



# Tax matters – Budget 2012

What to do now to weather the coming storm?

Budget 2012 is coming and along with it are the long expected sweeping cuts to tax reliefs and increases to key tax rates.



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## Expected restrictions of reliefs

As reported previously the Commission on Taxation report which issued in September 2009, made a number of recommendations in relation to capital taxes and reliefs, including the following:

- Business Asset relief (BAR) to be reduced from 90% to 75% and subject to a maximum claim of €3 million. Currently the relief is 90% of the value if the assets with no cap on the value; and
- retirement relief on disposals to children to be capped at an asset value of €3 million. Where the values of the assets exceed €3 million, the excess would be subject to Capital Gains Tax (CGT). Currently there is no cap on the value which can be transferred tax free.

With increased pressures from the EU/IMF/ECB on Ireland to meet its tax receipt targets it is even more likely that Budget 2012 will see changes to the BAR and retirement relief, possibly in line with the recommendations in the Commission on Taxation report.

**Succession planning**  
BAR is a valuable relief in terms of passing assets to the next generation. With speculation high that this relief may be curtailed in the upcoming Budget, now is the time to act in relation to succession planning.

- where a business is gifted to the next generation, capital acquisition tax at a current rate of 25% may be payable by the next generation.

- where BAR applies the taxable value of business assets is reduced by 90%. This effectively reduces the tax rate on qualifying gifts/inheritance from 25% to 2.5% after thresholds are utilised. with full thresholds a business worth circa €3.3 million can be transferred tax free

- BAR applies to gifts to children but may also apply to nieces/nephews where certain conditions are met.

- if retirement relief applies then the overall tax saving on the transaction is even greater. Retirement relief in the case of sale/gift means that there is no capital gains tax payable on the disposal of business assets by the parent.

- it is also possible to pass value to the next generation and still maintain control.

Delaying the transfer of a business post Budget 2012 could be costly on the next generation if BAR is curtailed in Budget 2012. The effective tax rate could increase from just 2.5% to as high as 25% (assuming the rate does not increase) or more, if the relief is removed altogether.

With less than two months to go before the budget what can be done to protect or pass on your assets from the expected increases in CGT rates and make use of the existing reliefs before they are curtailed?



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## Value extraction

With retirement relief and BAR still available before the budget the opportunity still exists to extract value from a family owned company without triggering a charge to Capital Gains Tax.

The following are just some of the things that any business owner should be considering in advance of the budget:

- retirement relief allows for €750,000 of cash/value to be extracted without the shareholder actually having to retire. However this €750,000 relief may be restricted; and
- value can be extracted tax free without physically removing the necessary cash/working capital from

the company. The cash can be withdrawn over time as the business can afford to pay it.

## Asset protection

Given the current uncertain times, asset protection should be at the forefront of every business owners mind. Where a company has been successful over the years and has managed to build up reserves, how can it protect this cash from potential future unprofitability and creditors?

With the effective rate of income tax at 55%, drawing cash from a company as salary or dividend to protect it from creditors could be more costly than leaving it in a company exposed to creditors. With careful planning cash and assets can be protected from bad

debts and the grabbing hands of creditors:

- excess assets can transferred into separate legal entities, possibly for passing to future generations;
- segregation of the ‘good’ businesses trading assets from ‘bad’ investment assets into separate companies; and
- incorporation of investment assets into corporate structures to fund debt out of 12.5% income versus salary income.



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