DO I HAVE TO PAY CAPITAL GAINS TAX ON PROPERTY IN NORTHERN IRELAND? - REPUBLIC OF IRELAND TAX RESIDENTS BENEFIT

An significant number of Republic of Ireland residents have acquired or intend to acquire investment property in Northern Ireland and other parts of the United Kingdom. All prudent investors should ascertain the potential tax implications prior to making any such investment. One of the most significant taxes in this regard is Capital Gains Tax. This tax arises in the future when an investor sells the investment property. Generally speaking, Capital Gains Tax rates are much higher in the UK than in Ireland.

Many tax treaties provide that capital gains tax is paid in the country in which the property is located, the good news is that under the Irish UK Double Taxation Treaty an Republic of Ireland Investor selling Northern Irish Investment Property is only subject to Capital Gains Tax in the Republic of Ireland. As such, there will not be a penny tax to be paid to the Inland Revenue in the Northern Ireland on such a sale. This is set out at Article 14 (1) of the Double Taxation Treaty.

This tax treatment is not generally well known and it is certainly good news to all Republic of Ireland (ROI) Resident Investors in Property in Northern Ireland and other parts of the UK. Effectively an ROI Investor will pay lower Capital Gains Tax on profits made on Northern Irish property than if that person resided in Northern Ireland himself. In effect the ROI Investor has a tax advantage over his counterpart across the border and the Irish sea.

It should be noted that this tax treatment is not reciprocated by the Irish government. If a Tax Resident Investor from Northern Ireland or another part of the UK sells property in the Republic of Ireland, they are legally obliged to pay Capital Gains Tax to the Revenue Commissioners in the Republic of Ireland and thereafter they must make a Tax Return to the Inland Revenue in the UK. The Inland Revenue in Northern Ireland/UK will assess the tax due to it by the that Northern Ireland/UK taxpayer as if the property had been sold in Northern Ireland/UK. The Northern Ireland/UK taxpayer must then pay the Northern Ireland/UK tax but they are entitled to claim a credit in respect of the tax already paid in the Republic of Ireland. In the normal course this will mean that most of the tax is paid to the Irish Revenue and a smaller balance tax will be paid to the UK Inland Revenue.

How much longer this favourable tax treatment for ROI Residents selling property in Northern Ireland and the rest of the UK will continue is difficult to say. There is no guarantee that at some future stage the Chancellor of the Exchequer might not decide to change the law as it is probably only a matter of time before the Inland Revenue in Northern Ireland/UK realise that they may be losing out on a significant source of revenue by failing to tax the gains made on sales of property in their jurisdictions by ROI Investors.

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August 2009