

# **The New Capital Taxes Landscape**

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- CGT
- CAT
- Stamp duty

- NPPR/household charge
- 1% Life assurance levy
- 0.6% Pension levy
- Domicile levy

# We will look at

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1. What are clients interested in talking about?
2. Some interesting (and surprising) aspects of the capital taxes regime

# **What are clients interested in talking about ?**

# 1. Inheritance tax

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- 30% rate
- EUR250,000 parent/child

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- Client has estate worth EUR3m and 3 daughters
  - Taxable: EUR2,250,000 @ 30%
  - Tax is EUR675,000



Ken was survived by his wife and six trusts.

# Back to basics

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## 1. Maximise thresholds

- EUR33,500 grandchildren
- EUR16,750 sons-in-law
  
- Wording of clause in Will

# Back to basics (cont)

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## 2. Use the reliefs:

- (i) Agricultural relief
- (ii) Business relief
- (iii) Dwelling home exemption

# Question

- The client has no assets that qualify for any of these reliefs. Does that mean we can't claim them?

# Answer

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- Not necessarily
- Reliefs may still be relevant
- Ask more questions

# Questions to ask

- Might any of your daughters be interested in investing in agricultural property (within the EU)?

## Question 2

- Do any of your daughters have their own business?

## Question 3



- Might any of your daughters want to retain the family home?
- After the event – disclaimers?

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**Clients are interested in:**

**2. Getting money back**

# CGT

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- Earnouts – section 563 TCA 1997
  - Sale of company in 2009 for cash plus earnouts over 3 years
  - Earnouts have fallen off in 2011 and 2012
  - Refund potential

# Stamp duty

## Interlocking contracts

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- Sale of site for EUR30,000 combined with building agreement for EUR170,000
- Pay stamp duty on full EUR200,000
- If building has not started within 2 years of stamping, refund with interest
- Must apply within 3 years from stamping

# Some interesting aspects of capital taxes

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- Domicile levy
- CGT
- NPPR/household charge

## **In the notes**

- 1% life assurance levy

# Domicile levy

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- EUR200,000 per annum
  - Income > EUR1m
  - Irish assets > EUR5m
  - Irish domiciled
  - Credit for income tax

# Question

- Irish resident and domiciled

Rental income	1,050,000
Capital allowances	200,000
Losses forward	<u>700,000</u>
Taxable	150,000

- Domicile levy?

# Answer

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- YES
- No allowance for Case V CAs or losses forward
- Applies to Irish residents

# Question

- Irish resident and domiciled

Profit hotel trade	1.2m
Loss retail trade	1.5m
Net income	0

- Domicile levy?

# Answer

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- Yes
- No deduction for section 381 losses



# Domicile

# Question

- Born in Italy
- Lived in Ireland for many years
- Married to an Irish citizen (parents were Italian)
- Came to Ireland to “improve economic situation”
- Owns properties in both Ireland and Italy
- Expressed desire to return to Italy in the future
- Burial plots in Italy
- Italian domicile?

# Answer

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**No?**

**Perdoni v Curati**

# Implications in advising clients

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- Don't be woolly!
- Stated objective from outset
- Fuld: Must have an intention to return  
“upon a clearly foreseen and reasonably  
anticipated contingency”
- Maintain and use property in other country
- Tread carefully





# CGT

# Question

- How many different Irish CGT rates are there for individuals?

# Answer

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## Four

- 30%
  - 40%
  - 80%
  - 15%
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- Exemptions

# New CGT exemption

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- Property acquired on or before 31 December 2013
- 7 year holding period exempt
- EEA property

## German property bought today

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- Purchase price EUR200,000
- Sale price in 10 years EUR300,000
- Gain is EUR100,000
- $\frac{7}{10}$ <sup>ths</sup> of gain (EUR70,000) exempt
- EUR30,000 taxable

# Opportunity

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- Gifts are eligible provided 75% consideration
- Value of property EUR200,000
- Son pays EUR150,000 for property
- CGT free for son for next 7 years
- Stamp duty 1% (2% for residential >EUR1m)

# Careful!

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**Gain not taxable**  
**=**  
**Losses not allowable**



# **NPPR/Household charge**

## Missed a property?

Current owing	EUR2,040	NPPR
	EUR 113	Household

# NPPR/Household charge

Property	Household charge	NPPR charge
Sole or main residence	Yes	No
Rented residential property	Yes	Yes
Commercial property	No	No
Property subject to commercial rates and usually used as a dwelling	No	No
Property which is part of the trading stock of a business, provided the property has never produced any income and has never been used as a dwelling	No	No

# Question

- Parents own a house that is occupied by their son rent-free as his main residence
- Do they have to pay the NPPR charge?

# Answer

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- Yes – if  $> 2$  kms away
- No – if  $\leq 2$  kms away

## **Be careful**

- No breaks for dependent relatives

# NPPR/Household charge

Property	Household charge	NPPR charge
Property occupied rent free as main/sole residence by relative of owner within 2kms of the owner's home	Yes	No
Property owned by a company	Yes	Yes
Property "comprised" in a discretionary trust	No	No(?)
Property located in certain unfinished housing ("ghost") estates	No	Yes

# The landscape of the future



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- CGT retirement relief curtailed for over 66s from 31/12/2013
- Stamp duty consanguinity relief gone from 2015
- Further restrictions to remaining CGT/CAT reliefs (e.g. agricultural / business relief)
- Household/NPPR charges to be replaced by a property tax



# **What can we bring to clients?**

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## Some specific points

- 15% CGT rate
- Any scope for refunds?
- Revisit non-domiciled client files

# What can we bring to clients

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- Inheritance tax planning is relevant for everyone
- New CGT exemption – opportunity for inter-generational transfers at 75%
- Awareness of NPPR/household charge
  - Non-residents
  - Companies/trustees
  - Multiple properties
  - Family members
  - Estates



**Thank you.**