

# Did You Know?

## How you can sell your business tax free with Retirement Relief



When you transfer or sell company shares or business assets (i.e. farm or other sole trade business assets), you are liable to Capital Gains Tax (CGT) at 33% unless relief applies.

This means that even if you receive no consideration or below market value consideration for these assets you will still have to pay CGT, unless you meet the conditions for a relief.

### CGT Retirement Relief

In this context, an important relief to be aware of is Retirement Relief. Note, you do not need to retire in order to avail of it! The relief is only available to individuals.

Retirement Relief applies on the sale or gift of company shares or business assets to family or non-family recipients when the transferor is aged 55 years or older and meets the conditions noted below.

Where full relief applies, the transfer of company shares or business assets takes place free of CGT.

### Transfers to children

If you are transferring company shares or business assets to a child, the transfer can happen tax free. If you are under 66 years when you transfer your shares, there is no limit on the value of shares or business assets that may transfer tax free (subject to relevant conditions being met, as noted below). Once you are aged 66 years or over at the time of transfer, there is a lifetime limit of €3m.

### Transfers to other third parties

The sale or other transfer of business assets to someone other than a child may be done tax free if the market value of the assets transferring is

- *Less than €750,000 where you are under 66 years at the date of transfer, and*
- *Less than €500,000 where you are aged 66 years or older*

In certain cases where these limits are exceeded, marginal relief may apply. Transfers to third parties includes share buybacks whereby you sell your shares back to your company when you wish to exit the business (e.g. on retirement). Conditions for the relief to apply.

The individual selling or transferring the shares or business assets must meet the following conditions at the date of transfer:

- *Is aged over 55 years (limited exceptions apply to this condition in the case of ill health)*
- *Has owned the assets for at least 10 consecutive years ending on the date of disposal*
- *Has worked in the business for at least 10 consecutive years ending on the date of disposal*

Where the assets being transferred are company shares, the transferor must also meet the following conditions:

- *Has been a director of the company for 10 years and a full-time working director for 5 years*
- *Owns at least 25% of the company, or Owns 10% of the company with family members (including the transferor), owning 75% of the company.*



## Personally held property used by a company

If the company trades from property that is personally owned by the transferor, then the company shares and the property must be transferred at the same time and to the same person for the relief to apply.

Where Retirement Relief applies and the recipient of the business assets / shares is a child of the transferor, that child needs to retain the shares for 6 years or else they have to pay Revenue the tax saved by the parent as well as their own personal tax that they trigger on the disposal. This is one reason why it is so important to discuss your child's plans for the business after they receive the shares / business assets.

In all cases where Retirement Relief is being availed of, the transfer must be done for bona fide commercial purposes and not for tax avoidance purposes.

### Claiming the relief

Where the conditions for Retirement Relief are met, the relief applies automatically. If marginal relief is being claimed and some CGT arises as a result, the CGT is payable by 15<sup>th</sup> December on transfers effected from 1<sup>st</sup> January to 30<sup>th</sup> November. Where the transfer takes effect in December, the CGT is payable by the following 31<sup>st</sup> January.

Details of the disposal should be included in your tax return for the calendar year in which the transfer takes place. This return is due by the 31<sup>st</sup> October in the year following the year in which the disposal takes place.



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## Any questions?

Get in touch today!

