

SFPI Webinar
Advising on Family Business
Succession

2 July, 2020



RONAN
DALY
JERMYN

Today's speaker



Eoin Tobin

Partner - Taxation

Ronan Daly Jermyn

E. eoin.tobin@rdj.ie

T. +353 21 4802741

www.rdj.ie

Overview

- Advising on family business succession.
- What trends are we seeing?
- Will business owners accelerate or step back from succession plans?
- Estate planning - part of the bigger picture
- Share schemes & family partnerships – getting the next generation involved.



Capital Taxes Landscape / Budget 2021



- Deterioration in public finances raises prospect of tax-raising measures in budget via The Irish Times 5th May 2020
- <https://www.irishtimes.com/business/economy/deterioration-in-public-finances-raises-prospect-of-tax-raising-measures-in-budget-1.4245903>

New Programme for Government - Tax Bits



- *“We will utilise taxation measures, as well as expenditure measures, to close the deficit and fund public services if required. In doing so, we will focus any tax rises on those taxes which tax behaviours with negative externalities such as carbon tax, sugar tax, plastics, etc.”*
- *“Review the taxation environment for SMEs and entrepreneurs with a view to introducing improvements to different schemes so that Ireland remains an attractive place to sustain and grow an existing business or to start and scale up a new business”*

Succession Planning for Family Business Owners



- Lifetime gifting
- Succession plan?
- Changed by Covid-19
- History is being fast forwarded
- In certain cases will succession plans be accelerated?
- Valuation issues at present
- Budget 2021 looming / CAT and stamp duty are soft targets

Succession Planning Case Study



- Gift of family farm by 2 parents to their son – valued €1,000,000
- Contemplated since 2019
- Parents decided to push the button in April 2020
- Concerns around future Budget changes / lessening of reliefs
- Parents will retain the house and avenue - valued €750,000
- 2 plots
- Plot A – acquired in 2000
- Plot B – acquired in 2012
- Both farmed until middle 2019, let to a 3rd party since then.

Succession Planning Case Study



- Plot A – retirement relief / letting is not disqualifying.
- Plot B – no retirement relief / owned for less than 10 years
- Entrepreneur relief / issue re. letting / conacre different?
- Reassess valuation of Plot B for CGT purposes.
- 7 year relief / section 604A TCA
- CAT agricultural relief.
- Stamp duty / consanguinity relief / 1% (saving of 6.5%).
- Differences between retirement relief conditions v entrepreneur relief conditions

Succession Planning Case Study



- Control
- Restrictions in the deed of transfer / various covenants being imposed
- Wills being updated by parents and child
- Child will inherit the house on death / CAT dwelling house relief?
- Parents will inherit back farm if child dies / s.79 CATCA 2003

Estate Planning for Family Business Owners



- Will activity
- Law Society guidance re. execution
- Change in client circumstances?
- Change of executor or trustee?
- Tax efficient will
- Bundle of disparate assets / use of discretionary trust to warehouse asset to facilitate optimum use of reliefs / cost benefit analysis

Estate Planning Case Study



- Significant estate / no will
- Plans to leave to nieces and nephews
- Recently married / spouse / not seeking her legal right share we are told
- Benefits to include shares in a trading company and agricultural property worth in the region of €2 million.

Estate Planning Case Study



- Issue re. farmer test for CAT agricultural relief purposes.
- 80% test problem / shares in trading company = problem
- Use of discretionary trust to warehouse shares?
- Anti avoidance provision introduced in FA 2014 re. discretionary trusts
- Won't apply here as discretionary trust not set up by the beneficiary
- Cost of DTT (not principal object) v CAT saving
- Also, deed of renunciation for spouse / independent legal advice

Family Partnerships



- Back in vogue
- Pass assets to the next generation in a controlled manner
- Parents can be managing partners
- Gift of cash to invest / CAT thresholds
- Contribute assets / growth to children
- Valuation questions
- Good time to set up when market is at the bottom?

Share Schemes Involving the Next Generation



- Share remuneration
- Valuable tool in every company owner's armoury.
- Growth / hurdle shares?
- Next generation share in value of the family business over a certain value / current value of the business?
- Share valuation / Covid 19 impacts?
- Tax neutral / hope value?
- Cap current value of parents' interest in business?
- CAT mitigation
- Shareholders' agreement / family charter
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Questions?

We continue to issue Insights on how best to manage and mitigate risks in the current COVID-19 situation.

Read more of what we're discussing at **www.rdj.ie**

