# GIFTS AND INHERITANCE TAX PLANNING – SHIFTING GOALPOSTS

## Recent History

Up to the recent past, most people inheriting assets on the death of their parents escaped Inheritance Tax. They did this by virtue of the fact that each child could receive more than €500,000 tax free from their parents. In addition, there were generous tax reliefs available where the values of certain business or agricultural assets were heavily discounted before the tax free threshold was applied.

That landscape has changed since the economic crisis. The Gift / Inheritance tax rate has increased from 25% to 30% and, more importantly, the tax free threshold has now reduced to €250,000 for each child. While asset values are lower, in practical terms, many more people are now paying Gift or Inheritance Tax and indeed sizeable tax payments are becoming more frequent, particularly for inheritances.

## Business Owners and Farmers

There are a number of possible options and exemptions available to those who want to do some relatively straightforward tax planning in respect of their Assets. Firstly, Gift or Inheritance Tax Reliefs for business and agricultural assets have remained in place, despite recommendations from the Commission on Taxation to make them less generous. There has never been a better time for business owners, including farmers, to transfer assets to the next generation, because asset values are at a low point in the cycle, particularly in respect of business assets. In addition, the Irish rate of Gift and Inheritance Tax could keep rising. The current rate of 30% is still relatively low compared to other European countries, such as the UK where it is 40%. It has been 40% in this country in the not too distant past.

**Retirement Relief**

Owners of family businesses should also be aware of changes coming down the line in relation to Retirement Relief. Until now, a business owner who had reached the age of 55 and satisfied a number of conditions, could transfer the family business to their child without being liable to Capital Gains Tax. It is still often a surprise to parents giving gifts that they may have to pay Capital Gains Tax even though they are not receiving any money whatsoever from their children. It should be noted that the Revenue deems the gifted assets to have been sold at their current market value and seek to tax any gain accordingly.

**Finance Act 2012 and CGT Retirement Relief**

Up until 2012, providing certain criteria were met, a business owner or farmer over the age of 55, could transfer their business to their child or children without incurring a Capital Gains Tax Liability.

This year's Finance Act (2012) introduces a change whereby the maximum value a person aged 66 or over can transfer to the child under this Capital Gains Tax Relief Scheme is capped at €3 million as and from 1st January 2014. For high net worth individuals, there is a window between now and until 1st July 2014 to avail of the current uncapped scheme as the new €3 million cap will not come into effect until then.

Many business owners will face the age old dilemma of balancing the correct commercial decision with the most tax efficient decision. Having trusted professional advisers to guide business owners in their decisions is extremely important.

**Simple Inheritance Tax Planning Strategies**

Simpler tax planning strategies exist, such as splitting benefits among the wider family in order to use up various tax free thresholds. As Gift and

Inheritance Tax is a tax on the beneficiary, not on the person giving the gift, each beneficiary has a tax free threshold. The extent of that threshold depends on their relationship to the person giving the gift with children having the largest threshold of €250,000, which vastly exceeds the thresholds for more distant relatives. By way of example, a parent could leave a child a tax free inheritance of €250,000 and then split the remaining benefits between grandchildren who can receive about €33,000 without incurring an inheritance tax liability.

Parents can also consider availing of the annual €3,000 Gift Tax Exemption. While this may not sound like a lot, it can be a useful tax planning strategy e.g. a husband and wife can each give €3,000 (so a total of €6,000) to each of their four children every year for say 10 years. After the 10 years, they will have passed €240,000 to their children tax free.

For further advice on tax planning measures, please contact Fergal McManus of Morgan McManus Solicitors.