

## Farming - Death Cases: Commencement/Cessation

### Part 23-01-08

This document should be read in conjunction with Chapter 1 of Part 23 of the Taxes Consolidation Act 1997

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## 1. Executive Summary

This manual outlines the circumstances where a spouse<sup>1</sup> may continue the farming activities of a deceased spouse without applying the cessation and commencement provisions.

## 2. Cessation and commencement

Where a spouse takes over farming (or other trade or profession)<sup>2</sup> on the death of their spouse, Revenue does 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.

## 3. Averaging<sup>3</sup>

A spouse, taking over farming on the death of their spouse in the above circumstances where that spouse had elected for “averaging”, can continue “averaging” without revision, if they choose.

## 4. Stock Relief on the death of a farmer

Where the farm passes to the surviving spouse or child<sup>4</sup> who continues to farm, they can elect to treat the trade of farming as continuing for stock relief purposes<sup>5</sup>. This election must be made within two years of the end of the year of assessment in which the succession takes place. This will ensure that there will be no clawback of unrecovered stock relief arising solely because of the cessation on death.

To qualify for this election, the entire farm and trading stock must be transferred to the sole qualifying successor. Also, that person must not already have had stocks of an existing farming trade carried on by them.

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<sup>1</sup> See paragraph 4 for details of the [Application to civil partners](#).

<sup>2</sup> It is long standing Revenue practice (Tax Briefing, Issue 9 (January 1993) that a surviving spouse may elect not to apply the cessation / commencement rules on the death of their spouse who was carrying on the trade / profession before their death. This ‘continuing business’ election may be made where the surviving spouse takes an absolute interest in the business immediately after the death of their spouse.

<sup>3</sup> Further information on “averaging” is available in [Tax and Duty Manual 23-01-34](#).

<sup>4</sup> Section 599 TCA 1997, 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.

<sup>5</sup> This is provided for in Section 33 of Finance Act 1984 (repealed by Section 132(2) and Schedule 5, Part II, Finance Act 1996).

## 5. Application to civil partners

Where the farming activities of an individual who dies on or after 29 July 2011 are taken over by either:

- their surviving civil partner, or
- child as described in section 599(6) TCA 1997

the practices described above in relation to averaging and stock relief also apply.

**Note: This manual is currently subject to review and may not reflect up-to-date position.**

**Most recent version.**