



# Tax & Succession Planning

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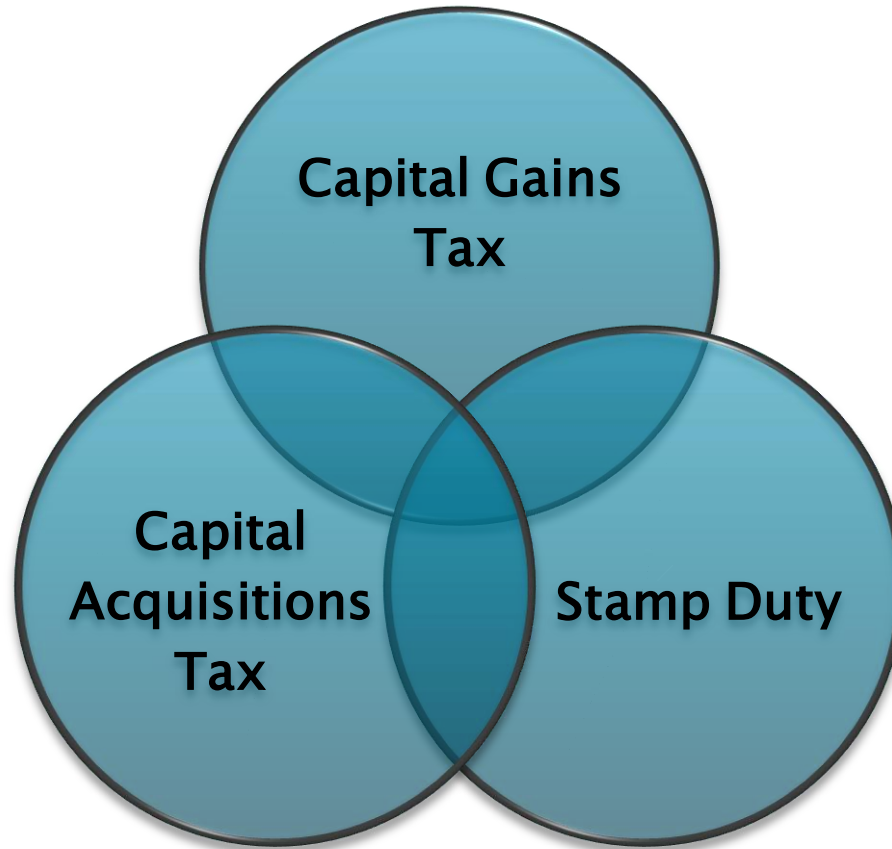
“The only sure things in life are death and taxes.”



# Deciding how to pass on family assets

- ▶ Many family assets transfer on death.
- ▶ Lifetime transfer of assets is still the most favourable to most families.
- ▶ This helps avoid the need for parents or children to realise family assets such as selling farmland to pay tax liabilities.

# Taxes to Consider when transferring assets



# Capital Gains Tax

- ▶ No charge to CGT on transfers arising on a death.
- ▶ Lifetime Transfers
  - Current Rate 25% (*expected to increase*)
  - Retirement Relief can significantly reduce or even eliminate any capital gains tax payable.
- ▶ Retirement Relief is a relief from Capital Gains Tax on the transfer of business assets.
  - Must be 55yrs or over but do not have to retire
  - Must have owned & farmed the farm for over 10 yrs
  - Unlimited relief when transferred to a child

# Exceptions

1. Transfer to a child (son, daughter, favourite nephew or niece) where the land was leased in any or all of the 15 yrs prior to the transfer but was owned and farmed by the transferor for 10yrs prior to letting.
2. The owner was participating in the Early Farm Retirement Scheme. The land must have been eligible under the scheme terms and must have been farmed for 10 yrs prior to entry to the scheme.

# Avoid Claw Back of the Relief

- ▶ The farmland and related assets (ie milk quota) have to be retained for 6 yrs.
- ▶ When the disposal is not made to a child, the relief is restricted to sale proceeds €750,000
- ▶ Capital Gains Tax – may be reviewed to 30%
- ▶ Commission of Taxation report has recommended that retirement relief be limited to asset values up to €3million

# Capital Acquisition Tax

- ▶ Also known as Gift or Inheritance Tax
- ▶ Gifts between spouses are exempt

	Relationship	Tax free threshold
Group A	Son, daughter, Grandchild*, Nephew* or Niece* (under certain circumstances)	€332,084
Group B	Parent, Sister, Brother, Niece, Nephew or Grandchild	€33,208
Group C	No relation	€16,604

- ▶ The above limits are likely to be reduced by up to 20%

# Major Reliefs Available to reduce your CAT

- ▶ Agricultural Relief – can reduce the value of agricultural assets by 90%
- ▶ Business Relief – can reduce the value of business assets (inc land but excluding the farm dwelling) being transferred to 10%
- ▶ Favourite Nephew Relief – must have worked on the farm for a period of 5 years (more than 15 hrs per week)

# Practical Example

## Transfer of farmland & buildings to a son

- ▶ Increased the tax saving to €41,000

	Taxable Value	Agricultural Value
Value	€500,000	€50,000
Threshold Limit*	<u>(€335,084)</u>	<u>(€335,084)</u>
Taxable Amount	€164,916	NIL
Tax @ 25%	€41,229	NIL

*\* Includes annual exemption of €3,000 per annum*

# Practical Example

Transfer of farmland & buildings to a nephew who does not qualify for favourite nephew relief

	Taxable Value	Agricultural Value
Value	€500,000	€50,000
Threshold Limit*	<u>(€36,208)</u>	<u>(€36,208)</u>
Taxable Amount	€463,792	€13,792
Tax @ 25%	€115,948	€3,448

*\* Includes annual exemption of €3,000 per annum*

# Stamp Duty

## Conditions for full relief on the transfer of agricultural land (inc buildings)

1. Farmer must be under 35yrs and must meet certain training requirements.
2. Farmer must furnish a declaration to revenue.
3. Revenue can claw back the relief if the land is disposed of within the 5 year period.
4. The transfer must be a sale or gift which is irrevocable.

# Incorporating a Business

## Why Incorporate?

- ▶ Business Growth
- ▶ Level of Drawings
- ▶ Succession Planning

# Forming a Limited Company

## Advantages

- ▶ Potential for substantial tax savings
- ▶ No PRSI
- ▶ No Universal Social Charge on company profits
- ▶ Suitable structure for involvement of family members
- ▶ No audit requirement (turnover less than €6.5m)
- ▶ Land and single farm payments entitlements can be released by a farmer to his own company at a rent that suits their tax profile.
- ▶ Tax free cash can be released from sale of stock and machinery to the company.

# Forming a Company

## Disadvantages

- ▶ No tax savings if profits do not exceed personal drawing.
- ▶ Farm Building Allowance cannot be claimed on buildings which are not owned by the company.
- ▶ In certain circumstances, there is a possible capital gains tax exposure on disposal of sites/lands or on a lifetime transfer of the farm.
- ▶ Where large debt exists, it may be difficult to effect worthwhile savings.
- ▶ Where personal drawings account for the greater part of profits, forming a company may not be of any advantage.

# Tax Relief Check List

- ▶ Family Wages
- ▶ Income Averaging
- ▶ Stock Relief
- ▶ Dependent Relative Allowance
- ▶ Local Authority Service Charges
- ▶ Medical Expenses (inc dependent relative)
- ▶ Tax allowable Life Assurance
- ▶ Personal Pension Payments
- ▶ Property, BES, Film Investment Relief
- ▶ Age Allowance
- ▶ Charitable Donations
- ▶ College Fees (not inc Registration or Exam fees)

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“One day son, 60 percent of this will be yours.”