the €70,000 ceiling.

B subsequently purchased land for €1.2M from an unrelated party. As consanguinity relief did not apply, his stamp duty liability is €72,000 (6% rate). Having already claimed €15,000 young trained farmer relief, he can claim up to €55,000 more in this relief leaving him with a stamp duty liability of €17,000 and unable to claim any further ABER relief.

9. Income tax relief followed by young trained farmer relief without exceeding €70,000 ceiling

A young trained farmer entered into a succession farm partnership with his mother for a 3-year period commencing with the year of assessment 2017. He claimed a succession farm partnership tax credit of €2,500 for 2017. He will again claim this tax credit for the year 2018 when filing his return in October 2019. His mother plans to transfer the farm to him in February 2020. Assuming a value of €5m at this time, the stamp duty liability would be €50,000 (1% rate) with consanguinity relief. At this stage the aggregate State aid granted would be €55,000 (€2,500 + €2,500 + €50,000). He can continue claiming the farm succession partnership tax credit until the €70,000 ceiling is reached.

4 Claiming the young trained farmer relief

Sections 81, 81A and 81AA (young trained farmer relief) were amended on a number of occasions following their enactment. Eligibility for this relief is determined by the provisions that applied when the deed of transfer was executed.

For deeds of transfer executed on or after 7 July 2012, young trained farmer relief is claimed on a self-assessment basis where the qualifying conditions for the relief are satisfied. The claim is made on a stamp duty return that must be filed through Revenue's online system (ROS) in respect of the deed of transfer.

ROS is currently being adapted to cater for a situation where full young trained farmer relief may no longer be available where the €70,000 State aid ceiling has been exceeded. The adaptation is expected to be completed by the end of June 2019. In the meantime, persons filing a stamp duty return where the transferee is not entitled to claim full relief should send a cheque to the National Stamp Duty Office (see address in section 4.1 below) or make an EFT payment for the amount of stamp duty due at this link. The National Stamp duty Office will issue a receipt for the payment.

Where the land includes a farmhouse (which must be of a character appropriate to the land), the return should identify the property as 'mixed use' (i.e. residential and non-residential). Young trained farmer relief may be claimed for both the land and the farmhouse (see section 2.1 above).

While supporting documentation (such as a certified copy of the deed of transfer, birth certificate, agricultural qualification, Teagasc certificate, farm records) in relation to the claim is not required to be included with the return, it should be retained for six years from the later of the date of the stamp duty return or the amended stamp duty return or the date the stamp duty was paid as it may be requested by Revenue in the event of a follow-up compliance check.

4.1 Claiming a refund

A transferee may be entitled to claim a refund of stamp duty already paid where he or she has failed to claim young trained farmer relief when making the return. Such a claim must be made within four years of the date on which the deed of transfer was stamped. Revenue is statutorily prohibited from making a refund where a claim is made outside of this four-year period.[11]

A transferee may also be entitled to claim a refund of stamp duty already paid where he or she did not hold the relevant agricultural qualification on the date on which the deed of transfer was executed but obtains the qualification within four years of this date. Such a claim must be made within four years of the date on which the qualification was obtained.[12]

[11] Section 159A(1) SDCA 1999.

Example

- Date deed of transfer executed: 12 March 2013
- Date transferee becomes the holder of the qualification: 28 February 2017
- Date valid claim for refund must be with Revenue: 27 February 2021

The return must be amended on ROS and young trained farmer relief claimed on the return. Information on how to amend a return is contained at this link. A written claim for the refund must then be submitted to Revenue. The claim must set out the basis for the refund, include a certified copy of the deed of transfer, copy of the birth certificate, agricultural qualification, Teagasc certificate and a declaration that the transferee intends to spend at least 50% of his or her normal working time farming the transferred land and retain ownership of that land for a period of at least five years from the date of claim. The Document ID that is on the return must also be included. Refund claims should be sent to:

Customer Service Team,
National Stamp Duty Office,
Office of the Revenue Commissioners,
Dublin Castle,
Dublin 2.
D02 F342

5 Recovery of young trained farmer relief

5.1 Clawback of young trained farmer relief

The young trained farmer relief granted is to be clawed back if the land is disposed of within the period of five years of-

- the date on which the deed of transfer was executed, or
- in the case of the delayed achievement of the relevant agricultural qualification, the date on which the claim for a refund was made,

and is not replaced by other land within twelve months of the date of disposal. In the case of a compulsory purchase order (CPO), the twelve months starts on the date of the CPO. In the case of a partial disposal of the land, a corresponding proportion of the relief is to be clawed back.

[12] Section 159A(1) SDCA 1999.

A clawback does not arise where one joint owner disposes of his or her interest in the land to another joint owner or where a young trained farmer creates a joint tenancy with his or her spouse or civil partner.

In the case of jointly-owned land, each joint owner is jointly and severally liable for payment of the clawback amount.

In the event of a clawback, interest at the daily rate of 0.0219% is payable from the date of the clawback event, such as the disposal of the land, to the date the clawback amount is paid to Revenue.

For information on how to return the relief and pay the associated interest to Revenue please see the guide on how to declare and pay a clawback.

Young trained farmer relief that is clawed back and that was taken into account for the purposes of the €70,000 ceiling on allowable State aid becomes available again for further ABER relief where the €70,000 ceiling has not otherwise been exceeded.

5.2 Calculation of clawback

The clawback amount is calculated using the following formula:

$$\frac{\mathbf{S} \times N}{\mathbf{V}}$$

where -

- **S** is the amount of stamp duty that would have been charged in the absence of young trained farmer relief;
- **N** is the amount of the proceeds from the disposal, or part disposal, of the land that is not used to acquire other land;
- **V** is the market value of the entirety of the land, in respect of which young trained farmer relief applied, immediately before the disposal or part disposal.

Where there are several part disposals of land, the aggregate of any clawback amounts cannot exceed the stamp duty that would have been charged in the absence of young trained farmer relief.

Examples

The following examples assume that the qualifying conditions for young trained farmer relief are satisfied and that the relief is correctly claimed.

1. Disposal of the land within five years

A young trained farmer buys 20 hectares of farmland for €500,000 in January 2017. Stamp duty of €10,000 (€500,000 @ 2%*) would have been chargeable on the purchase in the absence of young trained farmer relief. In July 2018, the full 20 hectares is sold for its market value of €550,000. The proceeds are not used to acquire other land within the following year. The clawback is calculated as follows:

€10,000 X €550,000 ÷ €550,000 = €10,000

If, instead of €550,000, the market value of the land immediately before the disposal is €530,000, the clawback amount would be calculated as follows:

€10,000 X €550,000 ÷ €530,000 = €10,377

However, the clawback amount is reduced from €10,377 to €10,000 because it is capped at the amount of the stamp duty actually relieved.

* a stamp duty rate of 2% applied to instruments executed prior to 11 October 2017

2. Part disposal of land within five years

A young trained farmer buys 20 hectares of farmland for €500,000 in December 2017. Stamp duty of €30,000 (€500,000 @ 6%) would have been chargeable on the purchase in the absence of young trained farmer relief. In July 2018, 10 hectares is sold for €210,000 when the market value of the full 20 hectares is €510,000. The proceeds are not used to acquire other land within the following year. The clawback is calculated as follows:

€30,000 X €210,000 ÷ €510,000 = €12,353

The remaining 10 hectares is sold in August 2019 for €300,000 when the market value of the full 20 hectares is €520,000. The clawback is calculated as follows:

€30,000 X €300,000 ÷ €520,000 = €17,308

There is no need to restrict this second clawback amount as both clawback amounts (€12,353 + €17,308) are less than the amount of stamp duty of €30,000 actually relieved.

3. Acquisition of replacement land

A young trained farmer buys 20 hectares of farmland for €500,000 in December 2017. Stamp duty of €30,000 (€500,000 @ 6%) would have been chargeable on the purchase in the absence of young trained farmer relief. In July 2018, the full 20 hectares is sold for its market value of €550,000. The farmer buys 18 hectares of farmland for €560,000 in May 2019. As the full proceeds from the disposal have been used to acquire other land, the clawback of €30,000 that would otherwise have applied is avoided (see calculation in example 1 above).

If only €400,000 of the €550,000 proceeds is used to acquire other land, the proceeds not used is €150,000 (N in the formula). The value of the 20 hectares at the time of disposal is €550,000. The clawback amount would be calculated as follows:

€30,000 X €150,000 ÷ €550,000 = €8,182

If the disposal proceeds are first used to acquire other land in September 2019, the clawback applies as this is later than twelve months of the date of disposal.

5.3 Other recovery of relief

Other than as set out in section 5.1 above, the relief allowed must be returned to Revenue where:

(a) qualifying conditions were required to be satisfied when the relief/refund was claimed, and it is subsequently discovered that the conditions were not satisfied (applies to both consanguinity and young trained farmer relief), and

(b) the €70,000 ceiling on the ABER reliefs (see section 3.4 above) is exceeded and it is the stamp duty relief and not the income tax relief that is to be returned to Revenue.

In the case of (a), the return should be amended to 'untick' the relief. The stamp duty and interest should be paid. Information on how to amend a return is included in section 4.1 above. In the case of (b), Revenue should be contacted at the address shown in section 4.1 above.

6 Leaflet SD2B

This manual replaces leaflet SD2B which has been withdrawn as it is out of date and does not reflect the current position.

Appendix 1

Summary of conditions applicable at different times

Where there is a single transferee the conditions set out in Part A of Table 1 must always be satisfied. In addition, depending on the date of execution of the instrument, the conditions in Parts B, C and D of Table 1 must also be satisfied.

Where there is more than one transferee the conditions set out in Table 2 must always be satisfied.

Table 1: Single transferee

Part A: Conditions to be satisfied if the instrument is executed on or after 2 April 2007

Qualifying conditions – single transferee	section of manual
The land must be agricultural land. Agricultural land includes farm houses and farm buildings as are of a character appropriate to the land. The relief is not available if the deed of transfer transfers commercial woodlands in addition to agricultural land.	2.1
The transfer must be by way of sale or gift: leases are not covered.	2.2
The transfer may not be effected in such a way that allows the land to revert to the transferor. However, the transferor may retain certain rights such as a right of residence, support and maintenance.	2.2
The transferee must be an individual under 35 years of age on the date of execution of the deed of transfer.	2.3.1
The transferee must hold a relevant agricultural qualification on the date of execution of the deed of transfer. However, if the transferee meets all the conditions set out in Part A (and, where appropriate, Parts B, C and D), except for the fact that the transferee is not the holder of such a qualification on the date of execution of the deed of transfer, and that qualification is attained within 4 years of that date, that transferee may claim a refund of the stamp duty paid (“refund situation”).	2.3.2
The transferee must intend: • to spend at least 50% of his or her normal working time farming the transferred land, and • retain ownership of that land, for a period of at least five years from the date of execution of the deed of transfer.	2.3.3

Part B: Conditions to be satisfied if the deed of transfer is executed on or after 1 July 2014

The transferee must be the head of the agricultural holding which means being in charge of or controlling each parcel of farmland that is acquired.	3.2

Part C: Conditions to be satisfied if the deed of transfer is executed on or after 25 December 2017

The transferee must submit a business plan to Teagasc before the deed is executed [or in a refund situation, before the refund is claimed]. The transferee must be the holder of a "Teagasc Certificate" confirming submission of the business plan.	2.3.4
The transferee must have fewer than 50 employees and an annual turnover and/or balance sheet total not exceeding €10m.	3.3

Part D: Conditions to be satisfied if the deed of transfer is executed on or after 1 January 2019

Where the transferee qualifies for both consanguinity relief and young trained farmer relief, consanguinity relief is calculated first. Consanguinity relief will reduce the rate of stamp duty applicable to 1%. Young trained farmer relief is then applied (subject to the ceiling) to eliminate or reduce the amount of stamp duty payable.	3.4.2 – this section contains an example showing how to calculate the amount of relief which is subject to State aid rules
There is a lifetime ceiling of €70,000 on the amount of ABER relief that may be claimed by a transferee. In determining whether the ceiling is met the transferee must aggregate: • the amount of young trained farmer relief claimed in respect of instruments executed on or after 1 July 2014, • the amount of stock relief claimed in respect of the year of assessment 2014 and subsequent years, and • the amount of relief for succession farm partnerships claimed in respect of the year of assessment 2014 and subsequent years. The transferee may only claim a maximum lifetime amount relief of €70,000 across the three ABER reliefs.	3.4 – this section contains examples showing how to calculate the amount of relief available to be claimed

Table 2: More than one transferee

Other than where the exceptions in section 2.2 relating to joint ownership apply, all transferees must meet the conditions set out in Parts A, B and C of Table 1. A joint business plan should be submitted to Teagasc.	2.1, 2.2, 2.3, 3.2, 3.3
Each transferee may claim the lifetime ceiling of €70,000. Where the land is being transferred to more than one transferee, the lifetime ceiling is apportioned.	3.5 – this section contains examples showing how the apportionment is calculated

Appendix 2

Relevant agricultural qualifications

A. 'Schedule 2B' qualifications

Level 6 qualifications awarded by the Qualifications and Quality Assurance Authority of Ireland:

(a) Level 6 Advanced Certificate in Farming;
(b) Level 6 Advanced Certificate in Agriculture;
(c) Level 6 Advanced Certificate in Dairy Herd Management;
(d) Level 6 Advanced Certificate in Drystock Management;
(e) Level 6 Advanced Certificate in Agricultural Mechanisation;
(f) Level 6 Advanced Certificate in Farm Management;
(g) Level 6 Advanced Certificate in Machinery and Crop Management;
(h) Level 6 Advanced Certificate in Horticulture;
(i) Level 6 Advanced Certificate in Forestry;
(j) Level 6 Advanced Certificate in Stud Management;
(k) Level 6 Advanced Certificate in Horsemanship;
(l) Level 6 Specific Purpose Certificate in Farm Administration.

Other qualifications awarded by the Qualifications and Quality Assurance Authority of Ireland:

(a) Higher Certificate in Agriculture;
(b) Bachelor of Science in Agriculture;
(c) Higher Certificate in Agricultural Science; (WIT)
(d) Bachelor of Science in Agricultural Science; (WIT)
(e) Bachelor of Science (Honours) in Land Management, Agriculture; (WIT)
(f) Bachelor of Science (Honours) in Land Management, Horticulture; (WIT)
(g) Bachelor of Science (Honours) in Land Management, Forestry; (WIT)
(h) Higher Certificate in Engineering in Agricultural Mechanisation; (LIT)
(i) Bachelor of Business in Rural Enterprise and Agri-Business; (GMIT)
(j) Bachelor of Science in Agriculture and Environmental Management; (GMIT)
(k) Bachelor of Science in Horticulture; (ITB)/(WIT)
(l) Bachelor of Arts (Honours) in Horticultural Management
(m) Bachelor of Science in Forestry; (WIT)
(n) Higher Certificate in Business in Equine Studies; (AIT)
(o) Bachelor of Business in Equine Studies; (AIT)
(p) Higher Certificate in Science Applied Agriculture; (LyIT)
(q) Bachelor of Science (Honours) in Sustainable Agriculture; (DkIT).

Qualifications awarded by other third-level institutions:

(a) Bachelor of Agricultural Science - Animal Crop Production awarded by University College Dublin;
(b) Bachelor of Agricultural Science - Agri-Environmental Science awarded by University College Dublin;
(c) Bachelor of Agricultural Science - Animal Science awarded by University College Dublin;
(d) Bachelor of Agricultural Science - Animal Science Equine awarded by University College Dublin;
(e) Bachelor of Agricultural Science - Dairy Business awarded by University College Dublin;
(f) Bachelor of Agricultural Science - Food and Agribusiness Management awarded by University College Dublin;
(g) Bachelor of Agricultural Science - Forestry awarded by University College Dublin;
(h) Bachelor of Agricultural Science - Horticulture, Landscape and Sportsturf Management awarded by University College Dublin;
(i) Bachelor of Veterinary Medicine awarded by University College Dublin;
(j) Bachelor of Science in Equine Science awarded by the University of Limerick;
(k) Diploma in Equine Science awarded by the University of Limerick;
(l) Bachelor of Science (Honours) in Agriculture awarded by the Dundalk Institute of Technology.

B. Qualifications approved by Teagasc

(a) Bachelor of Agricultural Science- Agricultural Systems Technology awarded by University College Dublin;
(b) Bachelor of Science in Sustainable Farm Management and Agribusiness awarded by Carlow Institute of Technology;
(c) Bachelor of Science (Honours) in Sustainable Farm Management and Agribusiness awarded by Carlow Institute of Technology;
(d) Bachelor of Science in Agriculture awarded by Letterkenny Institute of Technology;
(e) Higher Certificate in Science in Agriculture awarded by Letterkenny Institute of Technology;
(f) QQI Level 6 Specific Purpose Certificate in Farming;
(g) Bachelor of Science (Honours) in Agricultural Science awarded by Waterford Institute of Technology.

C. Previous qualifications

Instead of being the holder of a Schedule 2B qualification (see above) (or one that has been certified by Teagasc as being equivalent to such a qualification) or the holder of a letter issued by Teagasc confirming satisfactory completion of a training course for individuals with learning difficulties, a transferee may also satisfy one of the following requirements. The transferee may:

- before 31 March 2008, be the holder of a specified Schedule 2A qualification combined with a '180 hours' certificate* or an alternative specified Schedule 2A qualification combined with an '80 hours'* certificate, or
- before 31 March 2008, have achieved the required standard for entry into the third year of a third-level full-time course in any discipline of at least three years duration (requires confirmation by the third-level institution) combined with a '180 hours' certificate.

*Section 81AA makes provision for some non-specific courses in such subjects as farm management, agriculture and horticulture where a certificate is awarded by the Qualifications and Quality Assurance Authority of Ireland where the duration of the particular course exceeds a specified minimum number of hours (known as '80 hours' and '180 hours' certificates).

'Schedule 2A' qualifications

1. Qualifications awarded by the Further Education and Training Awards Council (FETAC):

(a) Vocational Certificate in Agriculture — Level 3;

(b) Advanced Certificate in Agriculture;

(c) Vocational Certificate in Horticulture — Level 3;

(d) Vocational Certificate in Horse Breeding and Training — Level 3;

(e) Vocational Certificate in Forestry — Level 3;

(f) Awards other than those referred to in subparagraphs (a) to (e) of this paragraph which are at a standard equivalent to the standard of an award under subparagraph (a) of this paragraph.

1. Qualifications awarded by the Higher Education and Training Awards Council (HETAC):

(a) National Certificate in Agriculture;

(b) National Diploma in Agriculture;

(c) National Certificate in Science in Agricultural Science;

(d) National Certificate in Business Studies in Agri-Business;

(e) National Certificate in Technology in Agricultural Mechanisation;

(f) National Diploma in Horticulture;

(g) National Certificate in Business Studies in Equine Studies;

(h) National Certificate or Diploma awards other than those referred to in subparagraphs (a) to (g) of this paragraph.

3. Qualifications awarded by other third-level institutions:

(a) Primary degrees awarded by the faculties of General Agriculture and Veterinary Medicine at University College Dublin;

(b) Bachelor of Science (Education) in Biological Sciences awarded by the University of Limerick;

(c) Bachelor of Science in Equine Science awarded by the University of Limerick;

(d) Diploma or Certificate in Science (Equine Science) awarded by the University of Limerick.