ICMSA
Submission to the Department of Agriculture, Food and the Marine on the Consultation of the implementation of the Agri-taxation Review 2014 and Income Stabilisation and Taxation.

May 2018

Consultation on the implementation of the Agri-taxation Review 2014 and Income Stabilisation and Taxation.

In this submission, ICMSA will focus on the two areas defined within the consultation process namely the implementation of the Agri-taxation Review 2014 and income stabilisation and taxation. These two sections form the major input of the submission but there are other areas that will be referred to with a view to being implemented in Budget 2019.

Background

The Irish economy continues to perform well with strong economic growth and employment levels. This presents the Government with opportunities and challenges and ICMSA believes that it is hugely important that Budget 2019 contains measures to support the productive sectors and those exposed to Brexit risks which remain front and centre despite the proximity of the leaving date.

The Agri-food sector has played a hugely important part in the growth of the Irish economy over the last number of years with agri-food exports to the fore of the recovery. Irish Agri-food and drink exports increased by 13 percent to approximately €12.6 billion in 2017. It is essential not only for rural Ireland and farm families but also the national economy that Budget 2019 takes account of the risk to the economic benefit and contribution of Irish agriculture particularly in a post Brexit environment.

The Irish Government and Department of Agriculture, Food and the Marine have ambitious plans for the future of Irish Agriculture as outlined in the Food Wise 2025 Report which sets out a ten-year strategy for the Irish agri-food sector which projects exports to increase to €19 billion coupled with the creation of 23,000 new jobs by 2025 and increasing value added in the agri-food sector to more than €13 billion.

It is essential necessary supports to ensure the continued growth and development of the most important indigenous sector in the Irish economy. Within this sector, Irish milk production has increased by almost 50% since the 2007-09 Food Harvest 2020 reference period. Despite this huge

change within the sector, dairy farm incomes have seen considerable volatility during this period. The management of volatility needs to be addressed through the taxation system.

ICMSA believe Irish agriculture has an excellent opportunity to reach its full potential but with the two key concerns being Brexit and future EU agriculture policy. In this regard, Budget 2019 must provide for the necessary adjustments to current taxation policy including the provision of a suitable income volatility management tool and other taxation proposals as set out in this Submission.

Section 1.

Income Stabilisation and Taxation.

Dairy farm income fluctuates from year to year due to many circumstances outside the control of Irish farmers. External forces such as macroeconomics, weather events, geopolitical matters, commodity markets, feed and oil prices, currency, and disease all combine to cause income volatility. Such external and internal forces compel those involved in the industry to adapt to ever-altering scenarios, however, the Irish agri-taxation system significantly impedes the ability of the sole trader to seize the opportunity to grow and develop their business due to periods of significant farm income volatility.

The extent of the extreme volatility in milk price in recent years has been clearly documented by Teagasc and commentators such as the European Milk Market Observatory. As with any other tradable commodity, dairy products face the potential for increases and decreases in both their demand and supply and as a result, changes in their value on world markets and hence Irish milk prices. Agricultural products such as dairy commodities are traded worldwide, and prices have fluctuated greatly over the last decade. Most of the external issues facing the Irish dairy sector such as price and demand cannot be controlled at farm level. ICMSA believe the Government must develop a workable and straightforward agri-taxation measure in Budget 2019 that will help farmers to manage the inherent volatility within the sector, especially during years of low milk prices.

Output and input price volatility has played a major role in the determination of profits earned by dairy farmers over the last decade. Continued volatility will lead to greater income uncertainty and this will be an important issue for Irish farming in terms of generational renewal. From 2007 to 2018, milk prices at the farm gate in Ireland have fluctuated from close to 40cpl to as low as 20 cpl. To emphasise this point, milk prices in 2018 have fallen by up to six cents per litre to date.
Volatility increases pressure on farm cash flow from year to year and is resulting in the exit of farmers from the industry. To address volatility, there is a need for dairy farmers to have a taxation system that allows flexibility from year to year to ensure viability in a bad year can be sustained from profits earned in good years.

Budget 2019 should provide for the introduction of an income volatility management tool to address the difficulties associated with volatile farm incomes and to ensure the availability of funds for investment.

Farm Management Deposit Scheme

In this context, ICMSA proposes the introduction of an income volatility management tool called the Farm Management Deposit Scheme (FMDS). ICMSA believe the Farm Management Deposits model has many merits and most definitely should be used as a template for the introduction of a farm income volatility management tool into the Irish income tax code for farmers based on the following criteria;

- Allow a farmer to deposit income into a farm management deposit account in the income tax year in which the profits are made, the amount of the deposit is not tax assessable income in that income year but can be accessed in a poor profit year when volatility has eroded profitability. The deposits scheme complements other risk management strategies available to farmers such as income averaging.

- Rules for off-farm income of a person availing of this tax measure and an overall ceiling on the amount that can be deposited in the Farm Management Deposit Scheme should be incorporated into this income volatility management tool. ICMSA suggests that an overall ceiling of €50,000 would be appropriate. Off- farm income of a spouse should not hinder access of a farmer to this scheme. This tax relief measure could be confined to farmers whose sole or principal income is from farming. Realistic off-farm income thresholds should be set.

- ICMSA believe limits could be placed both on the total amount that could be deposited in a given year and the aggregate amount at any time and suggest a maximum deposit per annum of 30 percent of farm profit and/or a maximum of €10,000. Funds could remain in the Farm Management Deposit account up to maximum period of 5 years.

- Farmers would then be able to avail of these funds in an independent deposit account or a Co-operative Managed Account to support the farm business in the event of a downturn in farm income and/or for investment in the farming enterprise.

- Where funds are taken from the farm deposit account in the form of income, then the normal rate of tax applicable in the year of withdrawal would apply.

- On-farm investment using funds from the farm management deposit account would qualify for all reliefs currently available for on-farm investment such as capital allowances.

- All interests accruing to the farmer will be returned to the deposit account and only the farmer in question will have access to the account to withdraw the money according to set parameters defined within the scheme.

- The normal rules regarding deposit guarantees would apply to these accounts whether in a financial institution or a Co-operative managed account.

Section 2

Implementation of the Agri-taxation Review 2014.

Overall, there were 25 recommendations from the Agri Taxation Review in 2014 and grouped as per the key policy objectives; 1. Increase the mobility and the productive use of land, 2. Assist succession: 3. Complement wider agriculture policies and schemes. ICMSA will go through those that need to be implemented or streamlined to a greater effect if they have already been enacted.

Agri-taxation policy objective 1

Increase the mobility and the productive use of land.

Recommendation 1: Retain Relief for certain income from leasing of farm land.

ICMSA acknowledge the increase in the mobility of land through this measure and believe it has increased productivity across the farming sectors. However, ICMSA propose that relief should be rolled out to parents/child farm lease arrangements to assist intergenerational transfer. We believe that this would be a very helpful measure and would remove a very unfair discrimination against farm families.

In this context, ICMSA propose the following regarding the extension of income tax relief to include family members in Budget 2019;

- Lessor must be 55 years or older;
- Suitably qualified leasee (Young Trained Farmer);
- Lease contract for definite term of no more than ten years;
- Lease contract to include provision for transfer of farm to leasee at end of lease period;
- Claw back provision if farm is not transferred to the Young Trained Farmer at the end of the lease contract period;
- Force majeure provisions.

Recommendation 2: Increase the income thresholds for relief from leasing income by 50%.

Recommendation 3: Introduce a fourth threshold for lease periods of 15 or more years with an exemption for the first €40,000 per annum.

Recommendation 4: Remove the lower age threshold of 40 years of age for eligibility for the long-term leasing tax relief.

ICMSA is satisfied that these recommendations have been achieved and have given sufficient benefit to the agricultural sector to see these limits retained into the future.

Recommendation 5: Allow non-connected limited companies as an eligible lessee for the long-term leasing tax relief.

ICMSA believes that this recommendation was essential given that that it took several years to implement and put those farmers who were willing to lease to a non-connected company at a disadvantage.

Recommendation 6: Relieve stamp duty on long-term leases (5 years or more) for agricultural land.

This recommendation has not been enacted to date and is now essential given the decision in Budget 2018 to increase non-residential stamp duty to 6%. ICMSA would immediately call for all non-residential stamp duty to be reduced to it previous level of 2% but at the very least this recommendation should be enacted to further encourage long term leasing.

Recommendation 7: Raise awareness among land owners of the current reliefs for long-term leasing.

ICMSA believe that there is ongoing confusion as to the rules and regulations relating to long term leasing and succession in general. A document with key information should be published each year with all the key information after the enactment of the Finance Bill. This will lead to clarity among farmers and to those that give advice to farmers on these issues.

Agri-taxation policy objective 2:

Assist succession: A range of measures are recommended to maintain and strengthen the supports for the transfer of farms:

Recommendation 8: Retain Agricultural Relief from Capital Acquisitions Tax.

Retaining this relief was the minimum standard acceptable the ICMSA and farmers in general. The overall rate of CAT needs to reduce in the upcoming Budget as well as a return to the previous band levels. Group A tax-free thresholds for transfers from parent to child/favourite niece or nephew are currently €310,000. However, this still represents a significant reduction compared to previous tax-free thresholds and ICMSA propose that Budget 2019 provides for an immediate increase to the Group A category from €310,000 to €500,000. In addition, as a commitment to the continued growth and development of the economy, the Government must provide for a significant reduction in the 33 percent Capital Acquisitions Tax rate in Budget 2019.

Recommendation 9: Target Agricultural Relief from Capital Acquisitions Tax to qualified or full-time farmers or to those who lease land out on a long-term basis.

The transfer of the family farm to the next generation would not be possible in the absence of the 90 percent Agricultural Relief for Capital Acquisitions Tax. This cornerstone relief which promotes the transfer of land from one generation to the next must be maintained at its current 90 percent rate in Budget 2019. This must be kept.

However, there is an anomaly within the application of the Capital Acquisitions Tax Favourite Niece/Nephew Relief about a situation whereby the niece/nephew has opted to lease the farm from the disposer prior to transfer as opposed to a situation whereby the niece/nephew has been working for the disposer. ICMSA believe this relief should also apply where the favourite niece/nephew has farmed the land under a lease agreement.

Recommendation 10: Retain Retirement Relief from Capital Gains Tax at current levels.

Recommendation 11: For transfers under Retirement Relief, extend the eligible letting period of a qualifying asset to 25 years.

Recommendation 12: For transfers other than to a child under Retirement Relief, as a once off measure until the end of 2016, allow conacre lettings as eligible.

The upper ager limit of 66 to access Retirement Relief should be dropped and not have an upper limit of €3m. ICMSA believe that the current 33 percent rate of Capital Gains Tax continues to be a significant deterrent to farm succession and investment and propose that Budget 2019 should provide for a significant reduction in the 33 percent rate currently applicable to all chargeable gains. In addition, the first €1,270 of an individual's chargeable gain is exempt from Capital Gains Tax, however, this exemption has not been increased since its introduction and ICMSA believe it should be increased to €5,000 in Budget 2019 to facilitate the sale of farm assets to encourage further re-investment in the farm business.

Recommendation 13: Extend Stamp Duty Consanguinity Relief on Non-Residential Transfers to the end of 2017.

Recommendation 14: Retain current stamp duty exemptions on transfers of land.

Recommendation 13 has been never being more important to those whose are eligible for the relief given the unexpected increase in non-residential stamp duty in Budget 2018. ICMSA is calling for all agricultural land sales to be subject to a 2% rate of stamp duty.

Young Trained Farmers Stamp Duty Relief should be permanent and would provide reassurance regarding future costs for farm families planning the transfer of their farm.

Consanguinity Relief while amended in the Finance Bill 2018 is an important relief from stamp duty frequently availed of in transferring family farms. Consanguinity relief is mostly relevant to transfers of agricultural property where the transferee does not qualify for an alternative relief such as Young Trained Farmer Relief. Consanguinity Relief should also be a permanent fixture to encourage farm transfer to the next generation.

Agri-taxation policy objective 3:

Complement wider agriculture policies and schemes

Recommendation 15: Retain the current Capital Allowances available to the sector.

Capital Allowances are a necessary tool for farmers investing in the expansion and upgrading of farm facilities to ensure the future viability of their business. However, the current application of capital allowances is very inflexible with farmers unable to utilise the allowance in years where farm profits are low or non-existent. Due to the cyclical nature of farm income, ICMSA believe the Government in Budget 2019 must allow for flexibility in the claiming of Capital Allowances and propose that farmers be allowed to write-off capital expenditure on farm buildings and plant and machinery over a period of between three and eight years with a "floating allowance" of up to 50 percent allowable in any one year to facilitate maximum utilisation and to take account of volatility. If implemented, the proposal would also provide a considerable boost to the economy of rural areas.

Recommendation 16: Retain current Stock Reliefs.

Stock Relief measures are a vital tool for farmers increasing stock numbers as they expand their farming enterprise. However, the current 25 percent stock relief means that farmers expanding their enterprise are taxed at 75 percent of the additional investment which in many cases is a substantial amount and is having a negative impact on expansion. ICMSA proposes an extension of the 100 percent stock relief to all additional stock expenditure of up to €100,000. Once a farmer has reached the €100,000 level, he/she would then qualify for 50 percent stock relief on the remainder of their investment in stock. In addition, ICMSA propose that if the qualifying farmer disposes of the herd within a specified timeframe then provisions could be included for a claw back of such relief.

Recommendation 17: Retain CGT relief on farm restructuring, allow whole-farm replacement and extend the measure to the end of 2016.

The changes to the Consolidation Relief of CGT in Finance Bill were welcome and whole farm replacement continues to be beneficial. ICMSA believe that the current 33 percent rate of Capital Gains Tax continues to be a significant deterrent to farm investment and propose that Budget 2019

should provide for a significant reduction in the 33 percent rate.

Indexation was withdrawn in 2002 and ICMSA propose its re-introduction to further stimulate the land transfer market and encourage land mobility.

Co-op Patronage Shares

The Co-operative movement has played and continues to play a hugely important role in the Agri-food sector and the wider rural community. The issuing of Patronage shares to active users of Co-operatives is central to the future role and development of all Co-operatives. Thus, the Revenue Commissioners eBrief 94/16 is of significant concern to the operation of Co-operatives in Ireland. ICMSA believes that the Minister for Finance should consider clarifying or amend the legislation to ensure that Co-op members will only be liable to tax on a realisation basis and that the nominal value will continue to be accepted in the absence of realisation.

Recommendation 18: Retain as tax exempt, profits or gains from the commercial occupation of woodlands.

Recommendation 19: Examine the broadening of the scope of Sustainable Energy Authority of Ireland's (SEAI) ACA scheme to incentivise investment in energy efficient equipment by making it available to non-incorporated businesses.

Some parts of the above have been implemented but ICMSA is seeking a far greater use of incentives in terms of energy efficient equipment. Grants for solar panels on milking parlours or farm sheds should be introduced as well as the use of renewables such as Anaerobic Digestors.

Recommendation 20: Retain the current measures and review in the context of new partnership register and supports under the RDP.

Recommendation 21: Retain and enhance Income Averaging by increasing the period from 3 to 5 years.

ICMSA believes that farmers should have the option of 3-year or 5-year income averaging to suit their own circumstances.

Recommendation 22: Allow averaging to be availed of where a farmer and/or their spouse receive income from an on-farm diversification trade or profession.
Recommendation 23: Examine the scope for extending income averaging to forestry clear-felling profits.
Income averaging been broadly successful as it has lowered the deviation of tax payments for farmers over 5 years. However, for those sole traders who form partnerships, there can be large liabilities when they leave income averaging. If there was a process whereby this average could continue after the partnership has been formed, it would be beneficial.

Recommendation 24: The Agri-taxation Working Group should remain in place to monitor the agri-taxation measures and examine other issues arising; and specifically, to:

- Examine the feasibility of introducing a risk deposit scheme: there is a risk deposit scheme currently operating in France and this will be examined further.
- Examine the feasibility of introducing a 'Phased Transfer Partnership'.
- Examine the tax system to determine unintended barriers to female participation.
- Examine other issues as necessary.

ICMSA submission on a Risk Deposit Scheme is documented above and we feel there are considerable benefits to a scheme being introduced.
The phased Transfer Partnership has been introduced. ICMSA believe there is an impediment to this scheme in the form of transferring the farm before 35 to avail of the 1% stamp duty relief. If you enter this phase partnership and the successor is a Young Trained Farmer under 40, stamp duty should be zero.

Recommendation 25: The Agri-taxation Working Group should also work to ensure better data collection on costs and benefits.
This recommendation should be fully implemented as there are many schemes that are proposed by various organisations and introduced with without a clear picture of a CB analysis. If an organisation has a proposed scheme, there should be a facility whereby they can get it costed (real, pecuniary and non-pecuniary costs and externalities and full social benefits) to determine its feasibility.

Other Taxation Issues

Earned Income Credit

- ICMSA believe there should be an equalising of the Earned Income Credit by increasing it to the level for all PAYE workers in Budget 2019 effective from 01 January 2019.

Universal Social Charge

- Elimination or further reduction of the Universal Social Charge in Budget 2018.
- Capital allowances should be deductible under the USC rules.
- The maximum USC rate applicable to the self-employed must be equalised to the PAYE maximum rate of 8 percent in Budget 2018.

Value Added Tax

- ICMSA propose that the 23 percent VAT rate which was introduced in 2011 should be reviewed downwards to 20 percent in Budget 2019. ICMSA believe this would encourage further on-farm and rural investment and would have a positive impact on purchasing activity in the rural economy.

Farm Safety Initiatives

- Farm safety expenditure should be treated as an expense in the year in which the expenditure is incurred.
- ICMSA propose that farmers should be allowed to claim back VAT on farm safety equipment and clothing.
- ICMSA propose the introduction of a Scrappage Scheme for PTO shafts as was recommended in the Seanad Public Consultation Committee Report on Farm Safety.

Farm Assist

- ICMSA believe that to properly take full account of income crisis in a given year, it is essential the Department of Social Protection takes the current years' income into account when assessing means on family farms

Fair Deal Scheme

- ICMSA believe farm families must be treated equitably and a cap on the percentage charge that can be applied to the non-residential farming asset must be introduced which is equivalent to the 3-year cap of 22.5 percent for the primary residence.
- ICMSA believe that the five-year look-back rule which applies to the financial assessment for the Fair Deal Scheme must be reassessed and suggest a reduction of this look-back period to one year.

Employer PRSI

- The employer PRSI rate should be reduced for lower incomes.

Pension Contributions

- Farmers need to ensure their financial needs are adequately provided for post-retirement. Therefore, continued saving in the form of a private pension needs to be incentivised and the current marginal rate of income tax relief for pension contributions must be maintained. However, flexibility must be applied to cope with volatility whereby more can be contributed in good years to offset bad years.