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## Turn your farm into a limited company

*Farms are businesses. Some farmers operate as sole traders, but others set up their farm as limited companies. Lorna Sixsmith and her husband recently did this. Here's why and what they learned.*

The reasons for farmers setting up a company vary but may include some of these:

- If they are paying tax at the higher rate (tax and levies up to 54% compared to 12.5% in the company).
- If they wish to build up cash to develop the farm, buy land or contribute to a pension.
- Those with high debt levels may find the higher rate of tax payable on capital repayments leaves them with very little spare cash.
- If they are unable to opt for income averaging as their spouse is self-employed in a non-farming business.

For farmers, it's a big decision to move from being a sole trader to a limited company. Indeed, making the decision can seem the hardest part. That feeling only lasts until you start the transfer process. Based on our experience earlier in 2016, here's some idea of what to expect from the process and the professionals you engage.

## **What your accountant does**

- Analyses the financial pros and cons of transferring to a company.
- Reflects on the income of the last three years and calculates your financial projections. An income spike in one year does not necessarily mean it's a good move.
- Helps you to calculate your salary requirements. You won't be able to dip into the farm account for emergencies once it becomes a company.
- Most farmers lease the land and buildings to the company. If you are selling some land to the company (if it is taking over the farm loans), your accountant will calculate the stamp duty and capital gains tax costs.
- Register the company name and get the CRO number, the copy certification of Incorporation, Articles of Association and the company seal.

*Tip:* Have an accountant who is patient, personable and speaks plain English. He/she may recommend consulting a specialist for a second opinion.

## **What the solicitor does**

Depending on your situation, you may need up to three solicitors. If you and your spouse have land and a herd number in each of your names, the process requires two solicitors. If you are renegotiating loans with the bank, you'll have to pay the fees for the bank's solicitor too.

- The solicitor draws up lease agreements (if leasing land to the company), an asset purchase agreement and a contract of sale (for land and machinery sold to the company).
- Liaises with your accountant, bank and the bank's solicitor.
- Completes searches, files documents with the CRO, and deals with the land registry.

*Tips:* If you don't have a solicitor, ask other farmers or your accountant for recommendations. Check your solicitor is experienced in this area and can provide a realistic quotation by asking relevant questions. You don't want to find that they are inefficient or receive a revised and significantly higher quote half way through the proceedings.

## **What the Department of Agriculture does**

It's a bit of a chicken and egg situation. You have to notify them of your intentions and get proceedings underway, but it cannot be finalised until they have the legal documents from your solicitor.

- Changes the name of your herd number.
- Transfers your entitlements (sale or lease).
- Requires a lot of paperwork.

*Tips:* The staff are helpful so don't be afraid to ask questions. I made three phone calls each time I had queries, and if I got the same answer three times, I assumed it was correct. The paperwork goes through many different departments, and a hold-up in one can mean your BPS payments are delayed so keep phoning to check progress is made.

## **What Teagasc does**

- Can help you complete paperwork (and you will need their signature and stamp on some forms).
- Advises you on the process but be aware that as your local advisor deals with so many different programmes, he/she may not have the specialist knowledge for this.

*Tip:* Insist on sit-down meetings with whatever advisor has the expert knowledge. Talking to two or three different advisors means they tell you different things that send you into a panic until you get clarification.

### **What your bank manager does**

- He/she may want to see a business plan.
- Sets up a new bank account in the company name. Closes your old account.
- Liaises with your solicitor and your accountant (and the bank's solicitor if relevant).
- Acts as a gatekeeper between you and "credit" in Dublin so they can translate your messages when you lose your patience. I'm sure our bank manager said something like, "I don't think these clients will accept putting up more security" when I emailed him with "tell credit they can go sing for it". Yes, it was a stressful day.

*Tip:* If transferring loans, you may have to renegotiate on rates and terms. The banks may want more securities than they did in the past. Choose your battles, know the ones you want to win and those you don't mind losing.

### **Final tips**

- Remember common sense is not very common at all. Triple check everything.
- Don't doubt your abilities.
- Try not to have the transfer and your busiest season on the farm coinciding. Stress is normal. Chocolate helps.
- Once you make the decision and are satisfied it is the right thing to do, go for it.

[Lorna Sixsmith](#) is an author and is also married to a farmer. Her books include: *How to be the perfect farm wife*; *Would you marry a farmer?*; and *An ideal farm husband*. Follow Lorna on Twitter @IrishFarmerette.