

Farming - Death Cases

Commencement/Cessation

Part 23 Chapter 1

Manual last updated June 2017



Executive Summary

This manual outlines the circumstances where a spouse may continue the farming activities of a deceased spouse without applying the cessation and commencement provisions.

Extract from Tax Briefing, Issue 9 (January 1993)

Where a spouse takes over farming (or other trade or profession)ⁱ on the death of his or her spouse, Revenue do not seek to apply the usual cessation and commencement provisions. Instead, the spouse who takes over is regarded as continuing the farming activities of the deceased spouse. [This concession does not apply to other successors].

Averaging

In farming cases, where a spouse takes over farming in the above circumstances and the deceased spouse had elected for “averaging”, this can similarly continue without revision - assuming this is what the surviving spouse wants.

Stock Relief

Where, on the death of a farmer, the farm passes to the surviving spouse or child* who continues to farm, he or she can elect within two years of the end of the year of assessment in which the succession takes place to treat the trade of farming as continuing for stock relief purposes - this will ensure that there will be no clawback of unrecovered stock relief arising solely because of the cessation on death. [This is provided for in Section 33 of Finance Act 1984 (repealed by Section 132(2) and Schedule 5, Part II, Finance Act 1996)].

It should be noted that to qualify for this election, the entire farm and trading stock must be transferred to the sole successor (spouse or child*). Also, that person must not already have had stocks of an existing farming trade carried on by him/her.

*Child is defined in Section 599 TCA 1997 which, extends the meaning of child to include a niece/nephew who has worked substantially on a full-time basis in carrying on, or assisting in carrying on, the trade of the deceased person for the five years immediately preceding the death.



Application to civil partners

The practices described above in relation to averaging and stock relief can also apply where the farming activities of an individual who dies on or after 29 July 2011 are taken over, as the case may be, by

- his/her surviving civil partner, or
- a child as described in section 599(6) TCA 1997.

ⁱ It is long standing Revenue practice that a widow / widower may elect not to apply the cessation / commencement rules on the death of their spouse / civil partner who was carrying on the trade / profession before his / her death. This 'continuing business' election may be made where the widow / widower takes an absolute interest in the business immediately after the death of the spouse / civil partner.