Tax News
Property

This edition of Tax News is a special property edition. Without wanting to fuel a property bubble, our view is that there has never been a more tax efficient time to invest in property. Stamp duty is as low as 1% or 2%, there is a tax exemption for capital gains over the next 7 years, and plenty of ways to reduce the tax bill on rental income.

This edition outlines some of the main tax points to note, both for Irish resident investors and also for non-residents interested in investment in Irish property,

If you would like to discuss any aspect please do not hesitate to contact me or one of our tax team.

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7 year capital gains tax exemption

Regular followers of KTA will be tired of hearing us bang on about the 7 year capital gains tax exemption for the last 2 years. However, we could not resist the temptation to make one last effort to publicise this tax relief, which will no longer be available after the end of this year.

Remind me, what is this 7 year exemption again?

The 7 year exemption provides that if you buy land or buildings before the end of this year, and hold them for 7 years, you do not have to pay capital gains tax on sale. The important points to note are:

- You must buy the property before 31 December 2014
- You must hold the property for at least 7 years. If you sell the property after 7 years, the gain will be fully exempt from Irish capital gains tax. If you hold it for say 10 years, $^{7}/_{10}{}^{ths}$ of the gain will be tax free, if you sell it after 12 years, $^{7}/_{12}{}^{ths}$ of the gain will be tax free, and so on
- The property does not have to be bought on the open market. You can buy it from a relative and still qualify for the exemption provided that you pay the relative at least 75% of what the property is worth
- Not just Irish property is eligible for this exemption – it extends to all property within the EEA. So whether you are considering buying a palazzo in Venice, a gite in the French countryside or a cottage in the West of Ireland, you should try to do so before the end of the year to come within the 7 year exemption.

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The exemption is also valuable in a foreign context, for example:

- Non-residents purchasing Irish property – the exemption is a valuable incentive as, provided they hold the property for at least 7 years, there may be little or no Irish tax on sale. From 1 January, any non-resident buying Irish property will be liable to capital gains tax as normal on a sale of property at the Irish rate of 33%, which compares unfavourably with rates elsewhere in the EU

- Commercial property in the UK is a particularly tax efficient investment with the 7 year exemption – Irish residents who invest in UK commercial property do not have to pay any capital gains tax on sale, and the 7 year exemption ensures that the gain over the next 7 years on a UK commercial property investment will be tax free.

Clever ways of using the exemption

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"Selling properties into companies in order to extract cash from the companies."

The 7 year exemption has opened up some avenues of tax planning. Some clever ways that clients have been using the exemption include:

- Selling properties into companies in order to extract cash from the companies. Normally, we would not recommend having a company own property as any gain over the next number of years will be taxed both in the company and when the value is extracted from the company, but the 7 year exemption can change this analysis. If your have cash trapped in a company, consider selling a property into the company before the end of the year as a way of extracting that cash

- Selling properties within the family to bring them within the remit of the 7 year exemption: if you have a property that you have owned for many years and that does not currently qualify for the 7 year exemption, consider selling it to your children. If you children acquire the property from you before 31 December, it will qualify for the 7 year exemption in their hands and any growth in the property over the next 7 years will be tax free.   This is a good way of having value accrue to the next generation in a tax free way

- If you have a group of companies, there may be opportunities to sell property from one group company to another before 31 December to bring the property within the scope of the 7 year exemption.

Local Property Tax LPT

Local Property Tax

Local authorities (including Dublin City Council, South Dublin County Council, Dun Laoghaire-Rathdown, Wicklow and Cork County Council) have recently voted to reduce property tax for 2015. The greatest reductions are in Wicklow, South Dublin, Dublin City, Dun Laoghaire Rathdown, Fingal and Clare where property owners will pay 15% less than the normal rate which is currently 0.18% on the first EUR1m and 0.25% on the balance. The next local property tax payment is due on 7 January 2015 and is still based on the value declared for the property on 1 May 2013.

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Tax based property investments – use your allowances by year end!

Do you own any property that qualified for tax based capital allowances (for example, crèches, nursing homes, hospitals, hotels)? If the property's tax life has ended, you must use those allowances by the end of December 2014 or you will lose them.

If you have unutilised property based allowances you should look at ways of using them before the end of the year.

If you rent property to your company, it will be worth revisiting the terms of the lease to see if it is possible to advance rental income to the current year so that the allowances are utilised.

There may be other opportunities to accelerate rent. For example, rather than renting directly to your tenant, you could grant a 5 year lease to your company at a premium payable in 2014 (which would use some allowances before they expire). Your company then leases the property to your tenant so overall your tenant pays the same but you have moved the rent into 2014. If you have any property based allowances that are due to expire at the end of the year it may be worth having a chat to us.

Non-residents holding residential property in the UK

From 6 April 2015 non-UK residents holding UK residential property will be within the charge to UK CGT. The intention is that the property will be rebased as at 6 April 2015. CGT will apply on a future disposal of the property.

UK commercial property is still an attractive buy as commercial property is not affected by the new rules.

Therefore, if you were to purchase a UK commercial property before the end of 2014, it could avail of the 7 year exemption for Irish CGT and continue to be exempt from UK CGT. A gain arising on the sale of this property after 7 years could be entirely exempt from tax in both Ireland and the UK.

It is also important that the property is purchased in the correct structure. Purchasing UK commercial property through a non-UK resident company, may be beneficial as it can provide a UK inheritance tax saving and depending on the level of rental income may also achieve some UK income tax savings.

However, beware of company structures for holding UK residential property which is used personally. Such structures can now give rise to very significant tax charges on purchase and on an annual basis.

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Capital allowances for plant and machinery

As mentioned above, the "tax based" capital allowances for property are being phased out and the schemes that give tax allowances for people investing in certain types of building e.g. hotels, holiday cottages, nursing home etc., are for the most part due to expire at the end of this year.

However, you can still claim a tax deduction for plant and machinery within your building.

There are very few income tax deductions still available and as far as we can see this one is massively under claimed.

The deduction is available over the first 8 years of ownership and you can offset $^{1}/_{8}{}^{th}$ of the cost of the plant and machinery each year. For example, if you purchase a building for EUR5m that has plant and machinery content of EUR1m, you can claim a tax deduction against your rent of EUR125,000 each year for 8 years following purchase.

Once you have written off the cost of the plant against your rental income, if you subsequently sell the building and receive value for that plant some or all of the capital allowances you have claimed may be withdrawn. This is why plant and machinery allowances are more valuable for long-term holders who will get the benefit today against rental income and are not overly concerned about a withdrawal of the allowances in the event of a sale of the property.

People often think that if they buy a property unfurnished, there are no items that qualify for capital allowances. However, most properties will have some or all plant and machinery of the following type and it is worth quantifying the amount of allowances that can be claimed:

- Kitchen units
- Electrical and plumbing installations (including boilers, radiators etc)
- Bathroom suites
- Building work and architects fees related to the above.

We have advised a number of our clients with property investments (both residential and commercial) to engage a professional valuer to quantify the amount of capital allowances in the buildings. Capital allowances on plant and machinery are not a restricted relief for tax purposes. Our clients have been pleasantly surprised by the high value placed on the plant and equipment included in the professional reports. It would be worth considering if there is an opportunity to engage a valuer to undertake a capital allowances exercise on your building to quantify the value of the plant and machinery.

Recent developments on taxation of property

The Finance Bill (currently winding its way through the Dáil) made a couple of generally positive changes in the area of property taxation. The main points to note are set out below:

80% development land tax

At long last, the Government has seen sense and are removing the 80% development land tax. This was an 80% tax on sales of land that was re-zoned on or after 30 October 2009. With effect from 1 January, the 80% tax will be abolished and sales of re-zoned land will be taxed at the normal rates (33% capital gains tax for investors or the normal income tax/corporate tax for land dealers/developers).

Transfers of agricultural land

Be very careful if you do have land that was re-zoned since 30 October 2009 – the tax is only abolished from 1 January 2015, so make sure that you do not sign any contracts to sell the land before then!

There is currently a very generous gift tax relief for transfers of agricultural land. This relief reduces the value of agricultural land by 90% so that for example a parent could give land worth EUR800,000 to a child, and the relief would reduce the value of the land for gift tax purposes from EUR800,000 to EUR80,000. Currently, the relief is available where, after receiving the gift, the recipient's assets are represented at least 80% by agricultural property. In the example above, if the child has received land worth EUR800,000, this means he or she will qualify for the relief provided their other assets do not exceed EUR200,000 in value.

However, with effect from 1 January 2015, there will be a new test. Land will only qualify for agricultural relief if the child either farms the land, or leases to the land to someone who farms it actively.

Therefore, if you have agricultural land that you do not plan on farming actively (for example, large areas of land surrounding a family home), you should consider whether that land should be transferred to a child or other person before 1 January 2015 when the "active farmer" test is introduced.

Home Renovation Incentive

Readers will be familiar with the Home Renovation Incentive which allows home owners to claim a tax deduction for expenditure and repairs, renovation and improvement work of up to EUR30,000. Essentially the credit allows you to reclaim an amount equal to the VAT paid to the builder, over a 2 year period.

Up to now this credit was only available for work done on the owners main residence but the scheme has now been extended to include rental properties that are registered with the PRTB. The tax credit will be available for repairs/renovation and improvement work on rental properties subject to a cap of EUR30,000, provided that the work costs at least EUR5,000 and is carried out during the period 15 October 2014 to 31 December 2015.

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Copies of this and previous editions of Tax News are available on our website www.kta.ie (password "**private**")