Proactive Tax Planning

Did You Know?

Capital Gains Tax Retirement Relief - Finance Act (No 2) 2023 update

The Finance Act (No 2) 2023, as enacted in December 2023, provided for key changes to the age threshold and limit on qualifying assets that can qualify for Capital Gains Tax (CGT) Retirement Relief. Interestingly, these changes will take effect from 1 January 2025.

There are no changes to the other conditions that need to be satisfied when claiming the relief. Below we discuss the recent changes. However, in all cases where a business owner is looking to claim Retirement Relief, a detailed analysis of the relevant facts must be undertaken to ensure the relief applies.

Disposals to a child

Currently, where a business owner transfers shares to their children and Retirement Relief applies, there is no upper limit on the value of the shares until the transferor (the parent) is aged 66, after which only the first €3m is exempt.

CGT is then payable on the balance above the €3m. This tax arises even when the parent gifts the shares to their children.

The age limit for qualifying individuals for the maximum amount of CGT Retirement Relief is being increased from 65 to 69 years, while a new maximum limit of €10m is also being introduced for disposals to a child before age 70. The current €3m limit on Retirement Relief in the case of disposals to a child from age 66 will be applicable from age 70 from 1 January 2025. The table below summarises this change:

Age of disponer	Disposal to a child to 31 Dec 2024 Limits on Proceeds	Disposal to a child from 1 Jan 2025 Limits on Proceeds
Age 55 to 65	No limit	€10m
Age 66 onwards	€3m	€3m

Previous transfers to a child will be taken into account for the purposes of determining whether the €10m threshold is exceeded.

Naturally, the proposed changes to Retirement Relief are significant in the context of a disposal to a child and may see increased transfers of businesses (with a value in excess of €10m) to the next generation before the proposed changes are due to come into effect. Providing a window of opportunity from a tax perspective for a transfer of the business to the next generation in 2024, may not however be in the best interest of the business.

The decision to transfer a business to a child is generally not one that is lightly reached. It is imperative that the consequences of such a transfer are considered thoroughly as there can be unforeseen repercussions of such a transfer in key areas such as tax, control, and the retention of employees.

Leaving tax aside, the decision to pass a business to family members is highly emotional and involves a number of factors, such as:

- Are the children old enough and have the skills to take over the company?
- Do the children want to take over the business?
- Are the children prepared to hold onto their shares for the required 6 years where Retirement Relief is claimed by the parent?
- How will a child taking over a business affect the dynamics of the family?

taxkey

The transfer of a firm typically involves a lengthy lead-in time, a great deal of deliberation and consideration, as well as negotiation, so now could be the appropriate moment for individuals who were thinking about transferring their business to really start preparing in order to determine whether or not it is the correct decision to make and when.

Disposals to a Third Party

In the case of disposals to a third-party purchaser, the age limit for the upper threshold has been increased from 65 to 69. So, the €750,000 threshold will apply in the case of a disposal to a third party between age 55 – 69 and thereafter the €500,000 limit will apply. This change can be summarised as follows:

Age of disponer	Disposal to 3rd Party to 31 Dec Limits on Proceeds	Disposal to 3rd Party from 1 Jan 2025 Limits on Proceeds
Age 55 to 65	€750k	
Age 55 to 69		€750k
Age 66 onwards	€500k	
Age 70 onwards		€500k

What do these changes mean?

What this means in practice is that for anyone who is aged 65 or under with a business valued at more than €10m, who is considering transferring it to their children, there is an incentive to complete the transfer before the end of 2024.

For those who are aged between 66 and 69 who thought they were subject to a €3m limit, they have had something of a reprieve with an increased limit of €10m applying; they may find it beneficial to defer any transfers until the new limit kicks in in 2025, but they will also have to be conscious of the time factor and getting it done before turning 70 years of age.

While it's positive that the age limit has been pushed up to 70 years of age, arguably the introduction of the €10m limit on the transfer of family business (where previously there was no limit up to age 66) could motivate business owners to leave the family business by way of inheritance rather than during their lifetime. The limit of €10 million could impede the succession of many Irish businesses.

Given the ageing, and hopefully healthier, population more business owners will stay working. But, on the downside, family disposals where there is significant value can now face CGT bills. The extension to age 70 is welcome, if limited but it is still ageist and ignores diverse family formations. In any event planning is key.

Please note that, in all cases where a business owner is looking to claim CGT Retirement Relief, a detailed analysis must be carried out to ensure all relevant conditions are met.

Any questions?

Get in touch today!

taxkey

taxkey

Proactive Tax Planning

Our Services

We are passionate about delivering proactive and practical tax advice to SMEs and their owners.

Our areas of specialism include:

- Retirement and Estate Planning
- Business Succession
- Corporate restructuring and business reorganisation
- Tax Efficient Remuneration Plans for employees
- VAT (including VAT on Property)
- Property transactions
- Gift and Inheritance tax planning
- Domicile planning and the remittance Basis of taxation for individuals moving to or from Ireland

Why Choose Us

"Our mission is to deliver ***personalised, practical tax advice*** that ***simplifies*** complex rules and ***empowers*** our clients to make ***informed choices***."

Contact Us

Assaroe, Moone, Athy. Co Kildare, R14 NH31

info@taxkey.ie / +353 87 1035365

www.taxkey.ie

Any questions?

Get in touch today!