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Are you considering family succession for your business?

Now may be the time to take action.

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The transition of a family business to the next generation is a huge decision. It typically involves consideration of a number of issues, including identification of the successor, family dynamics and the impact on the wider business and non-family employees. There are also significant tax implications.

While tax should not be the sole driver of the decision around the timing of the transfer of a business, recent changes to capital gains tax (CGT) retirement relief means that business owners who are considering transferring their business have a decision to make in 2024. **Do they transfer before or after 1st January 2025?**

CGT retirement relief, in broad terms, facilitates the tax-efficient lifetime of the family trading business to the next generation, provided that the relevant conditions are satisfied.

The current rules are broadly as follows:

- The business owner is aged 55 or over (with a limit of €3 million if over 65).
- There is a transfer of relevant business property (which includes shares in a trading company).
- The assets are held for a minimum of ten years.
- Where shares are transferred, the transferring parent has been a working director for not less than ten years and during five of these was a full-time working director.

It can also apply on sale of a business to third parties (although the amount of relief is far less than transfers within the family). **The rules will change significantly from 1st January 2025, when the age limits will change and a new €10 million limit will apply on family transfers**.

The details are further outlined in the table below.

Transfer within the family:

Position up to 31st December 2024
No limit where parent is aged between 55-65.
€3 million lifetime limit where the parent is aged 66 & over.

Position from 1st January 2025
Lifetime limit of €10 million where the parent is aged between 55-69.
€3 million lifetime limit where the parent is aged 70 & over.

Sale to a third party:

Position up to 31st December 2024
€750,000 limit where seller is aged between 55-65.
€500,000 lifetime limit where the seller is aged 66 & over.

Position from 1st January 2025
€750,000 limit where the seller is aged between 55-69.
€500,000 limit where the seller is aged 70 & over.

Case Study 1

Sheila, currently aged 55, has a business worth €20m. She and the business meet all the conditions for retirement relief. She would like to gift all her shares in the business to her children but is unsure if she should gift in 2024 or 2025.

Transfer in

- 2024 → No cap
- 2025 → CGT of around €3.3m & may have to fund this liability from the business

Based on these facts, Sheila should consider transferring her shares in 2024 while there is no cap. If she waits until 2025, she will have CGT of around €3.3 million (based on a €10 million cap and CGT of 33% on the excess €10 million) and may have to fund this liability from the business. This could cost the business around €7.33 million (if she funds the CGT due by way of a dividend from the business).

Case Study 2

Jack, currently aged 67, has a business worth €9 million. He and the business meet all the conditions for retirement relief. He wishes to gift all his shares to his children.

Transfer in

- 2024 → Any value above €3m will be subject to CGT
- 2025 → The cap increases from €3m to €10m & will be available to Jack until he turns 70

In 2024, as Jack is 67, he is facing a cap of €3 million. This means that if he transfers the shares in 2024, any value above €3 million will be subject to CGT. He would have a liability of around €2 million. That could cost the business around €4.1 million (if he funds the CGT due by way of a dividend from the business). The changes being introduced in 2025, can work to Jack's advantage. He should consider waiting until 2025 when the cap increases from €3 million to €10 million. The increased cap will be available to him until he turns 70.

What else should be considered?

From the case studies, it's clear that the timing of transfer is dependent upon the value of the business and the age of the parent who is considering making the transfer. It may make sense from a CGT perspective to transfer the business now (in Sheila's case) or wait until 2025 (in Jack's case). However, before any decision is made around the transfer of a business, it is critical to ensure that the current generation has enough funds outside the business to fund their retirement. Building up enough capital outside the business is a critical element of this, typically through pension funding.

How can we help?

As a business owner, the transition of the family business is a huge decision for you, the wider family and the business. Davy has a team of tax and pension specialists who work with clients and their tax and legal advisers to help them formulate and implement succession plans. We will prepare a tailored financial plan which can help you decide what the business succession will look like and when it should happen. This will help you determine what makes sense in terms of the overall financial goals for you and your family.

If you would like to know more about succession planning and the implications of selling your business, please get in touch through this link davy.ie/business-succession

Note: Davy does not provide tax advice and we recommend that you also obtain a additional professional advice (including inter alia, legal and tax advice) suitable to your own individual circumstances, before making a decision.

Tax information discussed in this article is provided for Irish Resident investors only by way of general guidance and is neither exhaustive nor definitive and is subject to change without notice, including potentially retrospectively. It is based on Davy's understanding of Irish Tax legislation, as at 26th June 2024. It is not a substitute for professional tax advice. Please note that Davy does not provide tax advice. You should consult your own tax advisor about the rules that apply in your individual circumstances.

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