KTA~Thinking Tax

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TAX ADVISERS

# Tax News

## A word from the editor

"This edition focuses on topical tax issues which you may find of interest and relevant to you and your family."

Welcome to the latest edition of our Tax News. This edition focuses on topical tax issues which you may find of interest and relevant to you or your family.

If you require further information please do not hesitate to contact me or one of our tax team.

Kind regards

Yours sincerely

Patrick Kinnane

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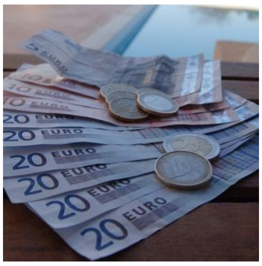
### Gifts to children - annual EUR3,000 gifts are more important than ever

In the last three years the rate of gift/inheritance tax rates have increased while gift/inheritance tax free thresholds have decreased significantly. The tax free threshold between parent and child has reduced from a high of EUR542,544 in early 2009 to the current level of EUR250,000. As a result more and more individuals find that their children will ultimately face large gift/inheritance tax bills.

Therefore, it is important to make best use of any available exemptions from gift tax. The annual gift tax exemption of EUR3,000 per donor/recipient can be a very valuable exemption. For example, each grandparent could make tax free gifts of EUR3,000 each year to each of their children and grandchildren. However, in practical terms it can be difficult to make cash gifts to minors as it usually involves opening a bank account in the child's name. This can involve a good deal of red tape.

As an alternative the parent or grandparent could purchase an An Post savings certificate on behalf of the child. From a practical perspective it should be easier to purchase a Savings certificate than open a bank account for a child. The savings certificate runs for a term of $5^1/_2$ years with a tax free return of 21%.



**Pension levy**

Don't forget that the due date for payment of the 0.6% pension levy for 2012 is 25 September 2012. If payment is not made on time late payment fees will be incurred.

## Tax refunds from Revenue

A refund of tax from Revenue is always welcome. Mostly we tend to think of refunds in terms of income tax only. However, here are two scenarios where you may be due a refund of certain capital taxes

***Capital gains tax paid on deferred consideration (earn-outs)***

During the boom years it was a feature of many asset sales that the proceeds were a combination of an initial cash payment with a deferred payment subject to certain conditions or targets being met ("earn out").

Due to the nature of the tax treatment of earn-outs you may have paid capital gains tax upfront on the full amount of the earn-out/deferred consideration. However, given the economic downturn many earn-outs were not achieved in full.

In such situations you can go back to the original capital gains tax calculation and amend it to show the actual proceeds received and this should result in a capital gains tax refund. Therefore, if you have sold any assets in the past and the proceeds included a deferred or contingent element, please check that you have only paid capital gains tax on the actual amount of proceeds you received. There is no time limit on claiming a refund of tax in these circumstances.

***Stamp duty paid on purchase of a site with building agreement***

Have you in the last three years purchased a property and paid stamp duty on the basis of a purchase of the site with a connected building agreement? If so you will have paid stamp duty on the purchase price of the site plus the build costs as set out in the building agreement.

If the building did not commence within two years of the purchase then you may be due a refund of the stamp duty paid on the building agreement element of the purchase price.

However, there is a very short window in which to make a claim for the refund. Therefore, if you think this may be relevant to you please do not hesitate to contact one of our tax team to discuss further.

## KTA joins international network

KTA is delighted to announce that we have been asked to join the International Tax Specialist Group (ITSG).

This is an international network of tax experts and membership of the group is strictly on an "invitation only" basis.

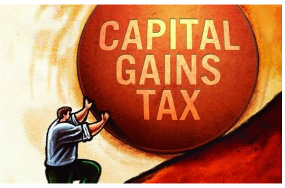
In recent years we have worked with a number of ITSG members in France, UK, Cyprus, Canada and further afield and have found them to be excellent.

Membership of the group enhances our ability to source high quality tax advice from around the globe.

KTA is in a privileged position being the only Irish firm asked to join the group to date.

## Exemption from capital gains tax

Over the last 4 years the capital gains tax rate has increased from 20% to the current rate of 30%. However, this year's Finance Act has brought in an interesting exemption from capital gains tax in respect of certain property.




A gain on the disposal of land and buildings will be fully or partially exempt from capital gains tax provided:

- The property is purchased in the period commencing 7 December 2011 and ending 31 December 2013
- The property must be held by the purchaser for at least 7 years
- The property must be purchased for consideration equal to market value (or 75% of market value, if it is purchased from a relative).

The property to which this exemption applies is any property within the EEA. We have a number of clients buying property in Germany, Poland and the UK all of which qualify for the exemption. Therefore, you can purchase a property now which if held for at least 7 years could be fully or partially exempt from tax when sold after 7 years. However, a word of caution, while a gain on such a sale is exempt from tax it would mean that a loss arising on such a sale would not be available to set against other capital gains.

The way that the exemption works is that a portion of the ultimate gain on sale is exempt. For example, if a property is bought now and held for 10 years, 7/10ths of the ultimate gain is tax free.

The exemption could be a neat way of passing value to children. For example, you could sell a property that you already own to a child in 2012. In 7 years time, your child can sell the property free of CGT on any gain during those 7 years.

### Tuition fees

Are you paying third level fees for two or more children? If so, make sure that you are getting the maximum amount of tax relief available. You can now get tax relief on the student contribution for second and subsequent dependents.

### Have you updated your Will

It is a good idea to review your Will regularly to ensure that it is up to date and reflects your wishes as to how your estate is to be distributed. From a tax perspective it is important to ensure that the tax free thresholds are being used in full.

For example, the current grandparent to grandchild threshold is EUR33,500 each. Rather than simply leaving your estate to your children, by leaving some money to your grandchildren the overall tax bill is lower. For someone with 3 grandchildren this gives an extra EUR100,000 tax free.

Often Wills are drafted in a way where inheritances are expressed as a fixed amount (e.g. EUR35,000).

As a result if and when the tax free thresholds change, it is necessary to amend the Will to reflect the changes to ensure the Will is tax efficient. A nice trick is to word your Will so that beneficiaries receive an amount equal to the relevant tax free threshold at the date of the inheritance. This avoids the need to revisit the Will if thresholds increase from their current low levels.

## Key tax dates in the coming months

We have included the most important tax dates for your diary below. If you need any further information please let us know.

**31 October 2012**

- Submission of your 2011 tax return.
- Payment of the balance of income tax for 2011.
- Payment of preliminary tax for 2012.
- Submission of capital gains tax return for assets sold in 2011.
- Last date for pension contributions for the 2011 tax year.
- Submission of your UK 2011/12 tax return (31 January 2013 if filing online)
- Return and payment of tax for gifts and inheritances in the period 1 January to 31 August 2012.

The above dates (apart from the UK 2011/12 tax return filing date and the gift/inheritance tax return date) change to 15 November 2012 if you file your tax return and make your payments through Revenue's Online Service, ROS.

**15 December 2012**

- Payment date for capital gains tax for assets sold in the period 1 January 2012 to 30 November 2012.

**31 December 2012**

- Last date to file claims for repayments of tax for the tax year 2008.

**31 January 2013**

- Submission of your UK 2011/12 tax return if filing online
- Payment date for capital gains tax for assets sold in December 2012.



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