

# Private client taxation

## “A focus on the practical side”

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# TOPICAL ISSUES



- Irish domiciled and non Irish domiciled - moving to Ireland
- Gift and Inheritance tax and some international developments
- Changing UK landscape and what does it mean for Ireland?

# THINKING ABOUT MOVING TO IRELAND

## Fred

- Born in Ireland
- Married to Rosa - 3 kids
- Moved to Italy in 1993
- Employed in Italy



## Rosa

- Parents Italian
- Attended college in Dublin where she met Fred
- Left Ireland after college in 1993 to live in Italy
- Took over the family business in Italy



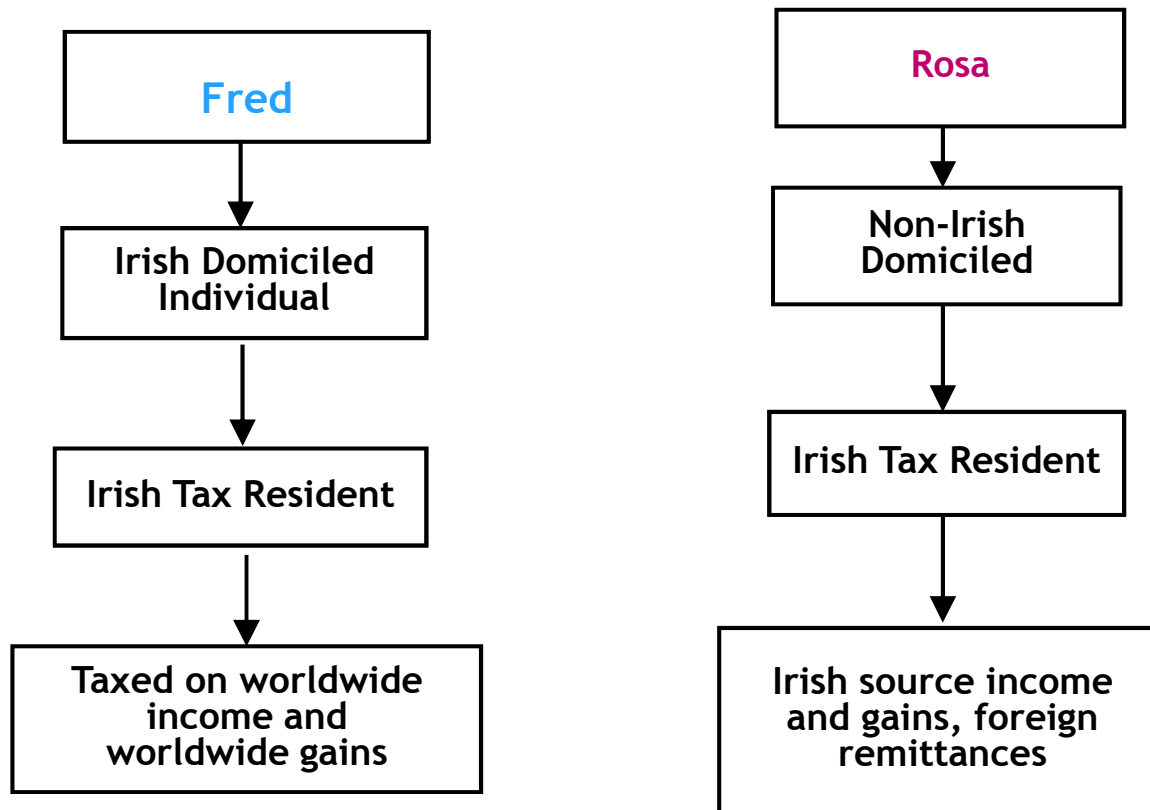
# FRED AND ROSA'S ASSETS



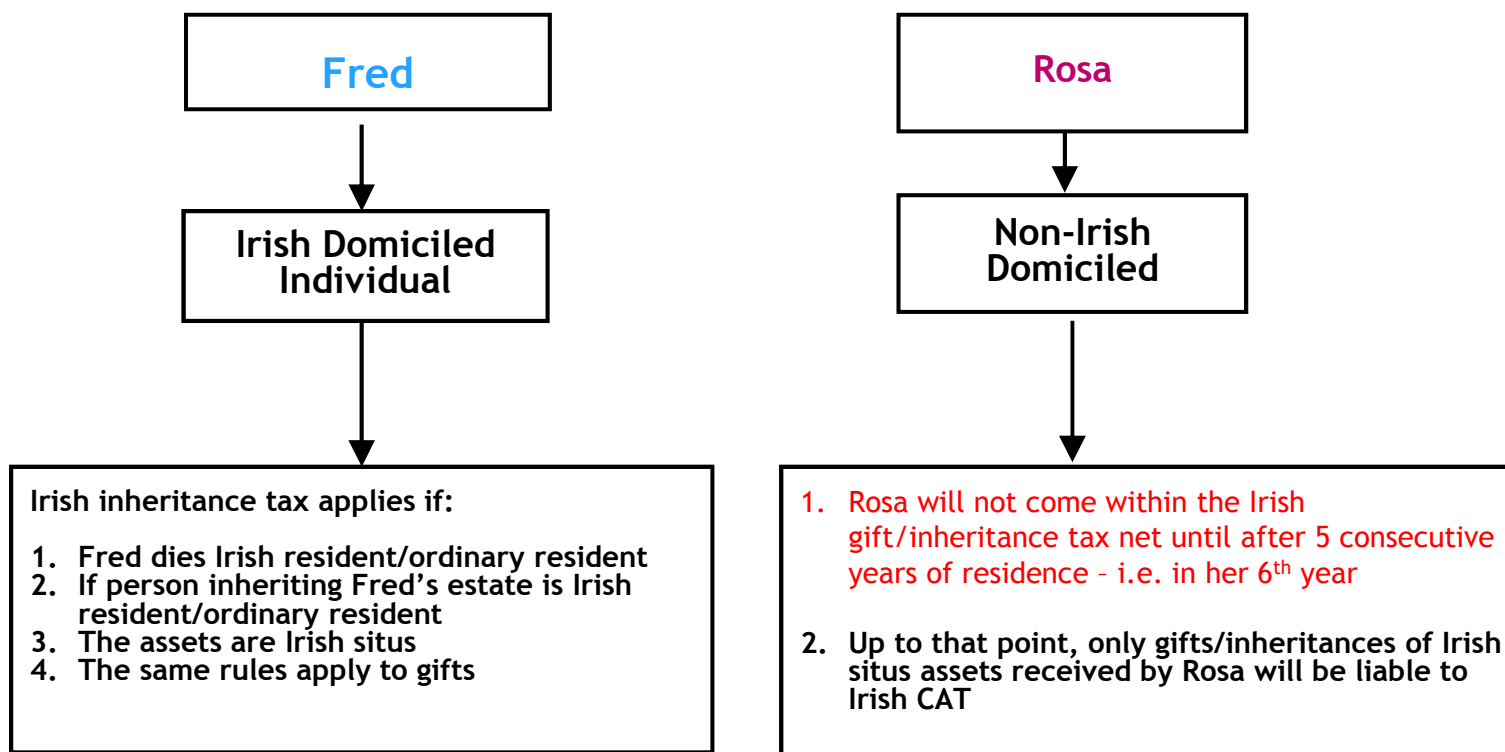
Fred's Assets/income	Rosa's Assets/income
Italian employment	Companies/business in Italy
Irish & UK residential property	Holiday home Spain and Chalet in France
Investment portfolio	Investment portfolio
Future inheritances	Future inheritances



# TAXATION STATUS - FRED & ROSA



# GIFT & INHERITANCE TAX STATUS - FRED & ROSA



## MAINTAINING FOREIGN DOMICILE

- Continue business activities in Italy ✓
- Maintain the family home and social connections in Italy ✓
- Burial plot and Will ✓
- Intention to return to Italy on the happening of a “*clearly foreseen and reasonably anticipated contingency*”

-*Perdoni v Curati* [2011] EWHC 3442 (Ch)

### In practice:

1. Always document the domicile of your client and their objectives
2. Keep under review



## POSSIBLE TRAPS BEFORE MOVING

- Figure out when client will become Irish tax resident
- Fred and Rosa plan to move to Ireland in April 2017
- Restructuring needs to be done before 31 Dec 2016
- Cannot be tax resident for part of a taxation year!





## PLANNING BEFORE MOVING TO IRELAND - SUGGESTIONS

1. Consider gifting before becoming tax resident	✓
2. Consider transferring assets to Rosa 	✓
3. Set up new accounts - “clean capital”	✓
4. Domicile levy 	x
5. Rosa should review her investment portfolio	✓



## INVESTMENT PORTFOLIO - ACTION LIST

Find an Irish broker with a foreign brokerage account	✓
Avoid Irish assets	✓
Ask broker for FX movements	✓
Be mindful of offshore fund investments	✓
Canadian iShares are a good alternative to US ETFs	✓
Cash in foreign currency is an Irish situs asset	⚠
Rebase appropriate assets	✓

# REVENUE GUIDANCE NOTE ON EXCHANGE TRADED FUNDS (ETFs) - JUNE 2015

## Main points:

1. Irish and EU domiciled ETFs - offshore fund treatment
2. ETFs domiciled in the US, EEA and OECD countries - CGT treatment
3. ETCs - CGT treatment



## FOREIGN CURRENCY CASH DEPOSITS

### Dollar account

- Opened dollar account on 2 Dec 2009
- Exchange rate 1.5029 - USD450,870 (EUR300,000) - **base cost**
- Bank balance on 31 October 2016 - USD449,335
- Exchange rate: 1.1212 = EUR400,763 - **proceeds**

Should Fred and Rosa rebase or not?



## OTHER PRACTICAL ITEMS

- PPS number - “Exceptional Application” for non-residents
- Cars - VRT/transfer of residence relief
- Visas & work permit
- Pets - EU Pet Passport
- Child benefit/home carers credit
- Pensions



## PLANNING AFTER MOVING TO IRELAND - ACTION LIST

Maintaining the capital and income accounts	✓
Remit already taxed income/gains/fund gains in priority to other income sources	✓
Spend foreign income outside of Ireland, holidays etc.	✓
Using credit/debit cards in Ireland	⚠
Fred - Earned employment income up to the date of arrival in Ireland is not taxable - split year relief	✓
Review foreign structures - new FA 2015 change	⚠ ✓

## ROSA WANTS TO BUY A HOUSE?

Rosa has been resident in Ireland for a number of years. She has built up income in an offshore account and wants to use the income to buy a house in Ireland. Rosa has suggested to take out a loan in Italy for the Irish property:

- Using the foreign income account to repay the loan
- Using the money in her income account as security for the loan



Are these remittances?

## ROSA'S FRENCH RENTAL PROPERTY

Rosa has a French rental property. Gross rental income is EUR20,000. The net rental profit/loss after expenses is a loss of **-EUR2,000**. What can Rosa remit without a tax charge. Is the answer A, B, C?

- A. EUR2,000
- B. EUR20,000
- C. Nil





## ROSA WANTS TO BRING HER NEW CAR INTO IRELAND

- Rosa bought a car in Italy and brings it into Ireland
- Remittance: **Yes** or **No**?
- How was the car funded in the first place?
- Gain - “Used or enjoyed..”
- Income - “full amount of the actual sum received..”



# Gift and Inheritance tax

## Irish and International Developments



## OECD - INHERITANCE TAX RATES

No.	Country	%
1.	Japan	55%
2.	South Korea	50%
3.	France	45%
4.	UK	40%
5.	US	40%
6.	Spain	34%
7.	Ireland	33%

**“UK - 3 times as many estates are expected to pay inheritance tax this year compared with 6 years ago”**

Financial Times, 8 January 2016

*Top rates to lineal heirs in the OECD 2015*

**KTA**

**KENNELLY**  
Tax Advisers

**CTA**  
Chartered Tax Adviser

 **Irish Tax Institute**  
Leaders in Tax

## EU REGULATION ON SUCCESSION LAW “BRUSSELS IV”

- Regulation 650/2012 attempts to harmonise succession law across the EU
- Cross border estate issues - e.g. forced heirship
- 24 signatory states
- Denmark, UK and Ireland opted out
- So, why do we care?



## BRUSSELS IV



- Can elect that Irish rules apply to assets located in any of the signatory countries
- Only relevant for countries with forced heirship laws (e.g. France, Spain, Portugal)
- Clause/election in Will if you want property to pass to spouse
- Removes uncertainty for Rosa - she can elect to pass the French property and Spanish property to Fred in her Will

## ESTATE PLANNING - “WHAT ARE WE TELLING CLIENTS?”

- Fred & Rosa - great opportunity!
- Utilising the EUR3,000 for all, accounts for minors
- Family home exemption - possible changes?
- Business relief
- Interest free loans
  - Why lend instead of gifting?



## GIFTS TO CHILDREN

- Interest free loans to children
- Gift equal to free use of money
- Section 40(2) CATCA - “best price obtainable in the open market”
- Revenue Guidance updated example from a rate of 12% to 1.5%
  - “Best rate a prudent depositor would obtain”



## INTEREST FREE LOAN

- Loan EUR800,000 to Fred and Rosa from Fred's parents
- Prudent deposit rate 1.5% gross
- Annual gift - EUR12,000 - covered by small gift exemption

Gross or net of DIRT? (0.59% net of DIRT)



## The future of the business?



# THE FUTURE FOR ROSA'S COMPANY

## Remittance basis opportunity for Rosa's company

- CGT: follows the incorporation of the company ✓
- Income: follows the residence of the company ✗

## THE FUTURE FOR ROSA'S COMPANY

Tax efficient ways of realising profit from the company:

1. Entrepreneur relief: 1<sup>st</sup> EUR1m - 20%
2. Retirement relief

– **Caution: Interaction of reliefs needs consideration!**



## THE FUTURE FOR ROSA'S COMPANY

- Partial sale for at least EUR1m entrepreneurs relief pre 55
- Keep at least 25% of company
- Sell for EUR750,000 tax free if over 55 and under 66
- Nothing tax free if significantly over limits e.g. sell for EUR2m - no retirement relief



## CHANGES IN THE UK AND IMPACT IN IRELAND



## RECENT CHANGES IN THE UK

*In the last 4 years.....*

1. New taxes on high value residential property held by corporates
2. UK residential property, however held, exposed to Inheritance tax
3. Extended CGT to non residents for residential property
4. Increases in stamp duty charges
5. New “deemed domicile” rule for all UK tax purposes



Financial Times - 10 March 2016

*“7 out of 10 non-doms are leaving this country”*

*Where are they all going?*



*Monaco, Switzerland, France, Israel, Spain, Portugal, Dubai*

*£6.6bn - income tax paid by 114,300 non-doms in 2013-14*

*£4.9bn income tax paid by 5,000 remittance non-doms payers in 2013-14*



## HOW IRELAND COMPARES WITH THE UK ON TAXES

	Ireland	UK & NI (16/17)
<b>INCOME TAX</b>		
Salary at which rate changes to 40% (€1.39 per £)	€33,800	€57,290
Effective total tax rate on dividends at higher rate	55%	32.5%
<b>CAPITAL TAXES</b>		
Standard CGT rate	33%	 20%
CGT rate first - €13m on exit after 5 years	32%	10%
CGT rate first - €1m on exit after 5 years	20%	10%
CGT exemption for EIS/EIS & SEIS	No	Yes
CGT Rollover relief for future investments	No	Yes
Gift tax	33%	No
Inheritance tax	33%	40%
<b>CORPORATION TAX ISSUES</b>		
Corporation tax rate	12.5%	 20%
VAT	23%	20%

Source: Dublin Chamber of Commerce



## WHO SHOULD BE CONCERNED?

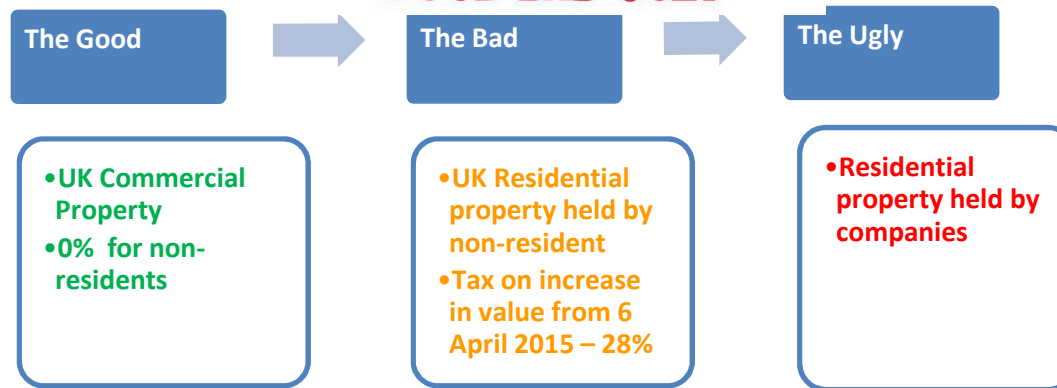
- Clients with UK property
- Individuals born with a UK domicile
- “Long term residents” in the UK 15 years +



Is it all doom and gloom?

- Budget 2016 - “deemed-domiciled” - taxed on increase in value from 6 April 2017 for non-UK based assets

# UK PROPERTY INVESTMENTS



## INTER-SPOUSE EXEMPTION

- UK domiciled spouse to non-domiciled spouse
- GBP650,000 tax free
- **Before** - UK domicile person to Irish domicile not exempt
- **Now** - Election to be domiciled for inheritance tax purposes



## **NEW!** - ELECTION TO BE DOMICILED

- Irish spouse can elect to be UK domiciled
- Must elect within 2 years of death
- Inheritance is exempt
- **If the spouse dies within 4 years the estate will be liable to tax in the UK**

