DEACY GILLIGAN LTD

Accountants, Business and Taxation Advisors

(INCORPORATING DEACY & ASSOCIATES AND GREALY & CO.)

ESTATE PLANNING & ASSET TRANSFERS UPDATE

Budget 2012 maintained the status quo in terms of Income Tax, however significant changes in the area of capital taxes were announced. The immediate impact of these amendments is the increase in the tax rates of both Capital Gains Tax and Capital Acquisitions Tax from 25% to 30% with effect from the 7th December 2011. The more radical amendments in relation to the area of the Capital Gains Tax Retirement Relief provisions will come into force on 1st January 2014. While further amendments to the capital taxes regime are expected in future Budgets the majority of reliefs in their current form continue to be very generous and the resulting reduction in the tax costs associated with the transfers of assets should not be underestimated.

Some careful planning now may ensure that you are in a position to avail of the benefit of some of the following reliefs:

- **CGT Retirement Relief**
  Parents can transfer some/all of their qualifying business assets to their child (children) without incurring a liability to Capital Gains Tax (Retirement Relief within the family).

  Transfers of qualifying business assets to non family members can be completed without incurring a Capital Gains Tax charge where the total proceeds do not exceed €750,000, (Retirement Relief outside the family).

  <u>Depending on age this relief will be restricted from 1st January 2014.(See over leaf)</u>

- **CAT Business Property Relief**
  The receipt by a child of a family business, or part thereof, could benefit from a 90% reduction in the taxable value of the business interest transferring for Capital Acquisitions Tax purposes, where they receive a gift/inheritance of relevant business property. This also includes Agricultural Property.

- **Transfers of Sites —** Parents can transfer a site of up to 1 acre in size with value of up to €500,000 once to each of their children without being subject to Capital Gains Tax on the disposal.

- **CGT Principal Private Residence Relief —** A person's main residence may be disposed of without a Capital Gains Tax charge in certain circumstances.

- **CAT Exempt Thresholds —** A child can receive gifts/inheritances from their parents to the value of €250,000 in their lifetime without a liability to Capital Acquisitions Tax arising.

Early planning is key to ensuring the availability of certain reliefs particularly to the successful transfer of a business. All aspects, such as the legal, tax, accounting, company law and funding requirements must be considered well in advance to ensure all relevant legislation etc., is complied with when the transfer takes place. On a personal level decisions need to be made as regards who, when and how the sale/transfer should be done to ensure the best outcome for you, the individual.

It is also worth remembering that asset values have dropped significantly in recent times and these lower values will greatly reduce the transaction costs associated with the transfer of assets, i.e. Stamp Duty, Capital Gains Tax and Capital Acquisitions Tax. The disposal of assets at a loss can be tax efficient where such losses can be offset against gains arising on other assets in the same period or carried forward for offset against gains in subsequent periods.

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RELIEF AND EXEMPTIONS UPDATE

CGT Retirement Relief Changes

Retirement Relief is a relief which is available to an individual aged 55 years and over on the disposal of all or part of the qualifying assets of their business (including farmland and farm assets), provided they have been used for the purpose of a trade up to the date of disposal. Where all of the relevant conditions are met, the relief takes the form of a reduction in the Capital Gains Tax accruing on the disposal of the qualifying assets. The relief is to be significantly restricted for transfers/sales after the 31st December 2013.

Disposal Type Up To 31/12/2013

Within Family	Full CGT Exemption for gains arising on disposals of 'Qualifying Assets' with no limit on the value of those assets.
Outside Family	Exemption from CGT for gains arising on disposals of 'Qualifying Assets' provided the proceeds do not exceed a life time limit of €750,000. Marginal Relief may be available where proceeds exceed this limit.

Disposal Type From 01/01/2014

Within Family	Full CGT Exemption for gains arising on disposals of 'Qualifying Assets' with no limit on the value of those assets for individuals aged 55 years to 66 years. Value of 'Qualifying Assets' restricted to €3 million for transfers by individuals aged 66 years and older.
Outside Family	Exemption from CGT for gains arising on disposals of 'Qualifying Assets', provided the proceeds do not exceed €750,000 applies for disposals up to age 66 years. Lifetime limit reduced to €500,000 for disposals by individuals aged 66 years and older.

New CGT Relief Introduced

Capital Gains Tax Relief for Certain Disposals

Residential and commercial property purchased in the period 7th December 2011 to 31st December 2013 and retained for a period of 7 years will not be liable to CGT on any gain arising for those 7 years. Where a property is held for longer than 7 years the gain liable to CGT will be assessed on a time apportionment basis for the period of ownership over 7 years. The relief applies to properties purchased in Ireland and all EU member states.

CAPITAL ACQUISITIONS TAX
Tax Free Thresholds
Business Property Relief

Capital Acquisitions Tax Group Thresholds
(effective from 7th December 2011)

Group A	Parent to Child	€ 250,000
Group B	Other Blood Relative	€ 33,500
Group C	Stanger	€ 16,750

Beneficiaries of gifts and inheritances can obtain relief where they receive gifts and inheritances of relevant business property. The relief amounts to a reduction of 90% in respect of the taxable value attributable to relevant business property received.

Agricultural Property Relief
Similar to Business Property Relief, relief from Capital Acquisitions Tax is available to individuals where they receive agricultural assets and satisfy the 'Farmer Test'. This relief also amounts to a 90% reduction in respect of the taxable value attributable to the agricultural property received.

Small Gift Exemption
Individuals are allowed to receive by gift up to €3,000 per tax year from any number of individuals free of Capital Acquisitions Tax. Where a gift exceeds this threshold the first €3,000 will be disregarded in ascertaining the taxable amount.

CAT/CGT Offset:
A credit for any CGT payable on the same event that gives rise to the CAT charge is available for offset against the CAT arising.

The foregoing is intended only as a guide, should you wish to discuss any of the points above further please contact Mary McDonnell by phone or email her on mmcdonnell@dgl.ie or one of our tax team at the address below.

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