Top five things to know - succession planning

The five tax reliefs you may be entitled to when you retire from your business.

Retirement from your business and the passing of assets and wealth to the next generation is an area that requires comprehensive tax planning, considering the wealth of the tax reliefs available. Below is a brief description of the five tax reliefs that are available in this regard.

Retirement relief

In the future, you may be considering disposing of your shares to a third party or transferring same to your children.

Retirement Relief is a relief for Capital Gains Tax on disposal of qualifying business assets. This relief can significantly reduce, and in some cases eliminate, the Capital Gains Tax liability arising for a business owner on the disposal of part/all of the business or shares in a qualifying trade company.

In order to qualify for relief, the individual must have attained the age of 55 years.

The relief available depends on both the age of the individual at the time of disposal and the relationship between the individual and the person to whom the business/shares are disposed to.

Where all conditions of the relief are satisfied, the following relief may be available:

- *For disposals to children, where the business owner is between 55 and 66 years of age, there is no limit on the amount of the relief.*

- *For disposals to children where the business owner has reached the age of 66, the maximum retirement relief available is €3 million.*

- *Where the disposal is to someone other than a child the maximum retirement relief available is €750,000 where the business owner is between 55 and 66 years of age.*

- *Where the disposal is to someone other than a child and the business owner has reached the age of 66 years the maximum retirement relief available is €500,000.*

Due to the fact that some of the conditions of the relief take up to 10 years to satisfy, careful tax planning is required to ensure that maximum relief can be claimed.

Company share buy-back relief

Alternatively, where your company has sufficient retained reserves, the company may acquire your shares (rather than your fellow shareholders or a third party).

Where a trade company were to acquire an individual's shares, the shareholder would be chargeable to Income Tax, USC and PRSI at his marginal rate on the sales proceeds (52%/55%).

A relief known as 'company buyback of shares relief' exists to treat the acquisition of your shares by your company as a Capital Gains Tax (33%) as opposed to an Income Tax Event (52/55%). This is subject to certain conditions being satisfied by both the shareholder and the company.

Business assets relief

A CAT liability may arise for the person receiving the gift/inheritance of business assets. Business Asset Relief can significantly reduce the CAT liability arising on the receipt of qualifying business assets.

This relief operates by reducing the taxable value of the qualifying business assets by 90%. There are a number of conditions to be satisfied in order for the relief to apply.

Business Asset Relief applies not only in respect of shares in a qualifying trading company but may also apply to assets used by the company (e.g. commercial property). The relief also applies to the assets of a business (e.g. sole trader). However, Business Asset Relief does not apply to investment assets.

Small gifts exemption

Where you are considering making a future gift/inheritance of cash, you may consider using the small gifts exemption in order to reduce the future CAT liability for the receipt of same.

The small gifts exemption, treats the first €3,000 of gifts received from each person each year is exempt from CAT. Although this may not sound like a significant amount in the context of a future gift/inheritance, where advance planning is undertaken this exemption can be utilised to achieve significant future CAT savings.

Consider the following example, David is married, with two children and five grandchildren. David and his wife have cash of €500,000 which they will not use in their lifetime and intend to bequeath to their children, children's spouses and grandchildren. Assuming David's children and grandchildren have otherwise used their group tax thresholds, the future inheritance of the cash would result in a tax liability of €165,000 (i.e. the family would receive only €335,000 of the €500,000 bequeathed).

However, where David and his wife had made annual gifts of €3,000 to their family (children, children's spouses and grandchildren), the tax liability could have been reduced. David and his wife could each make an annual gift of €27,000 (€54,000 in total) to the family tax free. Over 10 years, David and his wife could gift the €500,000 without their family incurring a tax liability, resulting in a tax saving for their family of €165,000.

Dwelling house exemption

The Dwelling House Exemption provides a total exemption from CAT in respect of both the gift/inheritance of a residential property, or part thereof, which the recipient will occupy as their Principal Private Residence. There are a number of conditions to be satisfied by both the recipient and the person making the gift/inheritance. Stamp Duty and Capital Gains Tax must also be considered on the disposal of a property.

With the increasing market value of residential properties, this relief can offer significant tax savings.

This ThinkBusiness advice clinic is in association with [PKF O'Connor, Leddy & Holmes]. Article by Catherine McGovern, tax director.