

## **Other Relevant Irish Taxes**

### **Irish Capital Gains Tax**

Although the sale by an Irish resident of an English property will be exempt from UK Capital Gains Tax, Irish Capital Gains Tax will still apply. Irish Capital Gains Tax is a Tax on profits or gains arising on the sale of an investment asset.

The sale by an Irish resident individual of a property in the United Kingdom could be subject to Income Tax (which is not exempt for non residents) if it is part of a trade for buying, selling, or developing property. Therefore, it cannot be assumed that there is automatic exemption from UK tax on property sales as it could be subject to UK income tax, for which non residents are liable. However, the sale of occasional investment properties should not be generally be subject to income tax.

The Irish capital gains tax rules tax the difference between the sale price and original purchase price. Deductions are allowed in respect of legal fees, auctioneering fees, stamp duty and capital expenditure. Expenditure on maintenance would not be deductible. An allowance will be made for inflation if the property was purchased before 2002.

An individual's liability for Capital Gains tax cannot be taken in isolation. It is necessary to look at all individual's capital gains and losses in a given year. Credit may be allowed for losses in previous years, that have not been previously relieved. Capital gains tax is payable on the net gain at a rate of 20%. There is a simple personal credit at the rate of €1,270 which is not transferrable between spouses.

### **Irish Inheritance Tax**

A person who is resident or ordinarily resident (resident for more than three years) in Ireland will be subject to inheritance tax on gifts of assets or assets passing on death,

which he receives, irrespective of where they are situated in the world. Therefore, where an Irish resident dies entitled to English Property, his beneficiaries will be subject to Irish Inheritance Tax. The person's estate may also be subject to UK Inheritance tax. Credit will be allowed in respect of one tax against the other so that the net position is (broadly) that tax is paid at the higher rate of the two jurisdictions, The United Kingdom and Ireland.

Gifts and inheritance between husband and wife are fully exempt. In the case of children, each child can take up to €521,208 from his parents collectively. All gifts and inheritances from both parents are taken account of, back to 1991. Once the total allowance is exceeded, Irish Inheritance Tax is payable at 20% on the full balance. There are techniques for postponement and management of inheritance tax liability using trusts that can be useful and effective.

UK inheritance tax, although bearing the same name, is quite different. Unlike the Irish position, there is no tax on lifetime gifts provided that the gift is given absolutely and without condition and the person giving the gift survives 7 years. On the other hand the tax on death is significantly more onerous than in Ireland. There are exemptions for assets passing between spouses (unless one is the deceased is UK domiciled and the recipient is not.). Tax applies at 40% on the entire estate over the allowance. The allowance is £312,000.00 per estate and in certain circumstances husbands and wives can now use each others unused land. Due to recent changes, spouses can use each others tax free allowances

### **Irish Value Added Tax**

Irish VAT does not apply to UK property transactions.

### **Irish Stamp Duty**

Irish Stamp Duty does not apply to UK property transactions other than in highly exceptional circumstances.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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