

9<sup>th</sup> June 2010

## **Succession Planning: Tax Planning & Wealth Retention**



A very significant proportion of Irish businesses are family run and they tend to remain in family ownership. The issue of when the business should transfer to the next generation is always a vexed question. However from a tax perspective now might be the right time to act.

Passing on the family business is probably the most significant decision in the lifetime of all business owners and they need to be happy that the timing is right for them and for the child. Are the parents happy to pass it on? Does the child want it? Has the child sufficient interest in it? What about providing for other children? Have the parents looked at other issues like their own retirement position and ensure they have sufficient security and future income to live on? The issues are endless.

Whether the right time to transfer the business is now will depend on the family's particular circumstances, however now is definitely the time to start planning for it for two main reasons.

Firstly, we are all very much aware that the value of most businesses has fallen significantly in the current economic climate. Perhaps the only silver lining to that dark cloud is that the lower the value of the business, the lower the associated tax cost in transferring the business to the next generation.

The second driver is that business owners are most concerned that the Minister for Finance will implement the Commission on Taxation Recommendations and restrict the existing generous suite of tax reliefs available for transferring family businesses.

There are 3 main taxes which can arise when a family business or shares in a family trading company are gifted from a parent to a child, namely Capital Gains Tax ('CGT'), Capital Acquisitions Tax ('CAT') and Stamp Duty. However, the current tax regime contains reliefs which can significantly reduce or eliminate altogether the tax costs arising on the transfer of a business to the next generation:

- CGT is payable at 25% by the parent, however if the conditions for CGT Retirement Relief are met there can be an exemption from this tax. Coincidentally, actual retirement is not a condition of the relief.
- CAT or Gift Tax is also payable at 25%, however if the conditions for CAT Business Property Relief are met, the value of the business assets being transferred may be reduced by up to 90% for CAT purposes. In addition, each child can receive a lifetime gift of just in excess of €400k from a parent tax free. Combining these reliefs means that business assets totalling in excess of €4m may be transferred without exposure to CAT, if the conditions are met.

- The transfer of these assets may trigger Stamp Duty at reduced rates of 1% to 3% to family members.

The Commission on Taxation Report recommends that CGT Retirement Relief should be restricted to assets up to €3m and that CAT Business Property relief should be reduced to 75% (rather than 90%) and again limited to business values of €3m. If these changes are implemented it will significantly increase the tax cost of transferring family businesses to the next generation.

Passing on a business is a significant life time decision for an entrepreneur and they should review their own circumstances and objectives before doing so. Building a successful business takes hard work and sacrifice and business owners should ensure that passing it on to the next generation should not extract value overall and reduce wealth they have created over their watch. The fact that associated tax costs may be at an all time low should not drive the decision on whether now is the right time to pass it on, but it should be considered in the context of an overall succession plan which, with careful planning, should ensure that the business does not suffer significant tax outlay, funds which would be more usefully employed elsewhere in building new business ideas in the current economy.

Parents will have a number of concerns when contemplating the transfer, but tax considerations aside, there are a number of mechanisms that can be put in place to ensure that parents continue to have a significant input into the business following a transfer and parents can ensure that there is adequate provision for them out of the business following the change of ownership. There are also numerous tax planning and wealth retention mechanisms that can be put in place in the transfer process, by means of contributions to the parents' pension funds or extracting value from the business, all of which can be done tax efficiently.

The right time to transfer the business will depend on the business itself and the family circumstances. However, now is the right time to start planning for it? This should alleviate concerns and ensure that the business continues as a successful business through the next generation.

Mairead O'Grady can be contacted at [mogrady@rbk.ie](mailto:mogrady@rbk.ie) or (01) 6440100.

### **About RBK**

Russell Brennan Keane is one of Ireland's leading business advisory and accountancy firms. With 50 years experience providing professional advisory services to a range of clients in the mid to large corporate market in Ireland, from offices in Dublin, Athlone and Roscommon.

#### **Press Contact:**

Mary Cloonan  
Tel: + 353 (0)1 6440100 or 086 8227228  
Email: [mcloonan@rbk.ie](mailto:mcloonan@rbk.ie)