Capital Acquisitions Tax

A Customer Guide

This is an outline of the current tax and legal issues that may need to be considered when you are considering Inheritance Tax planning and it is based on an interpretation of current legislation and Revenue practice. (May 2010)

It is recommended that you seek professional legal and tax advice to ensure that any arrangement you decide to put in place is appropriate to your individual or businesses' personal and corporate circumstances.

Whilst every care has been taken to ensure that the information in this guide is accurate, Irish Life Assurance plc does not accept responsibility for errors contained in this document. This Guide does not constitute tax or estate planning advice and has not been prepared based on the financial needs or objectives of any particular person, and does not take account of the specific needs or circumstances of any person.

1 Introduction

In the past "Estate planning" was something we believed to be only for the elite, very few wealthy individuals and their families in our society. However, this is not solely the case. If you are planning to leave your house, your estate or any other assets to your family – you need to make sure the real value of these assets is not reduced by Inheritance Tax.

Despite the recent downturn in the economy, it is still important to protect estate values. A reduction in tax free thresholds and an increase in the capital acquisitions tax rate, has resulted in more and more people who previously did not have to give consideration to this area now needing to do so.

Getting Started

Very many people start off by looking to save tax and avoid legal problems. While this is vitally important, it is equally important to try and plan for what you would like and what is practical in your particular family or business circumstances.

So we start with the facts and your intentions, and then look to minimising any problems and plan for any tax impacts that cannot be overcome.

Wishes

What would you like to happen on death? Does everything go to a spouse, some to children, a charity, a friend? Are there practical considerations?

You may have a good idea of what you wish to happen, but has this been legally copper fastened, have you made a Will?

2

Making a will

Succession to Property

When a person dies all his/her property devolves to his/her "personal representatives". The personal representatives then transfer ownership of the property to the individual's successors. However the way that property will be transferred will depend on whether the individual has made a Will or not.

If there is a valid Will, then the personal representatives will distribute the assets in accordance with the terms of the Will. If there is no Will the individual is said to have died "intestate" and the property would be distributed in accordance with the provisions of the Succession Act 1965.

Why make a Will?

There are many good reasons.

- A Will ensures that the estate will be divided according to the individual's wishes and not as the Succession Act dictates.
- Generally speaking there is less delay and dispute where an individual dies and leaves a Will than where no Will exists.
- Capital Acquisitions Tax. By making a Will an individual can, for example, make maximum use of the thresholds for his children and the spouse exemption from Inheritance Tax.
- The exercise involves a useful financial review. It highlights just how financially prepared one's family would be in the event of unexpected death.
- For people with young children it provides an opportunity to appoint legal guardians to the children in the event that both parents should die together, in a car or plane crash, for example.

2 Inheritance Tax

Inheritance Tax comes under the heading of Capital Acquisitions Tax. Capital Acquisitions Tax (CAT) is the tax you are charged when you receive a gift or an inheritance. CAT comprises two separate taxes - a Gift Tax payable on lifetime gifts and an Inheritance Tax payable on inheritances received on a death.

Who is liable to this tax in Ireland?

Although the beneficiary of the estate is primarily liable for the payment of Inheritance Tax, whether or not a charge to tax arises is dependent on whether the disponer (the deceased person who is providing the inheritance) or the beneficiary (the person receiving the gift or inheritance) is resident or ordinarily resident in the state at the date of the gift or inheritance.

If the disponer or the beneficiary is resident or ordinarily resident in Ireland, then the entire estate will be liable to Inheritance Tax here.

If both the disponer and the beneficiary are not resident or ordinarily resident in Ireland, then only Irish property will be liable to tax e.g. Irish property, shares in an Irish company, money in an Irish bank account.

Who pays the tax?

It is the person receiving the gift or inheritance who is liable to CAT and not the person or estate providing the benefit.

CAT Rates

For new gifts and inheritances received on or after 5th December 2001 tax is calculated according to the total of all gifts and inheritances received from all sources since 5th December, 1991. The following CAT Tax Table currently applies:

	Tax Rate
Group Threshold	NIL
Balance	25%

The Group threshold amounts vary depending on the relationship between the beneficiary and the disponer, i.e. the person providing the gift or inheritance.

Group 1 €414,799	Where the person receiving the property is a child or a minor child of a deceased child of the disponer.
Group 2 €41,481	Where the person receiving the property is a lineal ancestor, descendant, a brother/sister, or child of a brother sister of the disponer.
Group 3 €20,740	All other cases

The threshold amounts are those applying for the calendar year 2010. Thresholds are adjusted for inflation from 1st January each year.

Aggregation

Under the current aggregation rules all benefits from Group 1 will be added together with an overall threshold of €414,799. Benefits from Group 2 members (brother, sister, grandparent etc) will be added together for the purpose of the €41,481 threshold, and benefits from Group 3 members (strangers) for the purpose of the €20,740 threshold. So in effect a beneficiary can potentially receive up to €477,020 tax-free if the benefits come through different "groups".

What assets are liable to Inheritance Tax?

The personal representatives of the deceased must list all assets and liabilities of the deceased when completing a tax return in relation to Inheritance Tax. Tax is levied on the total net value of all assets received by a beneficiary, other than a legal spouse. All assets are taken into account, the family home, a second home or investment property, the value of all investments, including cash, pension and life assurance benefits as well as all personal property, e.g. house contents, jewellery etc.

Reliefs and Exemptions:

Certain reliefs and exemptions apply to certain types of assets. These have been introduced over the years primarily to encourage private enterprise and to avoid the forced sale of a family farm, business or the family home in certain circumstances. The main exemptions/reliefs are

Spouse Exemption- Gifts or inheritances received by one spouse from the other are totally exempt from CAT.

Agricultural Relief –the value of farmland, buildings and stock can be reduced by 90% where the beneficiary is a qualifying farmer and he or she holds the property for a minimum of 6 years.

Business Relief – can provide a similar reduction of 90% in the value of certain businesses or private companies, where both the business and the beneficiary meet the qualifying conditions.

Family Home Relief - exemption from Gift and Inheritance Tax is available on the value of certain "dwellings" with up to an acre of land where the beneficiary meets certain conditions which ensure that the property was, and continues to be, their home.

Life Assurance Relief - If you take out a life assurance plan, specifically for Inheritance Tax, the funds paid out on the plan will not be subject to Inheritance Tax - provided they are actually used to pay the tax bill.

All reliefs are highly qualified. Your Adviser can provide you with full details of the conditions that apply.

Life Assurance Relief (you may also have heard this referred to as "Section 60 Relief" or "Section 72 relief").

To encourage people to plan ahead and to have cash available to pay Inheritance Tax when they die relief is available on certain life assurance plans. This relief was introduced by Section 60, of the 1985 Finance Act to allow people to plan for the payment in a tax efficient manner. The legislation is now contained in Section 72 of the CAT Consolidation Act 2003.

The Relief provides that where a life assurance policy is put in place to provide for the payment of Inheritance Tax, Revenue will not seek to tax the policy proceeds to the extent that the money is used to pay Inheritance Tax arising on the death of the lives assured under the policy, provided certain conditions are met.

A policy effected under Section 72 CAT Consolidation Act, 2003 effectively gives you an option – rather than letting tax legislation decide how your estate will be distributed – you can pass on your assets in the way you wish - and plan for the tax consequences.

Benefits of Life Assurance Relief

The benefit of using a 'qualifying' life assurance plan to fund for the payment of Inheritance Tax is that, as long as certain conditions are met, the proceeds of the policy when used to pay Inheritance Tax, will not increase the beneficiaries Inheritance Tax liability. Whereas, if the money was left in a bank account, for example, this money will be seen by Revenue as an additional inheritance and will increase the tax bill.

For example

	Bank Account Proceeds	"Special" Section 72 policy
Value Accumulated	€100,000	€100,000
Tax Payable	€25,000	Nil*
Left to pay tax	€75,000	€100,000

* Where the proceeds are used to pay relevant Inheritance Tax arising on the death of the life or lives assured under the life assurance plan Inheritance Tax will not be payable on the plan proceeds.

Tax is a complicated subject. This gives only a very brief guide to some of the Inheritance Tax rules applying in May 2010. These rules may change in the future. You should discuss your personal situation and the likely effect Inheritance Tax will have on your plans with your tax or financial adviser.

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