Chartered Accountants Ireland

Eoin Kennelly, Director, Kennelly Tax Advisers Limited

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Capital gains tax

1. National Recovery Plan

2. Comparison with regimes in Europe and US

3. Some topical matters
   - Development land losses
   - Holding company structure
   - Philanthropy

National Recovery Plan

The base for CGT and CAT will be broadened while the level of reliefs and exemptions for these taxes will be reduced. In 2012, the current single CGT rate of 25% will be changed to a system of differing rates for different levels of gains. A similar system will be introduced for CAT where the current tax-free thresholds will be reduced to reflect the fall on asset values over recent years and the very generous nature of these thresholds.

In line with the commitments on tax expenditures in this Plan, reliefs and exemptions from CGT, CAT and Stamp Duty will either be abolished or greatly restricted to ensure that there is an adequate base for these taxes and that all of society makes a fair contribution to the correction of the public finances

National Recovery Plan

- Single rate of 25% replaced with tiered structure
- No detail on how exactly this will work
- What might be proposed?

National Recovery Plan

- Align CGT rates with income tax rates
- 20% on first EUR332,084?
- Balance at 41%?

National Recovery Plan

- More sophisticated approach
- Use the CGT system to encourage longer term investment
- Treat short term gains as income and longer term gains differently
- Expect significant restrictions to various CGT reliefs in line with Commission on Taxation recommendations

Regimes in Europe

Germany

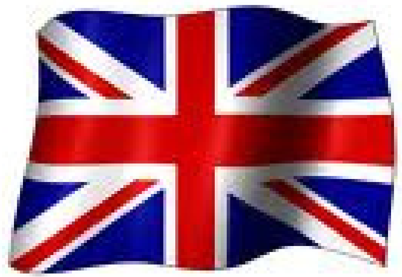
- Partially integrated system with income tax
- Many exemptions and flat rate 25%

France

- Partially integrated system
- Exemption for shares held for 8 years plus
- Flat rate tax of 28.1%

UK and US Regime

UK



- Two rates of 18% and 28%
- Partially integrated with income tax, no social security charge

US

- Short term gains integrated with income tax
- Short term (ownership of less than 1 year)
- Longer term gains flat rate of 15%

National Recovery Plan

- Align CGT rates with income tax rates
- 20% on first EUR332,084
- Balance at 41%

Development land losses

What is development land?

- Land whose current market value is greater than its "current use value" – actual use of land is unimportant

- Capital gains tax at 25% on development land gains

Computational rules

- Loss on disposal of development land – can it be used?

  (i) Can be used to reduce development land gains

  (ii) Can be used to reduce ordinary gains

- Loss on Principal Private Residence purchased with development potential

Development land losses

- Property bought in 2007 for EUR6.25m including a large garden, development potential

- Similar property nearby, small garden no development potential, sold EUR5.5m in May 2007

- Assume development value of property is EUR0.75m

- Entire property sold for EUR1.4m in January 2011

- Can capital loss of EUR4.85m be used against capital gains?

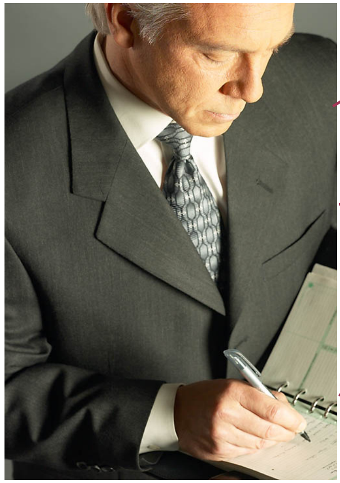
Development land losses

Need to do two computations:

1. CGT calculation based solely on values as a residence
   – Loss of EUR4.1m (i.e. EUR5.5 less EUR1.4m) is not available as a gain on sale would be exempt (PPR relief)

2. CGT calculation on development land values only
   – If development land value on sale is nil, then development land loss of EUR0.75m has arisen and is available

Holding company



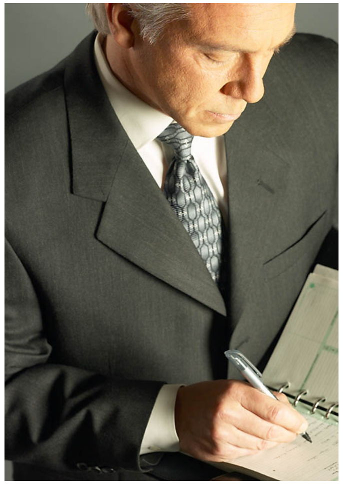
Equity portfolio

5% of start-up Co A

10% of start-up Co B

25% CGT on sale of investments

New structure



Holding Co.

Can sell investments without tax if conditions met

5% of start-up A

10% of start-up B

Hold Co Retirement

- Holdco sells trading company
- Holdco has cash
- Individual retires to sunny climes
- May be possible to liquidate holdco in some years time with little or no CGT
- Beware section 29A

Philanthropy – capital gains tax

- EUR80,000 “high earners” restriction on income donations
- No restriction on capital gains tax “exemption” for donations
- Donations to charities consisting of shares
  - Income tax or CGT but not both.