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REAL ESTATE TAX GUIDE

IRELAND



QUICK OVERVIEW OF IRISH REAL ESTATE

Tax treatment of income and gains of Irish real estate

Taxpayer	Basis of tax	Tax levied	Tax rates (2019)
Resident individual	<i>Rental income</i>	Income tax (IT) / Universal Social Charge (USC) / Pay Related Social Security (PRSI)	Up to 40% IT, 11% USC, 4% PRSI
	Capital gains	Capital Gains Tax (CGT)	33% CGT
Non-resident individual	<i>Rental income</i>	Income tax / Universal Social Charge	Up to 40% IT, 11% USC
	Capital gains	Capital Gains Tax (CGT)	33% CGT
Resident company	<i>Rental income</i>		25% to 40% CT
	Capital gains	Corporation tax (CT) Corporation tax (CT)	33% CT
Non-Resident company	<i>Rental income</i>		20% IT
	Capital gains	Income Tax (IT) Capital Gains Tax (CGT)	33% CGT

Rental income

Individuals

Introduction

Rental income is taxed as private income.

Liability to tax

Rental income is subject to income tax, the Universal Social Charge (another form of income tax) and PRSI (social security) at the individual's marginal rate of tax.

Basis to tax

Income of an individual will be assessed at their marginal rate of income tax, based on their total income earned during the tax year (calendar year). The relevant income tax rates and bands are set out below:

	2019 €	
	20%	40%
Single person	€0 – €35,300	balance
Married Couple (one income)	€0 – €44,300	balance
Married Couple (two incomes)	€0 – €70,600	balance
One Parent/Widowed Parent	€0 – €39,300	balance

The above rates are charged before the allocation of tax credits and reliefs, the main tax credits of which are set out below:

	2019
Single person	€1,650
Married Couple	€3,300
Single person child carer credit	€1,650
Employee credit	€1,650
Earned Income credit (self-employed)	€1,350
Home carer credit	€1,500

European Union (EU) citizens or nationals

If at least 75% of an individual's worldwide income is taxable in Ireland, they receive a full tax credits on a cumulative basis.

If less than 75% of an individual's worldwide income is taxable in Ireland, they may receive a portion of tax credits.

Citizen of a country that has a tax treaty with Ireland

If an individual's only source of income is Irish, they receive full tax credits on a cumulative basis.

If an individual also has a non-Irish source of income, they may receive a portion of tax credits.

Other non-residents

All other non-residents receive no tax credits.

The Universal Social Charge (USC) is another form of income tax and is payable on gross income after relief for certain trading losses and capital allowances but before relief for pension contributions.

The relevant USC rates and bands are as follows:

2019 Band	Rate
€0 – €12,012	0.5%
€12,013 – €19,874	2.0%
€19,875 – €70,044	4.5%
€70,045 and above	8%
€100,000 and above (self assessed income only)	11%

Pay Related Social Insurance (PRSI) is also payable at a rate of 4% on unearned rental income.

Non-resident individuals

Non-resident individuals with unearned passive income only e.g. rental income are exempt from PRSI but are still liable to Income tax and the USC.

Where rents are paid to a non-resident landlord, the tenant is obliged to deduct 20% withholding tax from the payment, unless the landlord appoints an Irish agent to collect the rents on his/her behalf.

Resident Companies

Introduction

Rental income is treated as passive income.

Liability to tax

Rental income is subject to corporation tax as passive income.

Basis to tax

Passive income e.g. rental income is taxed at a rate of 25%. The income is declared as part of the company's annual corporation tax return. Where the company is regarded as a 'Close Company' – an Irish Resident company which is controlled by five or fewer individuals – the income may be subject to an additional Close Company Surcharge. The surcharge is levied on 20% of the undistributed after-tax rental income of the company, giving an effective rate of tax of 40%.

Non-Resident Companies

A non-resident company which has a branch or agency in Ireland will be subject to the same rules as resident companies in relation to the income earned by the specific branch or agency in the state.

A non-resident company which does not have a branch or agency in Ireland will be subject to income tax on any income derived from sources in Ireland, including rental income. Income tax is charged at the standard rate of tax (currently 20%).

Capital gains

Individuals

Introduction

Individuals are subject to Capital Gains Tax (CGT) at a rate of 33% on gains made on disposals of Irish real estate properties. There are several reliefs and exemptions from CGT that may be available depending on the relevant circumstances.

Withholding tax

Where the market value of an Irish real estate being sold exceeds €500,000 in the case of a commercial real estate or €1m for residential real estate, the purchaser is obliged to withhold 15% of the sale consideration, unless a CG50 pre-clearance is applied for by the vendor to the Irish Revenue authorities.

Companies

Introduction

Capital gains realised by companies are subject to corporation tax on chargeable gains. Chargeable gains refer to the increase in market value on chargeable assets from the date they are first acquired to the date when they are sold or disposed. Chargeable assets generally refer to Capital Assets, which includes real estate and company shares.

Liability to tax

Companies pay corporation tax on business profits (excluding passive income) at a rate of 12.5%. The current capital gains tax rate is 33% on chargeable gains. Companies will calculate the gain in the same manner as individuals and pay capital gains tax at the rate of 33%.

Exemptions

Irish tax legislation provides for special treatment in respect of transactions between related companies. To qualify for the relief, a company must be a 75% effective subsidiary of the other. The legislation provides that only companies resident in the EU or an EEA country with which Ireland has concluded a double tax agreement can make use of the relief. The relief includes the purchase or transfer of Irish real estate. As part of the relief qualifying purchases or transfers between such connected companies are treated on no gain no loss basis, until the property is sold/transferred outside of the group.

Non-Resident Companies

Introduction

Non-resident companies are subject to capital gains tax on chargeable gains made on the disposals of specified Irish Assets.

Liability to tax

Specified Irish Assets include the following:

- Land and buildings situated in Ireland.
- Unquoted shares in a company deriving the greater part of their value from Irish land or buildings.
- Capital assets used for the purpose of a trade carried on in Ireland.

Where a non-resident company disposes of specified Irish assets it will be subject to 33% capital gains tax on any gain on the disposal.

Irish VAT & transfer taxes

Taxpayer	Basis of tax	Tax levied	Tax rates (2019)
Resident individual	Rental Income	Value Added Tax (if taxable)	23%
	Transfer of real estate	Value Added Tax (if taxable)	13.5%
	Transfer of real estate	Stamp Duty	1% to 6%
Non-Resident individual	Rental Income	Value Added Tax (if taxable)	23%
	Transfer of real estate	Value Added Tax (if taxable)	13.5%
	Transfer of real estate	Stamp Duty	1% to 6%
Resident company	Same as for individuals		
Non-resident company	Same as for individuals		

Value-Added Tax**Individuals***Introduction*

Value-added tax is a tax based on the increase in the value of a product or service at each stage of the supply chain.

Liability to tax

VAT is a transaction-based tax and is chargeable on the supply of goods or services in Ireland for consideration by an accountable person, other than in the course or furtherance of an exempted activity.

Resident individuals carrying on business in Ireland whose annual turnover does not exceed €75,000 for goods and €37,500 for services are not obliged to register for Irish VAT but may elect to register if they wish. The relevant thresholds do not apply to foreign traders and generally where a foreign trader engages in any supplies of goods or services in the state, then they are required to VAT register.

Basis of tax

For Real estate transactions, post 1 July 2008, the supply of freehold 'new' real estate is subject to VAT at 13.5%. The sale of 'old' real estate is exempt from VAT, unless the vendor and purchaser exercise a joint option to tax. Where real estate on which a VAT claim had been previously made by the vendor is sold as an exempt sale, then the vendor can be liable to a clawback on a portion of the VAT claimed and will be required to repay this to the tax authorities on completion of the sale.

The option to jointly elect to tax the supply can be favourable where the vendor wishes to avoid this clawback and the buyer is VAT registered and is entitled to a full reclaim of the VAT charged on the sale.

'New' properties include:

- the first supply of a completed real estate within 5 years of completion
- the second and subsequent supply of a new real estate within 5 years of completion, unless it has been occupied for at least 2 years
- old real estate which has been significantly re-developed i.e. made 'new' again.

Generally, lease interests in real estate are exempt from VAT (with a landlord's 'option to tax' in place, the rents in certain circumstances are subject to VAT at the 23% standard rate).

Irish VAT on real estate rules are complex and specific advice should be sought in respect of all real estate related supplies.

Companies

The same rules as for individuals apply.

Transfer Taxes

Individuals

Introduction

Stamp Duty is payable on transfers of land, buildings and other assets which cannot be passed by delivery. It is chargeable on instruments (a written document) of transfer executed in Ireland and on instruments, wherever executed, which relate to Irish real estate or relate to matters done in Ireland.

Liability to tax

Stamp duty is payable on the higher of the consideration paid or market value of the real estate transferring.

Basis of tax

The transfer or purchase of residential real estate is subject to the following rates of stamp duty:

Market value of Real estate	Rate
Up to €1,000,000	1%
Above €1,000,000	2%

Commercial real estate including land and buildings are subject to a stamp duty rate of 6%.

Individuals do not pay Stamp Duty on an instrument that transfers shares, stocks or marketable securities if:

- the consideration is €1,000 or less, and
- the instrument is not part of a larger transaction or series of transactions.

Otherwise, stocks and company shares are liable to stamp duty at 1%. However, shares in certain companies deriving their value from Irish commercial real estate will be liable to stamp duty of 6%, where the commercial real estate is held as trading stock or was acquired with a view to realising a gain on disposal.

Exemptions

There are various exemptions available in case of (de)merger, takeover or internal reorganisations. However, various detailed conditions apply.

Companies

The same rules as for individuals apply.

Exemptions

There are reliefs available for companies that transfer real estate to members of the same qualifying group.

Irish stamp duty legislation provides for special treatment in respect of transactions between certain related companies. To qualify for the relief, the companies must be 90% associated. The legislation does not impose any conditions as to the tax residence or place of incorporation of companies claiming relief. The relief includes the purchase or transfer of Irish real estate. As part of the relief qualifying purchases or transfers will be exempt to stamp duty.

Irish Local taxes

Taxpayer	Basis of tax	Tax levied	Tax rates
Resident individual	Market value	Local Property Tax (LPT)	0.18% / 0.25%
Non-Resident individual	Market value	Local Property Tax (LPT)	0.18% / 0.25%
Resident company	Market value	Local Property Tax (LPT)	0.18% / 0.25%
Non-resident company	Market Value	Local Property Tax (LPT)	0.18% / 0.25%

Individuals

Introduction

Local Property Tax (LPT) is payable in respect of owners of Irish residential real estate, regardless of where the owner lives. For LPT purposes, residential real estate means any building or structure which is used as, or is suitable for use, as a dwelling.

Liability to tax

LPT will arise on the market value of a residential real estate on the 'valuation date' i.e. 1st May 2013.

Basis of tax

The LPT rate is 0.18% for properties up to a market value of €1 million. Above €100,000 there is a system of market value bands of €50,000 up to €1 million and the tax liability will be calculated by applying the tax rate to the mid-point of the band. LPT on residential properties valued at over €1 million will be charged at 0.18% on the first €1 million and 0.25% on the excess over €1 million.

Companies

The same rules as for individuals apply.

Irish Net Wealth/worth taxes

Taxpayer	Basis of tax	Tax levied	Tax rates (2019)
Resident individual	Income level and market value of Irish based real estate	Domicile Levy	Levy up to €200,000
Non-Resident individual	Income level and market value of Irish based real estate	Domicile Levy	Levy up to €200,000
Resident company	Not applicable		
Non-resident company	Not applicable		

Individuals

Introduction

A domicile levy of up to €200,000 applies to individuals who are Irish domiciled irrespective of their tax residence position and whether they are Irish citizens. This applies in very limited circumstances, and only to high net worth individuals, in order to ensure a minimum amount of income tax of €200,000 is paid in Ireland.

Liability to tax

Liability to the levy depends on the level of worldwide income (relevant if more than €1 million) and the market value of Irish-located real estate (relevant if in excess of €5 million).

Basis of tax

The domicile levy must be paid on a self-assessment basis and any Irish income tax paid will be allowed as a credit against the levy.

Vehicles for Irish real estate

Commonly used vehicles for Irish real estate

Sole trader

The business of a sole trader is not distinguished from the proprietor's personal affairs so that if there are any debts, you are legally liable to pay those debts personally. Profits/rental income is subject to income tax, USC and PRSI as personal income.

Company

A company is a separate legal entity from its owners. This is a frequently used vehicle for the ownership of real estate. The equity is divided into shares and the shareholders are not personally liable for the business debt. Trading profits are generally taxed at 12.5%. Passive/rental income is taxed at a rate of 25%, and if a 'Close Company' (an Irish Resident company which is controlled by five or fewer individuals), an additional 20% surcharge levied on undistributed after-tax rental income.

Partnership

Investments in real estate are often done on a collective basis by some of the entities and/or individuals. There is little distinction between the taxation of a sole trader, with a partnership merely being an extension of a sole trader. The profits of the partnership are taxable in the hands of the individual partners in accordance with the Partnership agreement. Each partner is 'jointly and severally' liable for the partnership debts. The partners share of profits/rental income is subject to income tax, USC and PRSI as personal income.

Joint Ventures

A joint venture can be in the form of a company or partnership and the tax treatment will follow the same principles as its underlying structure. It is normally a cooperative enterprise entered into by two or more business entities for the purpose of a specific project or other business activity. The reason for a joint venture is usually some specific project.

Trusts

A trust is an equitable obligation, binding on a person (the trustee who holds the legal interest) to deal with the real estate (the trust real estate) for the benefit of persons (called beneficiaries who holds the equitable interest). The tax treatment of trusts can be complex depending on the type of trust involved.

Specific real estate vehicles for Irish real estate

Real estate investment trusts (REIT)

The REIT is the internationally recognised collective investment structure for holding commercial and/or residential real estate. The REIT typically takes the form of a listed company (or group).

The normal stamp duty rate (2% for residential real estate in excess of €1m, 1% for residential real estate less than €1m or 6% for commercial real estate) applies to Irish real estate transfers into the REIT. The REIT itself is exempt from tax on rental income and on any capital gains arising on real estate disposals (except in instances where the development cost represents more than 30% of the market value of the asset and the real estate is disposed of within 3 years of the development).

Distributions out of the REIT to shareholders are liable to dividend withholding tax at the rate of 20% subject to a number of exceptions:

- Irish resident shareholders are liable to tax on REIT distributions at their marginal rates with credit being allowed for the 20% withholding tax rate, while Irish corporates will generally be taxed at the passive income rate of 25%. Capital gains (e.g. on the disposal of REIT shares) will be taxable at the normal CGT rate (currently 33%).
- Shareholders who are tax resident in countries that have a double taxation agreement with Ireland can benefit from a lower dividend withholding tax rate if that is provided for under the agreement.

For non-resident shareholders, Capital gains generated by the REIT do not have to be distributed to shareholders and, if retained and reinvested by the REIT, will be reflected in its share price. The non-resident investor can then dispose of the REIT shares free of Irish CGT. This would not be available if the non-resident investor held the real estate directly. The disposal of the REIT shares would, however, be liable to stamp duty (at the rate of 1%) in the hands of the purchaser.

Irish Real Estate Fund (IREF)

2016 legislation changes introduced a new type of fund, an Irish Real Estate Fund (IREF). An IREF will be a Qualifying Investor Alternative Investment Fund (QIAIF), Irish Collective Asset-management Vehicle (ICAV) or an Irish Real Estate Investment Trust (REIT).

A fund will be considered an IREF where 25% or more of the market value of its assets are derived from Irish land or buildings. Where a fund is categorised as an IREF, 20% withholding tax must be operated by the fund on distributions of income. Shareholders, who are resident in a country that have a Double Taxation Agreement (DTA) with Ireland, can benefit from a lower dividend withholding tax rate, if that is provided for under the DTA. Although rates vary, these would typically be less than 20% and this would represent the final Irish tax liability of the foreign shareholder.

Certain categories of investors should be exempt from the withholding tax, including Irish pension funds, Irish regulated funds, life assurance companies and their EEA counterparts subject to equivalent supervision and regulation, Irish charities, Irish credit unions and approved retirement funds. Where the investor is an exempt investor it should be possible to obtain advance clearance from Revenue in order for the distribution/redemption to be made gross of IREF withholding tax.



ACQUIRING IRISH REAL ESTATE

DIRECT PURCHASE OF REAL ESTATE

This section discusses the most important tax implications of the direct purchase of real estate. First, it discusses the impact for resident individuals and non-resident individuals. Thereafter, it discusses the impact for resident companies and non-resident companies.

Resident Individuals

Deductibility of costs

Interest costs on loans for the purchase of real estate are deductible in full against rental income on commercial real estate. Interest costs on loans used to purchase residential real estate are restricted to 85% for 2018. This will be increased to 100% with effect from the 2019 tax year.

For the deductibility of such interest costs to be allowed against residential rental income, it is a requirement that the landlord registers the relevant residents with the Irish Residential Tenancy Board.

Generally, pre-letting expenses are not allowed as a deductible expense in arriving at taxable rental profit and the circumstances where some such expenses are deductible, are very limited.

Capital Allowances (Tax Depreciation)

Capital allowances are only available for expenditure on 'Industrial Buildings' and relevant Plant and Equipment. There is a standard rate of 4% per annum straight line for most industrial buildings and 12.5% for Plant and Equipment.

Irish tax legislation provides that an industrial building or structure means a building or structure in use for the purpose of a trade to include a mill, a factory, a laboratory for mineral research, a dock, a structure used for growing fruit and market gardening, a hotel, a structure used for intensive production of livestock, an airport and supporting buildings, a nursing home, a hospital, a sports injury clinic, a mental health centre and a palliative care unit. The legislation also provides that an industrial building will include any building or structure provided by the person carrying on such a trade or

undertaking for the recreation or welfare of workers employed in that trade or undertaking and in use for that purpose.

Capital allowances are not available in respect of Offices or Retail Real estate. There may be a refund/clawback in the form of a balancing allowance/charge where the real estate is disposed of within its tax life (typically 25 years), calculated based on the difference between the consideration received and the tax written down value of the building.

Non-resident individuals

Non-resident individuals are treated in the same manner as resident individuals on acquisition of real estate.

Resident companies

Transfer Taxes

The same rules for Stamp Duty as for individuals apply.

Value-added tax

The same rules as for individuals apply.

Deductibility of costs

The same rules as for individuals apply.

Non-resident companies

Stamp Duty

The same rules as for individuals apply.

Value-added tax

The same rules as for individuals apply.

Deductibility of costs

The same rules as for individuals apply.

INDIRECT PURCHASE OF REAL ESTATE

This section discusses the most important tax implications of the indirect (shares) purchase of real estate. First, it discusses the impact for resident individuals and non-resident individuals. Thereafter, it discusses the impact for resident companies and non-resident companies.

Resident individuals

Stamp Duty

Individuals do not pay Stamp Duty on an instrument that transfers shares, stocks or marketable securities if:

- the consideration is €1,000 or less and
- the instrument is not part of a larger transaction or series of transactions.

Otherwise, stocks and company shares are liable to stamp duty at 1%. However, shares in certain companies deriving their value from Irish commercial real estate will be liable to stamp duty of 6%, where the commercial real estate is held as trading stock or was acquired with a view to realising a gain on disposal.

Value-added tax

The purchase of stocks and shares in companies is vat exempt.

Non-resident individuals.

Stamp Duty

Non-resident individuals are treated in the same manner as resident individuals.

Value-added tax

The same rules as for residential individuals applies.

Resident companies

Stamp Duty

The same rules as for residential individuals apply.

Value-added tax

The same rules as for residential individuals apply.

Non-resident companies

Stamp Duty

The same rules as for individuals apply.

Value-added tax

The same rules as for individuals apply.



HOLDING IRISH REAL ESTATE

DIRECT HOLDING OF REAL ESTATE

This section discusses the most important tax implications of the direct holding of real estate. First, it discusses the impact for resident individuals and non-resident individuals. Thereafter, it discusses the impact for resident companies and non-resident companies.

Resident individuals

Personal income tax

Rental income is taxed as self-assessed private income. Rental income is subject to income tax, the Universal Social Charge (another form of income tax) and PRSI (social security) at the individual's marginal rate of tax.

Income of an individual will be assessed at their marginal rate of income tax, based on their total income earned during the tax year (calendar year). The Universal Social Charge (USC) is another form of income tax and is payable on gross income after relief for certain trading losses and capital allowances but before relief for pension contributions. Pay Related Social Security (PRSI) is also payable at a rate of 4% on unearned rental income.

Losses – carry back/forward

A net rental loss in the current period can be offset against profit from another real estate or carried forward against future rental profits. There is no carry back mechanism. Foreign rental losses can be offset against foreign rental income only.

Non-resident individuals

Non-resident individuals with unearned rental income only are exempt from PRSI.

Where rents are paid to a non-resident landlord, the tenant is obliged to deduct 20% withholding tax from the payment, unless the landlord appoints an Irish agent to collect the rents on his/her behalf.

Aside from this, non-resident individuals are treated in the same manner as resident individuals.

Resident companies

Corporate income tax

Rental income is taxed as self-assessed passive income.

Rental income is taxed at a rate of 25%. The income is declared as part of the company's annual corporation tax return. Where the company is regarded as a 'Close Company' – an Irish Resident company which is controlled by five or fewer individuals – the income may be subject to an additional Close Company Surcharge. The surcharge is levied on 20% of the undistributed after-tax rental income of the company.

Deductibility of costs, interest and depreciation

The same rules as for individuals apply.

Losses – carry back/forward

Company rental losses in the current period can be offset against rental profits from the corresponding prior period. Any excess losses can be carried forward for offset against future rental profits.

Excess capital allowances (for expenditure on 'Industrial Buildings') available in the current period can be offset against rental profits from the corresponding prior period. Any further excess can be carried forward for offset against future rental profits.

Foreign rental losses can be offset against foreign rental income only.

Non-resident companies

The same rules as for non-resident individuals apply.

INDIRECT HOLDING OF REAL ESTATE

This section discusses the most important tax implications of the indirect (shares) holding of real estate. First, it discusses the impact for resident individual and non-resident individuals. Thereafter, it discusses the impact for resident companies and non-resident companies.

Resident individuals

Personal income tax

Individuals will be subject to income tax as normal, on any distributions from an Irish real estate company.

Dividend Withholding Tax

Shareholders of an Irish company are subject to a 20% dividend withholding tax on the distribution of dividends. A credit for withholding taxes applied on the distribution can be claimed on the individual's income tax return.

Non-resident individuals

Personal income tax

Irish tax law provides that certain non-residents are exempt from income tax in respect of distributions made by Irish resident companies. The non-residents in question are those who are neither resident nor ordinarily resident in the State but is resident in another EU Member State.

In the case of non-resident individuals who do not qualify for the exemption provided, the charge to income tax is confined to the standard rate. In effect, this means that the deduction of dividend withholding tax (DWT) from distributions received by such persons is a final liability tax.

Dividend withholding tax

Irish tax law provides that an exemption from DWT applies in the case of relevant distributions from an Irish company made to a non-resident person who is beneficially entitled to the distributions. The individual must be a person who is neither resident nor ordinarily resident in the State but is resident for tax purposes in a relevant territory and has made a relevant declaration and provided a current certificate to the relevant person.

Resident companies

Corporation tax

Franked investment income is the income of a company resident in the Irish State arising from distributions received from other resident companies. Irish tax law provides that such income is exempt in the hands of the receiving company. In addition, the paying company is not required to deduct withholding tax on the payment.

Where the company is regarded as a 'Close Company' – an Irish Resident company which is controlled by five or fewer individuals – the franked investment income is treated as part of the company's estate and investment income for the purpose of the Close Company Surcharge. The surcharge is levied on 20% of the undistributed estate and investment income of the company.

Non-resident companies

Corporate income tax

Irish tax law provides that certain non-resident companies as per the list below are exempt from corporation tax in respect of distributions made by Irish resident companies:

- Non-resident companies which are ultimately controlled by residents of a treaty country or another EU member state.
- Non-resident companies whose principal class of shares is traded on a recognised stock exchange in a treaty country or another EU member state or on any other stock exchange approved by the Irish government (or 75% subsidiaries of such companies).
- Non-resident companies which are wholly owned by two or more companies the principal class of shares of each of which is traded on a recognised stock exchange in a treaty country or another EU member state or on any other stock exchange approved by the Irish government.

In the case of non-resident companies who do not qualify for the exemption provided, the charge to income tax is confined to the standard rate. In effect, this means that the deduction of dividend withholding tax (DWT) from distributions received by such persons is a final liability tax.

Dividend withholding tax

Irish tax law provides that an exemption from DWT applies in the case of relevant distributions from an Irish company made to non-resident companies as per the points above.





SELLING AND TRANSFERRING IRISH REAL ESTATE

DIRECT SALE OF REAL ESTATE

Resident individual

Losses

Losses in any year are set off against chargeable gains arising in the same year. Unused losses may be carried forward indefinitely. Capital losses cannot generally be carried back. Gains on development land may only be offset by losses on development land.

Non-resident individual

Non-resident individuals are treated in the same manner as resident individuals.

Resident company

VAT / transfer tax

The same rules as for individuals apply.

Losses

The same rules as for individuals apply.

Non-resident company

Capital gains

Non-resident companies are subject to capital gains tax on chargeable gains made on the disposals of specified Irish Assets.

Liability to tax

Irish land and buildings are regarded as specified Irish Assets for capital gains tax purposes. Where a non-resident company disposes of specified Irish assets it will be subject to 33% capital gains tax on any gain on the disposal.

VAT / transfer tax

The same rules as for individuals apply.

Losses

The same rules as for individuals apply.

INDIRECT SALE

Resident individuals

Losses

Same as for Direct sale as above.

Non-resident individual

Capital gains

The same rules as for companies apply.

Resident company

Capital gains

Companies pay capital gains tax on the sale of shares in the normal manner. The current capital tax rate is 33% on chargeable gains.

Exemptions

The Irish tax legislation provides for an exemption from tax in the case of certain capital gains from the disposal of holdings in subsidiaries.

Certain conditions must be met before a gain can be exempt.

- First, the investor company must have a minimum shareholding in the investee company. The investor is required to have a minimum holding of at least 5 per cent in the investee company for a continuous period of at least 12 months in the 3 years prior to the disposal.
- Second, the investee company must carry on a trade, or the business of the investor company, its investee company and their '5 per cent' investee companies, taken as a whole, must consist wholly or mainly of the carrying on of a trade or trades.
- Finally, at the time of the disposal the investee company must be resident in an EU Member State, a territory with which Ireland has a double tax treaty in force or a territory with which Ireland has signed a double tax treaty which has yet to come into force.

The exemption does not apply to shares which derive the greater part of their value from land in the State and as such the availability of the relief in relation to companies holding Irish real estate will be limited.

VAT / transfer tax

The same rules as for individuals apply.

Losses

The same rules as for individuals apply.

Non-resident company

Capital gains

Non-resident companies are subject to capital gains tax on chargeable gains made on the disposals of specified Irish Assets which include the following:

- land, buildings situated in Ireland
- unquoted shares in a company deriving the greater part of their value from Irish land or buildings
- capital assets used for the purpose of a trade carried on in Ireland

Where a non-resident company disposes of specified Irish assets it will be subject to 33% capital gains tax on any gain on the disposal.

VAT / transfer tax

The same rules as for individuals applies.

Losses

The same rules as for individuals applies.

DIRECT TRANSFER INTRA CONCERN (IRISH REAL ESTATE TO IRISH COMPANY)

Same as for direct sale for companies as above.

INDIRECT TRANSFER INTRA CONCERN (IRISH REAL ESTATE TO IRISH COMPANY)

Same as for indirect sale for companies as above.

DIRECT TRANSFER INTRA CONCERN (IRISH REAL ESTATE TO FOREIGN COMPANY)

Same as for Direct sale for companies as above.

INDIRECT TRANSFER INTRA CONCERN (IRISH REAL ESTATE TO FOREIGN COMPANY)

Same as for indirect sale for companies as above.

TRANSFER IRISH REAL ESTATE TO AN EU-COMPANY

Same as for indirect and direct sales for companies as above.

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