KEARNEY MCARDLE MCENEANEY & CO.

Chartered Certified Accountants, Registered Auditors
Tax Consultants & Financial Advisors

Succession Planning

Since the beginning of the economic downturn successive government budgets have simultaneously raised tax rates while also limiting or removing tax reliefs and incentives, the probability is that this will continue. Most recently, it has been announced in Finance Act 2012 that a number of changes will come into effect after 31st December 2013.

With the above in mind, it appears that now may be an opportune time to consider passing assets on to the next generation and/or retirement.

With the basket of reliefs currently still available presently it may be possible to:

Pass/sell your family business or farm to the next generation

- without having a liability to Capital Gains Tax personally
- with the possibility that the recipients will not suffer a Capital Acquisitions Tax liability on any gift element received

Sell your family business or farm to a 3rd party subject to a €750,000 cap

- without having a liability to Capital Gains Tax personally
- a family company may act as the 3rd party were it buys-back its own shares from you, therefore an external purchaser may not be needed

Plan your will to minimise the tax exposure of your legatees on your passing

Passing certain assets now may also cause the liability to tax to be lower on future transfers of assets.

Key dates in relation to succession planning:

- Before either spouse reaches 55 years
- Before either spouse reaches 66 years
- Before 31st December 2013

Contact: Colm Reilly
or Noel Reid
KMR Accountants
12 Crowe Street
Dundalk
Co Louth
Tel: 042 9336811

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The following is a brief note of some of the relevant tax rates and reliefs available, which are under the threat of change or removal. The reliefs are subject to criteria and claw back rules.

Rates of tax

Capital Gains Tax - a tax on gains on capital assets **30%**
(Previously 25% and 20% in recent times)

Capital Acquisition Tax - a tax on inheritances or gifts received **30%**
(Previously 25% and 20% in recent times)

Stamp Duty – a tax on the transfer of assets

Non-residential Property	**2%**
Company Shares	**1%**

Reliefs:

Capital Gains Tax

Retirement Relief

Retirement Relief provides an exemption from Capital Gains Tax on the disposal of the family business (including shares in a family company) or family farm up to certain limits. ***Although known as retirement relief retiring is not a criterion of qualifying for the relief.***

The following changes are to take effect after 31st December 2013.

- Restrictions on individuals reaching 66 years.
- Limit on value of family business or farm disposed of to family members without the charge to Capital Gains Tax to be reduced to €3,000,000 (currently unlimited).
- Limit on value of family business or farm disposed of to 3rd parties without the charge to Capital Gains Tax to be reduced to €500,000 (currently €750,000).

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Capital Acquisitions Tax

Agricultural Relief

Agricultural Relief values the agricultural assets received by gift or inheritance at 10% of their market value for the purposes of the calculation of an individual's liability to Capital Acquisitions Tax.

Business Relief

Business Relief values the business assets received by gift or inheritance at 10% of their market value for the purposes of the calculation of an individual's liability to Capital Acquisitions Tax.

Capital Gains Tax set-off on same event

There is a relief currently available whereby Capital Gains Tax paid may be deducted from another individual's liability to Capital Acquisitions Tax on the same event.

Stamp Duty

Consanguinity Relief

Consanguinity Relief is a relief that allows the liability to stamp duty to be reduced by 50% on transfers between "blood relatives", stamp duty on share transfers is excluded from this relief. Consanguinity Relief is due to cease to be available on non-residential property after 31st December 2014.

Wills

As always, having a will made while taking into account the impact of current tax law is always important. A planned will can minimise the tax exposure of your legatees on your passing.

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