Irish Tax Considerations for Corporate and Individual Share Sellers

Strategies for Cash Extraction and Capital Gains Mitigation

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The disposal of shares in an Irish corporate entity or group requires the careful navigation of complex tax regimes, with distinct considerations for corporate and individual sellers. This brief analysis examines tax-efficient pre-sale cash extraction mechanisms, strategies to minimise Capital Gains Tax (CGT) liabilities and the critical role of pre-sale restructuring.

For corporate sellers, Ireland's participation exemption regime and dividend optimisation provide substantial planning opportunities. Individual sellers could benefit from retirement relief's €750,000 CGT exemption and entrepreneurial relief's 10% CGT rate on the first €1 million of taxable gains.

Corporate Seller Considerations

Tax-efficient Cash Extraction Pre-sale

Irish-resident corporate sellers could benefit from the participation exemption under Section 626B TCA 1997, which exempts gains from subsidiary share disposals if:

- The parent holds ≥5% ordinary shares, profit entitlements and asset rights for 12 continuous months within the preceding two years
- The subsidiary conducts genuine trading activities, or is part of a trading group and is EU/treaty-country resident
- The shares of the subsidiary do not derive majority of its value from Irish land or minerals

The Finance Bill 2024 foreign dividend participation exemption now also enables Irish companies to elect for tax-free treatment of foreign dividends received from European Economic Area (EEA)/treaty-countries on a per accounting period basis. This enables tax neutral extraction of foreign subsidiary profits pre-disposal, provided the distributions are funded from trading profits rather than capital reserves.

Restructuring to Optimise CGT Outcomes

The pre-sale transfer of non-core assets to a newly incorporated company allows sellers to among other things retain valuable investment assets post-disposal, as well as maintain eligibility for participation exemption by preserving the trading status and holding period requirements of the main operating entity.

Individual Seller Strategies

Pre-sale Cash Extraction Mechanisms

Pension contributions to the pension funds of the seller can provide one of the most tax efficient cash extraction options. The benefits of this option include:

- Corporate tax deductions on the contributions against profits at 12.5%
- Fund growth accumulates tax-free within the pension vehicle
- On retirement the seller can receive a tax-free lump sum of up to €200,000

CGT Mitigation Instruments

Retirement relief remains pivotal for individuals aged 55 and older. This provides a complete exemption from CGT on first €750k of gains realised by an individual seller, with the gains in excess of first €750k being subject to capital gains at the standard CGT rate of 33%. Retirement relief can, however, also be supplemented by entrepreneurs' relief, which provides for a CGT rate of 10% applying to the first €1 million of lifetime gains, provide the requirements for application are met.

Conclusion

Irish tax planning for share disposals requires seller-specific analysis of restructuring timelines, relief eligibility and cash extraction constraints. Corporate sellers increasingly rely on participation exemption-compliant Newco structures, while individuals combine asset segregation with retirement/entrepreneurial relief stacking.

Early engagement with tax advisors remains critical, particularly given Revenue's strict interpretation of "wholly or mainly trading" status under Section 626B. Proactive restructuring 18-24 months pre-sale typically yields optimal outcomes, as it allows sufficient time to meet ownership periods.

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Please contact our Head of Tax for Ireland, Andre Vermeulen, to discuss any queries you may have in relation to the application of Irish taxes.

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