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TECHNICAL GUIDE TO ESTATE PLANNING

This is a technical guide for financial advisers only and is not intended as an advertisement.

FOREWORD

This document provides an outline of the taxation issues to be considered when you are putting together an estate planning arrangement for your clients and is based on our understanding of current legislation and Revenue practice.

In all cases we would recommend that your customers obtain professional legal and tax advice to ensure that any arrangement they put in place is appropriate to their personal and corporate circumstances.

Information is correct as at January 2021 but is subject to change.

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ESTATE PLANNING

INTRODUCTION – WHY IS ESTATE PLANNING IMPORTANT FOR YOUR CLIENTS?

In the past, 'estate planning' was something believed to be only for the elite in our society: a small number of wealthy individuals and their families. However, this is no longer the case. If your clients are planning to leave their house, their savings or any other assets to their family, you, as their Financial Broker, can help make sure the real value of these assets is not reduced by inheritance tax. Reductions in the tax free thresholds, together with increases in the capital acquisitions tax rate, have resulted in more and more people who previously did not have to give consideration to this area now needing to do so.

Revenue reported that in 2019, €522 million was paid in capital acquisitions tax.

The rate of capital acquisitions tax, both for gifts and inheritances, increased from 20% in 2008 to 33% in 2013 and remains at this rate today.

Tax free thresholds have been reduced. For example, the Group 1 threshold from parents to children reduced from €521,208 in 2008 to €335,000 currently.

The following examples show the impact this may have on a clients estate.

Mr and Mrs Kelly have an estate valued at €3,000,000.
On their death their estate is to be divided equally between their three children.

Their children's inheritance tax bill will be

€658,350

or

22% of the estate will be taken in tax.

Mr Maguire has an estate valued at €4,500,000
On his death the estate is to be divided equally between his two children.

His children's inheritance tax bill will be

€1,263,900

or

28% of the estate will be taken in tax.

The above examples assume that full thresholds are available to the children; and that the children have not received any gifts or inheritances from their parents since the 5th of December 1991.

It also assumes that no reliefs (business / agricultural / family home) will apply to the value of any of the assets in the estate.

This example is for illustration purposes only.

WHAT IS THE TARGET MARKET FOR CAPITAL ACQUISITIONS TAX PLANNING?

- Parents who wish to fund for their children's tax bill in the event of their death.
- Adult children who will have an inheritance tax bill on the death of their parents.
- Business owners who wish to ensure the survival of their business when they pass it on to the next generation.
- Farm owners who wish to protect the value of their land and agricultural assets when they are passed on to the next generation.
- Anyone planning to pass an Approved Retirement Fund (ARF) to a child over 21 years of age.

HOW DO I APPROACH THE ISSUE OF CAPITAL ACQUISITIONS TAX PLANNING WITH CLIENTS?

Many people start off by looking to save tax and avoid legal problems. While this is vitally important, it is equally important to try to plan for what your clients would like and what is practical in their particular family or business circumstances.

So you start with the facts and your client's intentions, and then look to minimise any problems and plan for any tax impacts that cannot be overcome:

Ask your clients some initial questions:

- What would you like to happen on your death?
- Does everything go to a spouse, a partner, some to children, a charity, and a friend?
- Are there practical considerations?
- Your client may have a good idea of what they want to happen, but has this been legally copper-fastened: have they made a will?

WHY SHOULD YOUR CUSTOMER MAKE A WILL?

- A will ensures that the estate will be divided according to the individual's wishes and not as the Succession Act 1965 dictates.
- For people with young children it provides an opportunity to appoint legal guardians to the children in the event that both parents should die together: in a car or plane crash, for example.
- The exercise involves a useful financial review. It highlights just how financially prepared your client's family would be in the event of unexpected death.
- A will is an essential part of planning for capital acquisitions tax. By making a will an individual can, for example, make maximum use of the thresholds for his/her children and the spouse and civil partner exemption from inheritance tax.
- Generally speaking there is less delay and dispute where an individual dies and leaves a will than where no will exists.

MAKING A VALID WILL

The Succession Act 1965 covers some of the requirements for making a will.

1. A will can be made by any person over age 18, or who is married, and is of "sound disposing mind".
2. A will must be "in writing", which can include printed or typed wills.
3. The will must be signed by the testator, i.e. the person making the will, in the presence of two or more witnesses present at the same time.
4. The witnesses are only testifying to the signature of the testator. They do not have to read the will, nor is it necessary for them to know what is contained in the will. It is important to note that a witness or any spouse of a witness cannot benefit under the will.
5. While an individual can draft their will in any way they want they should bear in mind that the Succession Act of 1965 does give certain rights to an individual's spouse, civil partner and children in certain circumstances, regardless of the terms of the will.

REVOKING A WILL

An individual's circumstances can change over time. A will made a number of years ago may not take account of the fact that the individual is now married, has more children or indeed has some grandchildren whom he wishes to include. It is therefore not only important to make a will; it is vital to review it from time to time.

A will can be revoked in a number of ways:

1. By making another will. It is standard practice to insert a clause in a will to say that this will revokes all previous wills. If, therefore, an individual makes a new will and signs it, this will automatically cancel any previous will.
2. A will made when single is automatically revoked if the individual subsequently marries.
3. By the destruction of the will. The Succession Act provides that a will is automatically revoked "by burning, tearing or destruction of it by the testator, or by someone in his presence and by his direction with the intention of revoking it."

SUCCESSION ACT 1965

When a person dies all their property devolves to their 'personal representatives' to transfer to the individual's successors. The way property is transferred will depend on whether or not the deceased had made a will. If there is a valid will the personal representatives, the 'executors' distribute the assets in accordance with the terms of the will. If there is no will the individual is said to have died 'intestate' and the property is distributed by the personal representatives, 'administrators', in accordance with the provisions of the Succession Act 1965. The Succession Act provides a legal spouse, a registered civil partner and children with certain minimum legal entitlements as follows:

No will - where a person dies 'intestate'	
Spouse or civil partner no children:	Spouse or civil partner entitled to full estate
Spouse or civil partner and children:	Spouse or civil partner gets 2/3rds. Civil partners entitlement is subject to the financial needs of any children being met 1/3 equally between children.
No spouse or civil partner but children:	Estate is divided equally between the children
No spouse or civil partner and no children:	Parent(s) if living, otherwise brothers/ sisters

Where an individual dies 'intestate' leaving neither spouse, civil partner nor children, his assets will pass to his parents, if his parents are deceased to his brothers and sisters, otherwise to wider family; the Act provides a hierarchical list.

Will - a 'testate' death (entitlement regardless of provisions of will):	
Spouse or civil partner and no children:	Spouse or civil partner entitled to ½ the estate
Spouse or civil partner and children:	Spouse or civil partner entitled to 1/3 of estate. Civil partners entitlement is subject to the financial needs of any children being met as directed by the courts.

An individual can make a will any way he wants, but Sections 111 and 111A of the Succession Act give a surviving spouse or civil partner certain legal rights regardless of what the will provides.

Children do not have a right to a particular share of the estate under a will. However, Section 117 of the Succession Act gives a child the right to apply to the court for a share of the estate under a will if in the court's opinion "the testator has failed in his moral duty to make proper provision for the child in accordance with his means."

It is worth mentioning that while this right of the child to apply to the courts will not affect the portion of the estate to which a legal spouse has a statutory right, it could impact on the amount of the estate to which a registered civil partner is entitled.

WHAT IS INHERITANCE TAX?

Inheritance tax comes under the heading of capital acquisitions tax.

Capital acquisitions tax (CAT) is the tax that is charged when you receive a gift or an inheritance. We will be dealing with gift tax payable on lifetime gifts and inheritance tax payable on inheritances received on a death.

WHO PAYS THE TAX?

It is the person receiving the gift or inheritance who is liable to capital acquisitions tax and not the person or estate providing the benefit.

WHO IS LIABLE TO THIS TAX IN IRELAND?

The beneficiary of the asset is primarily liable for the payment of capital acquisitions tax. Whether or not a charge to tax arises is dependent on whether the disponer (the deceased person who is providing the inheritance) or the beneficiary (the person receiving the inheritance) is resident or ordinarily resident in the State at the date of the gift or inheritance.

- If the disponer or the beneficiary is resident or ordinarily resident in Ireland, then the entire estate will be liable to capital acquisitions tax here.
- If both the disponer and the beneficiary are not resident or ordinarily resident in Ireland, then only Irish property will be liable to tax, e.g. Irish property, shares in an Irish company, and money in an Irish bank account.

WHAT HAPPENS WHEN THE TAX FALLS DUE?

On death an Inland Revenue Affidavit has to be completed by the personal representatives of the deceased's estate. This affidavit sets out details of the deceased's assets and gives the names and addresses of beneficiaries.

It is not only the assets of the estate that must be included on this form.

If, for example, the proceeds of a life assurance plan have been left in trust to particular beneficiaries, even though these proceeds do not form part of the deceased's estate, full details of the plan and the beneficiaries should be included in the Inland Revenue Affidavit.

Details of previous gifts/inheritances made by the deceased must also be included.

A capital acquisitions tax return must be completed by a beneficiary if the value of a gift or inheritance exceeds 80% of the threshold amount.

PAYMENT OF CAPITAL ACQUISITIONS TAX

The tax is due and payable on the valuation dates indicated below.

31 October 2021	Payment of CAT on gift/inheritance from 1 September 2020 to 31 August 2021
12 November 2021	Extension where CAT return and payment made through ROS (Revenue Oline Service)

- If tax is not paid by the relevant payment dates interest will be charged.
- If your client receives a gift or inheritance they may be obliged to file a return before the above dates even in circumstances where there is no liability to tax on the current benefit.
- In the case of gifts the Revenue may write to individuals requiring them to make a return or a nil return as the case may be.
- Donors of gifts may also be called upon to make a return in certain circumstances.

WHAT VALUE IS USED FOR THE ASSETS WHEN CALCULATING THE LIABILITY?

The first step in calculating a liability to CAT is to assess the value of the assets that will be passed on. Tax is payable on the value of all the assets inherited / received.

Tax is based on the market value of assets. Market value is the price that, in the opinion of the Revenue Commissioners, the assets would fetch if sold on the open market in such a manner that best price is obtained.

No account is taken of the fact that a forced sale could depress market value. If the Revenue is not satisfied with a valuation submitted, they can obtain their own valuation. Where there is a difference, the Revenue can impose their valuation. The Revenue valuation can be appealed so the valuation in practice ends up somewhere between the two.

WHAT ARE THE CAT RATES AND THRESHOLDS THAT APPLY?

For new gifts and inheritances received on or after the 5th of December 2001 tax is calculated according to the total of all gifts and inheritances received from all sources since 5th December, 1991. The following CAT table currently applies:

	Tax Rate
Group Threshold	Nil
Balance	33%

The group threshold amounts vary depending on the relationship between the beneficiary and the disponer, i.e. the person providing the gift or inheritance.

Group 1 €335,000	Where the person receiving the property is a child of the disponer or of the civil partner of the disponer or a minor child of a deceased child of the disponer or of the civil partner of the disponer, or a minor child of the civil partner of a deceased child of the disponer, or of the civil partner of the disponer.
Group 2 €32,500	Where the person receiving the property is a lineal ancestor, descendant, a brother/ sister, or child of a brother/ sister or the child of a civil partner of a brother or sister of the disponer.
Group 3 €16,250	All other cases

The threshold amounts are those applying currently.

WHAT DOES AGGREGATION MEAN?

Under the current aggregation rules all benefits from Group 1 will be added together with an overall threshold of €335,000. Benefits from Group 2 members (brother, sister, grandparent etc.) will be added together for the purpose of the €32,500 threshold, and benefits from Group 3 members (strangers) for the purpose of the €16,250 threshold. So in effect a beneficiary can potentially receive up to €383,750 tax free if the benefits come through different 'groups'.

WHAT ASSETS ARE LIABLE TO INHERITANCE TAX?

The personal representatives of the deceased must list all assets and liabilities of the deceased when completing a tax return in relation to inheritance tax.

Tax is levied on the total net value of all assets received by a beneficiary, other than a legal spouse or civil partner.

All assets are taken into account. These could include:

- The family home
- Second home
- Investment property
- The value of all investments
- Cash
- Pension
- All personal property
- Life assurance benefits
- House contents
- Jewellery

WHAT RELIEFS OR EXEMPTIONS CAN APPLY?

Certain reliefs and exemptions apply to certain types of assets. These have been introduced over the years primarily to encourage private enterprise and to avoid the forced sale of a family farm, business or the family home in certain circumstances. The main exemptions or reliefs are:

1. Spouse or Civil Partner Exemption
2. Agricultural Relief
3. Business Relief
4. Family Home Exemption
5. Favourite Niece/Nephew Relief
6. Life Assurance Relief

SPOUSE OR CIVIL PARTNER EXEMPTION

Perhaps the most important relief from inheritance tax is the spouse or civil partner exemption, where gifts or inheritances received by one spouse or civil partner from the other are totally exempt from CAT. This relief currently applies only in the case of a "Legal Spouse" or "Registered Civil Partner". Cohabitants who are not married are currently treated as strangers for inheritance and gift tax purposes. Please see section on civil partners / cohabiting couples for further detail.

AGRICULTURAL RELIEF

This relief is given in respect of certain agricultural property taken by a "farmer". The relief reduces the market value of the agricultural property by 90% for gifts and inheritances taken on or after the 23rd of January 1997.

The market value of the agricultural property as so reduced is then termed "agricultural value" in the Act and is substituted for market value in the calculation of tax.

In addition to the relief available on the value of farmland, buildings and stock, agricultural relief can be claimed where a gift of, say, cash from an investment based estate is gifted to a qualifying 'farmer' on the basis that the asset is converted to qualifying agricultural property within two years of the date of the gift or inheritance.

What this means in effect is that the asset gifted does not have to be agricultural property, but once the gift is made subject to it being converted to qualifying agricultural property by a qualifying farmer, the relief can still be claimed on the gift or inheritance where the recipient is a qualifying farmer.

AGRICULTURAL RELIEF – REVENUE GUIDELINES

With effect from 1st January 2015 changes have been made to the conditions for agricultural relief from CAT which are designed to confine the relief to genuine farmers and ensure productive use of the agricultural property.

For gifts and inheritances taken on or after 1st January 2015 the beneficiary must satisfy the following additional conditions:

1. Have an agricultural qualification (a qualification of the kind listed in Schedule 2, 2A or 2B of the Stamp Duties Consolidation Act 1999) or obtain such a qualification within 4 years and farms the agricultural property for a period of not less than six years on a commercial basis and with a view to the realisation of profits

Or

2. Spends not less than 50% of his or her normal working time farming agricultural property on a commercial basis with a view to making a profit for a period of not less than six years commencing on the valuation date.

Alternatively, where the beneficiary leases the agricultural property the individual to whom the property is leased must also satisfy condition 1. or 2. above.

NORMAL WORKING TIME

"Normal working time" (including on-farm and off-farm working time) has been defined by Revenue as 40 hours per week. This will enable farmers with off-farm employment to qualify for the relief provided they spend a minimum of 20 hours working per week, averaged over a year, on the farm.

VALUATION DATE

These additional requirements apply from the valuation date of the gift or inheritance.

In the case of a gift of agricultural property, the date of the gift is the "valuation date".

In the case of an inheritance, the valuation date can be as early as the date of inheritance if the person inheriting farms the agricultural property from the date of death of the deceased whereas in other situations this can be the date of grant of probate or administration.

SPLITTING THE GIFT OR INHERITANCE

Where a beneficiary receives agricultural property which includes a farm house, and leases the land to an individual or company which will satisfy the farming conditions but retains the farm house and resides in it as his or her only or main residence, Revenue will not seek to restrict the relief.

As a result of these changes the revised conditions for agricultural relief from CAT with effect from 1st January 2015 are as follows:

- The relief only applies to "agricultural property" which is defined as "agricultural land, pasture and woodlands situated within a Member State and crops, trees and underwood growing on such land and also includes such farm buildings, farm houses and mansion houses (together with lands occupied therewith) as are of a character appropriate to the property." The relief also applies to stock and farm machinery. Where solar panels are not installed on more than half of the land comprised in the gift or inheritance, will also qualify as "agricultural" property.
- Any milk quota attaching to lands will also qualify for reduction as part of the market value of the lands.
- The relief only applies to agricultural property acquired by an individual, domiciled in the State, who after taking the agricultural gift or inheritance not less than 80% of his gross assets are represented by the value of agricultural property, including livestock, bloodstock and farm machinery. For gifts or inheritances taken on or after 1st February 2007 a donee is allowed to offset borrowings for the purchase, repair or improvement of on an off farm principal private residence against the value of the property for the purpose of the 80% test.

For gifts or inheritances received after 1st January 2015 the beneficiary must

1. have a relevant agricultural qualification or attain such a qualification within four years of the date of the gift or inheritance, and must farm the agricultural property for a period of not less than six years on a commercial basis with a view to realising a profit.

or

2. spend not less than 50% of their normal working time farming the agricultural property for a period of not less than six years on a commercial basis with a view to realising a profit. Normal working time approximates to 40 hours per week.

Where the beneficiary leases the agricultural property the individual to whom the property is leased must satisfy condition 1. or 2. above.

The relief is withdrawn in certain circumstances:

If within 6 years of the 'valuation date' the beneficiary ceases to qualify as a farmer as set out above and does not lease the land to a lessee who will farm the land for the remainder of the 6 year period. Or if within six years after the date of the gift or the inheritance lands are sold or compulsorily acquired in the lifetime of the donee or successor, and the agricultural property is not replaced within a year following a sale, or within 6 years following a compulsory acquisition where the land was compulsorily acquired on or after 25th March 2002.

If the gift or inheritance consists of development land and is disposed of in the period commencing 6 years after the date of the gift / inheritance and ending 10 years after the date there will be a partial claw back of the relief.

BUSINESS RELIEF

There are also some additional points worth mentioning in connection with business relief.

Firstly, the relief will only apply to "qualifying business assets". In the case of a partnership or sole trader, that is assets that are used in the course of a qualifying business activity. Where the value of a business includes some exempted assets, relief will be allowed on the value of the qualifying business assets only.

Let's take an example.

Company Valued At	€1,000,000
Qualifying Business Assets	€750,000
Non Qualifying Assets	€250,000
Business Relief	
90% x €750,000	€675,000
	The balance is taxable
€750,000 - €675,000	€75,000 (qualifying taxable assets)
+ Non qualifying Assets	€250,000
Taxable Value	€325,000

Also worth noting is the fact that the relief can also be extended to certain assets owned personally by the disponer that were used in the course of the business where those assets are also the subject of a gift or inheritance to the same beneficiary at the same time as the 'relevant' business assets.

BUSINESS RELIEF – REVENUE GUIDELINES

For gifts and inheritances taken on or after 23rd January 1997 the taxable value of "relevant business" property is reduced by 90%.

COMPANY SHARES

The definition of "relevant business property" includes unquoted shares and securities of Irish incorporated companies subject to certain conditions.

THE COMPANY

The company's business must not consist wholly or mainly of any of the following excluded activities:

- dealing in currencies, securities, stocks or shares, land or buildings, or the making or holding of investments.

THE BENEFICIARY

For the relief to apply the beneficiary must meet one of the following ownership/control tests:

i) The shares themselves or together with other shares in the company, held in the absolute beneficial ownership of the beneficiary, give the beneficiary control of 25% of the voting power over all matters relating to the company,

or

ii) The beneficiary controls the company or the company is controlled by the beneficiary and his relatives,*

or

iii) The beneficiary holds at least 10% of the issued capital of the company and has worked full time in the company for five years prior to the gift/ inheritance.

* Relatives of a person include his spouse or civil partner, his children or the children of his civil partner, mother, father, aunt/ uncle; and any children or grandchildren of any of the forgoing. In addition all spouses or civil partners of relatives are included for the purposes of determining control.

Control includes - having over 50% of the voting power, or owning more than 50% of the shares, or being in a position to control the board of directors.

BUSINESS RELIEF – UNINCORPORATED BUSINESS

Relevant business property also includes property consisting of a business (sole trader) or an interest in a business (share in a partnership). A business that is wholly or mainly concerned with dealing in land, shares, securities or currencies or the making or holding of investments is excluded. The relief will apply where the business or part of the business is transferred and not simply where an asset that had been part of the business is subject to CAT.

GENERAL CONDITIONS APPLYING TO BUSINESS RELIEF:

Along with the conditions that apply to the business and the beneficiary in order to qualify for business relief, there are some other general conditions worth noting:

Disponer
The property must have been owned by the disponer for a period of five years prior to a gift or two years in the case of an inheritance.

Claw-back of Relief
If within six years of the gift or the inheritance of business property:

- the business ceases to qualify, or
- the property is sold or compulsorily acquired and not replaced within one year with other business property the entire relief will be clawed back.

FAMILY HOME EXEMPTION

As a result of Finance Act 2016 and Finance Act 2017 the conditions for claiming exemption from gift and inheritance tax on the value of a 'dwelling house' are significantly different, thus we have covered them separately here.

The value of a "dwelling house" taken on or after 1st December 1999 may be exempt from Inheritance Tax and Gift Tax, in the hands of the beneficiary provided certain qualifying conditions are satisfied.

"Dwelling House", for the purpose of this exemption, means a building or part of a building with up to one acre of land that was used or was suitable for use as a dwelling.

INHERITANCE TAX EXEMPTION CONDITIONS

To obtain the exemption from inheritance tax both the disponer and the beneficiary must meet certain conditions.

The beneficiary must satisfy all of the following conditions:

a) He or she must have occupied the "relevant dwelling house" as his or her only or main residence continuously throughout the 3 year period immediately prior to the date of the inheritance, *

b) He or she must not be beneficially entitled to any interest in any other dwelling house at the date of the inheritance, this includes the inheritance of a second property from the disponer,

c) He or she must continue to both own and occupy the dwelling house as his or her only or main residence throughout the period of 6 years following the date of the inheritance.**

* Where the dwelling house directly or indirectly replaced other property owned by the disponer, the 3 year period in condition a) will be satisfied if the beneficiary occupied both properties for a total of 3 of the 4 years prior to the date of the inheritance.

** The exemption will not be withdrawn where condition c) outlined earlier is breached if the beneficiary:

i. does not occupy the house as a result of his or her mental or physical infirmity. This infirmity must be certified by a registered medical practitioner, or

ii. is required by his employer to live somewhere else in order to carry out the duties of his or her employment, or

iii. was aged 65 at the date of the inheritance, or

iv. replaces the house and reinvests the proceeds in another dwelling house, and occupies both properties for at least 6 years of the 7 years from the date of the inheritance.

The following are the conditions which must be met by the disponer:

The disponer must have occupied the 'relevant dwelling house' as his or her only main residence at the date of his or her death, except where either :

a) The disponer ceased to occupy the dwelling house as a result of his or her mental or physical infirmity, or

b) where the dwelling house is inherited by a dependent relative.

A "dependent relative" is defined as someone who is—

(a) permanently and totally incapacitated by reason of mental or physical infirmity from maintaining himself or herself, or

(b) of the age of 65 years or over.

GIFT TAX EXEMPTION CONDITIONS

To obtain the exemption the beneficiary must satisfy all the following conditions:

a) be a 'dependant relative' of the disponer

b) he or she must have occupied the dwelling house as his or her only or main residence continuously throughout the 3 year period immediately prior to the date of the gift*,

c) He or she must not be beneficially entitled to any interest in any other dwelling house at the date of the gift,

d) He or she must continue to both own and occupy the dwelling house as his or her only or main residence throughout the period of 6 years following the date of the gift **.

* If the beneficiary ceases to occupy the dwelling house as a result of his or her mental or physical infirmity this condition will not apply

Where the dwelling house directly or indirectly replaced other property occupied by the beneficiary, the 3 year period in condition b) will be satisfied if the beneficiary occupied both properties for a total of 3 of the 4 years prior to the date of the gift.

** The exemption will not be withdrawn where condition d) above is breached in the following circumstances where the beneficiary:

i. does not occupy the house as a result of his or her mental or physical infirmity. This infirmity must be certified by a registered medical practitioner, or

ii. does not occupy the house as a result of working abroad as a result of any condition imposed by his or her employer requiring the beneficiary to work abroad to carry out the duties of his or her employment , or

iii. was aged 65 at the date of the gift, or

iv. replaces the house and reinvests the proceeds in another dwelling house, and occupies both properties for at least 6 years of the 7 years from the date of the gift.

A "dependent relative" is defined as someone who is—

(a) permanently and totally incapacitated by reason of mental or physical infirmity from maintaining himself or herself, or

(b) of the age of 65 years or over

FAVOURITE NIECE/NEPHEW RELIEF

Favourite nephew/niece relief entitles a beneficiary who is a child of the disponer's brother or sister or a child of the civil partner of the disponer's brother or sister to be treated as a 'child' of the disponer provided certain conditions are met. Where the relief applies, the niece or nephew is entitled to the Group 1 threshold instead of the Group 2 threshold.

The relief applies to a niece or nephew who has worked substantially on a full time basis for the disponer for the period of five years ending on the date the disponer ceases to have a beneficial interest in possession in the business. The relief will only apply to assets used in connection with the business. Note that farming is a business for the purposes of the relief. In order to qualify for the relief, the beneficiary must have worked a minimum number of hours in the disponer's business, i.e.

- 15 hours per week in a small business, i.e. a business carried on exclusively by the disponer, the disponer's spouse or civil partner and the nephew/niece.
- 24 hours per week in a larger business, i.e. where there are other employees.

The relief (Group 1 Threshold) will only apply to business assets. If there is an inheritance/gift of both business and non-business assets, the Group 1 threshold will apply to the business assets and the Group 2 threshold will apply to the non-business assets. As only benefits within the same Group threshold aggregate, the beneficiary will have two separate thresholds if the benefit consists of both business and non-business assets.

LIFE ASSURANCE RELIEF

As already stated, inheritance tax is due and payable at certain payment dates. Unpaid tax attracts interest, which is not tax deductible. Therefore if no advance provision is made for inheritance tax, then the beneficiaries of the inheritance will have to either:

- Sell part of their inheritance, or
- Borrow money to pay inheritance tax.

MAKE ADVANCE PROVISION

The solution lies in effecting a life assurance plan with a sum assured equal to the value of the beneficiaries' estimated inheritance tax liability, with the people who will receive the assets of the estate being the nominated beneficiaries of the plan.

SECTION 72, CAPITAL ACQUISITIONS TAX CONSOLIDATION ACT 2003

To encourage people to plan ahead, and to have cash available to pay inheritance tax when they die, relief is available on certain life assurance plans. This relief was introduced to allow people to plan for the payment in a tax efficient manner. The legislation is contained in Section 72 of the Capital Acquisitions Tax Consolidation Act 2003.

The relief provides that where a life assurance plan is put in place to provide for the payment of inheritance tax, Revenue will not seek to tax the plan proceeds to the extent that the money is used to pay inheritance tax arising on the death of the lives assured under the plan, provided certain conditions are met.

A plan effected under Section 72 of the Capital Acquisitions Tax Consolidation Act 2003 effectively gives your client an option. Rather than letting tax legislation decide how their estate will be distributed, they can pass on their assets in the way they wish: and plan for the tax consequences.

TAX PAYABLE ON THE INHERITANCE OF AN APPROVED RETIREMENT FUND

The Section 72 relief referred to above was extended by the Finance Act 2005 to cover the 30% tax liability on Approved Retirement Fund (ARF) monies inherited by a child over 21.

ARRANGING THE SECTION 72 PLAN

In line with Revenue guidance notes, it is recommended that the Section 72 plan be arranged under trust. The advantages of this are:

- It ensures that the plan proceeds are used, in the first instance, to pay inheritance tax. Any surplus may revert to next of kin.
- The proceeds will be paid immediately on death to the nominated trustee. The proceeds will not go into the estate.
- The trust gives flexibility in determining which beneficiaries are to benefit from the plan, and in what proportions.

The plan can be arranged under trust by completing a trust form along with the life assurance application.

BENEFITS OF LIFE ASSURANCE RELIEF

The benefit of using a 'qualifying' life assurance plan to fund for the payment of inheritance tax is that, as long as certain conditions are met, the proceeds of the plan, when used to pay inheritance tax, will not increase the beneficiaries' inheritance tax liability. As opposed to this, if the money was left in a bank account, for example, this money will be seen by Revenue as an additional inheritance and will increase the tax bill.

Example:

	Bank Account	Section 72/73 Policy
Policy Proceeds	€100,000	€100,000
Tax Payable	€33,000	Nil*
Left to Pay Tax	€67,000	€100,000

*Assuming the full amount is used to pay CAT

CIVIL PARTNERS' / COHABITANTS' LIFE ASSURANCE

Over the last few decades more people in Ireland are choosing not to marry and are instead living together in 'non -married' relationships. In order to advise these clients you need to be aware of the various definitions for non-married relationships which are set out in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

CIVIL PARTNER

A civil partner is either of two persons of the same sex who are

- Parties to a civil partnership registration that has not been dissolved or the subject of a decree of nullity, or
- Parties to a legal relationship of a class that is the subject of an order made under Section 5 of the Act (Recognition of registered foreign relationships) that has not been dissolved or the subject of a decree of nullity.

COHABITANT

A cohabitant is one of two adults, who can either be of the same or opposite sex, who live together as a couple in an intimate and committed relationship and who are not related to each other within the prohibited degrees of relationship, or married to each other, or civil partners of each other.

In deciding whether or not two adults are cohabitants the following will be taken into account:

- The duration of the relationship,
- The basis on which they live together,
- If any financial dependence exists,
- Any joint financial arrangements,
- Whether or not there are dependent children, and the support arrangements for any children,
- Whether the parties present themselves to others as a couple.

QUALIFIED COHABITANT

A qualified cohabitant means an adult who was in a relationship of cohabitation with another adult and who was living with the other adult as a couple for a period

- Of two years or more, in the case where they are the parents of one or more dependent children, and
- Of five years or more in any case.

SUCCESSION AND INHERITANCE TAX FOR CIVIL PARTNERS AND CO HABITANTS

CIVIL PARTNERS

Rights similar to legal spouses have now been extended to registered civil partners in the event of death. Under the Succession Act a civil partner is now automatically entitled to a portion of their deceased civil partner's estate, subject to the needs of any children being met.

Also, as a result of separate legislation in the Finance (No. 3) Act the 'spouse' exemption from capital acquisitions tax (gift and inheritance tax) has also been extended to registered civil partners. So now civil partners are entitled to a portion of their deceased partner's estate and they can inherit it tax free.

COHABITANTS

The same rights on death have not been granted to cohabitants. A qualified cohabitant now has the legal right to apply for provision out of their deceased cohabitant's estate within six months of the granting of representation. However, it is not an automatic right, as in the case of a civil partner, and the cohabitant is only entitled to an amount after the spouse and civil partner's rights have been satisfied.

It is also worth mentioning that, while the surviving cohabitant partner now has the legal recourse to claim from the estate of their deceased cohabiting partner, no change has been made to the capital acquisitions tax legislation that governs the payment of inheritance tax on the transfer of those assets. So while the surviving cohabitant may receive an award on foot of their application they may still have to pay inheritance tax on the value of the assets.

OTHER TAXES

Following the tax changes made by recent legislation registered civil partners now have much the same tax treatment as a married couple (see summary provided). Some examples of interest might be exemption from exit tax on the transfer of ownership of a life assurance policy, exemption from stamp duty on the transfer of ownership of 'property' and relief from certain fees arising from the change of ownership between registered civil partners of a shared home, such as court fees, registry of deeds fees or land registration fees.

Cohabitants, however, have not been granted the same reliefs. The only reliefs extended to this group will be restricted to the tax treatment of maintenance payments and transfers of property following the court order on the termination of a cohabitant's agreement.

SUMMARY OF TAX TREATMENT

		Legal Spouses	Registered Civil Partners	Qualified Cohabitants
Inheritance Tax	Unlimited exemption for benefits taken on death or gift.	Yes	Yes	No – treated as 'strangers', Class 3 threshold applies.
Succession Act Rights	Certain automatic minimum rights to their respective estates under a will or intestacy.	Yes	Yes – see updated Succession Act.	No – see updated Succession Act.
Income Tax	Entitled to each other's tax credit, certain reliefs and allowances can be shared.	Yes	Yes	No – treated as single person.
Social Welfare Benefits	Qualify for State Widow's / Widower's contributory pension.	Yes	Yes	Various – see www. welfare.ie
Pension Scheme Death Benefits	Entitled to option of spouse's pension on death in service or retirement.	Yes	Yes	No – unless they can show financial dependence
Financial Compensation Order	Entitled to apply to court following the date of decree	Yes – within 12 months of the date of decree	Yes – no time frame specified	No
Pension Adjustment Order	Entitled to apply to the court for an order	Yes	Yes	Yes – but subject to proof of financial dependence
Capital Gains Tax	Treated as one unit for the purposes of calculation	Yes	Yes	No
Exit Tax	Exemption on assignments	Yes	Yes	No
Stamp Duty	Unlimited exemption on the transfer	Yes	Yes	No

SUCCESSION ACT INFORMATION

When a person dies all their property devolves to their 'personal representatives' to transfer to the individual's successors. The way property is transferred will depend on whether or not the deceased had made a will. If there is a valid will the personal representatives, the executors, distribute the assets in accordance with the terms of the will.

If there is no will the individual is said to have died intestate, and the property is distributed by the personal representatives, or administrators, in accordance with the provisions of the Succession Act 1965.

The Succession Act provides a legal spouse, a registered civil partner and children with certain minimum legal entitlements as follows:

No Will - where a person dies 'intestate'	
Spouse or civil partner and no children	Spouse or civil partner entitled to full estate.
Spouse or civil partner and children	Spouse or civil partner gets 2/3 Civil partner's entitlement is subject to the financial needs of any children being met 1/3 is divided equally between children.
No spouse or civil partner but children	Estate is divided equally between children.
No spouse or civil partner and no children	Parent(s) if living, otherwise brothers / sisters.
Nieces and nephews only	Divided equally between those surviving.
Other relatives	Divided equally between nearest equal relationship
No relatives	The State

Where an individual dies intestate leaving neither spouse, civil partner nor children, his / her assets will pass to parents; if his / her parents are deceased to his / her brothers and sisters; otherwise to wider family: the Act provides a hierarchical list

Will -a 'testate' death (entitlement regardless of provisions of will)	
Spouse or civil partner and no children	Spouse or civil partner entitled to 1/2 of estate.
Spouse or civil partner and children	Spouse or civil partner entitled to 1/3 of estate. Civil partner's entitlement is subject to the financial needs of any children being met as directed by the courts.

An individual can make a will any way he/she wants, but Sections 111 and 111A of the Succession Act give a surviving spouse or civil partner certain legal rights regardless of what the will provides.

Children do not have a right to a particular share of the estate under a will. However, Section 117 of the Act gives a child the right to apply to the court for a share of the estate under a will if in the court's opinion "the testator has failed in his moral duty to make proper provision for the child in accordance with his means".

It is worth mentioning that while this right of the child to apply to the courts will not affect the portion of the estate to which a legal spouse has a statutory right, it could impact on the amount of the estate to which a registered civil partner is entitled.

IMPACT ON SUCCESSION ACT RIGHTS FOLLOWING A DIVORCE/SEPARATION/ DISSOLUTION OF A CIVIL PARTNERSHIP

The surviving spouse or civil partner is legally entitled to the appropriate share regardless of the actual terms of the will. The fact that the parties may have lived apart for many years does not of itself affect their entitlements under the Succession Act 1965.

Succession rights can be renounced voluntarily by either or both spouses or civil partners in a separation agreement, known as a Deed of Separation. It is usual for separating couples to renounce rights to each other's estates in a separation agreement; however a separation does not always involve renunciation of succession rights.

If both parties cannot agree, then they may have no alternative but to seek the assistance of the courts. This may take the form of judicial separation or divorce.

JUDICIAL SEPARATION

A judicial separation occurs where the court determines that the couple is no longer obliged to live together as a married couple. A judicial separation cannot be applied for unless the couple has a separation agreement.

In granting a decree of judicial separation, a court can remove a spouse's succession rights once it is satisfied that there exists adequate provision for the spouse whose rights are being extinguished.

The court must make proper provision for:

- Spouses
- Any dependent children
- Custody of dependent children
- Family home
- Maintenance and financial provision.

DIVORCE

- A divorce occurs where a court order is made that dissolves a marriage or civil partnership. This allows either member of the former couple to enter a new civil partnership or marriage.
- Once a decree of divorce or dissolution is granted, the parties are no longer married or in a civil partnership, and succession rights are automatically extinguished.
- A divorce or dissolution decree means the end of succession rights, and as with a judicial separation the court has the power to take the loss of these rights into account when deciding on the financial settlement between the spouses or civil partners.
- The court also has the power to make orders in respect of life assurance for spouses and dependent children

The Family Law (Divorce) Act 1996 deals with the issue of Succession Act rights in the context of divorce.

DISSOLUTION OF CIVIL PARTNERSHIP

Once a decree of dissolution is granted, the parties are no longer in a civil partnership, and succession rights are automatically extinguished.

Therefore, if your former partner dies without a will, the right to inherit no longer applies.

However, the surviving partner may inherit if:

- the person is named in the former civil partner's will; or
- a request is made to the court requesting that provision be made for the surviving civil partner out of the deceased civil partner's estate.

FINANCIAL COMPENSATION ORDERS

Similar provisions to those in the Family Law Acts which allow a legal spouse to apply for a financial compensation order dictating the treatment of life assurance contracts within twelve months of the date of the decree have been granted to registered civil partners. There is no restriction on when an application for such an order must be made.

The same facility to apply for a financial compensation order has not been granted to qualifying cohabitants.

MAINTENANCE PAYMENTS ON SEPARATION OR DIVORCE

When putting cover in place to provide for maintenance payments as a result of a divorce decree or separation agreement there are various ways of structuring the life assurance contract to ensure that it is in line with the requirements of the legal agreement.

How you set up the contract will depend on two things:

- Who needs to have ownership of, and control over, the contract during the lifetime of the life assured?

and

- Who needs to receive the death benefit on the death of the life assured / who is to be the beneficiary of the sum assured on the death of the life assured?

PUTTING PROTECTION COVER IN PLACE

LET'S TAKE AN EXAMPLE

Conor has separated from his wife Julie. As part of their separation agreement he has been instructed to put cover in place to provide maintenance payments for their two children, Emma and Sophie, in the event that he dies before they finish full time education.

There are two options for how to structure this cover:

- Own life in trust
- Life of another.

Own life in Trust

Conor effects a single life term assurance protection plan using a single life flexible trust form. He is the life assured and the settlor trustee on the contract during his lifetime. His two children, Emma and Sophie, are the beneficiaries of the contract under the trust.

Conor pays the premium on the contract.

Ownership / Control

Conor owns and controls the contract during his lifetime. Any alterations must be authorised by Conor and notification of any unpaid premiums will be issued to Conor.

Who receives the benefit?

On Conor's death the sum assured is paid to the nominated trustee, for the benefit of Emma and Sophie as beneficiaries under the trust. As Conor paid the premium on the contract, the girls will be subject to inheritance tax on the sum assured.

Assuming they inherit nothing else from their father they will each be able to avail of the Group 1 tax free threshold of €335,000 before they have to pay inheritance tax.

Important note: A contract issued in trust cannot be assigned to a bank as security for a loan.

Life of Another

Conor is the life assured under a single life term assurance plan with Julie as the proposer / policy owner. Conor pays the premium on the contract.

Ownership / Control

Julie owns and controls the contract. Any alterations must be authorised by Julie and notification of any unpaid premiums will be issued to Julie.

Who receives the benefit?

On Conor's death the sum assured is paid to Julie directly as she is the proposer / policy owner. She can then use the sum assured to provide for her two daughters. Even though Conor paid the premium on the contract, because the policy was set up in line with a separation agreement, Julie will not be subject to inheritance tax on the policy proceeds.

As you can see both structures ensure that there are funds in place to provide for Emma and Sophie. The main differences are around who owns and controls the contract and who the death benefit is paid to.

The correct structure will depend on what is stipulated in the legal agreement.

ARRANGING PROTECTION COVER FOR COHABITING COUPLES

As you can see from the previous sections, registered civil partners are now treated in much the same way as legal spouses from a Succession Act and an inheritance tax perspective. As the same rights and exemptions have not been given to other cohabiting couples you still need to be aware of the following areas when advising these clients:

- Family Home Relief
- Other Assets
- Use of the small gifts exemption
- Mortgage Protection
- Personal Protection

FAMILY HOME EXEMPTION

The Finance Act 2000 introduced a complete exemption from inheritance tax on the value of "a dwelling", provided the person inheriting the property satisfied certain conditions – basically that it was, and continued to be, their home. This is commonly referred to as 'family home' relief. The relief is available to any individual who satisfies the conditions and not just to qualified cohabitants.

To qualify for the exemption the person who inherits the home:

- must have occupied the house as their sole or main dwelling for three years prior to the date of the inheritance,
- does not hold an interest in any other dwelling house at the date of inheritance,
- continues to occupy the house as their sole or main residence for six years after the date of the inheritance.

What this means is that once a couple have been living in the house for three years, regardless of which of them owned the house, or paid the mortgage or the mortgage protection policy, there will be no inheritance tax liability on the value of the house if the above conditions are met.

If the above conditions are not met then there could be significant tax implications for the survivor.

MORTGAGE PROTECTION EXAMPLE

John and Mary buy a house in joint names. They contribute equally to the deposit, mortgage repayments and joint mortgage protection policy.

The house is valued at €500,000, assuming it's held as joint tenants.

John dies in the first year of the mortgage.

Mary inherits 50% of the property, worth €250,000.

The mortgage is cleared by the mortgage protection policy.

The tax free threshold for Mary is €16,250, with tax at 33% on €233,750 = €77,137.

Options

Increase mortgage protection policy by €80,000.

Possible tax on €40,000 at 33% is €13,200.

or

Life of another policy, by Mary on John's life, for a sum assured of €80,000.

If Mary had made no contribution to the purchase of the house then she would inherit 100% of the value of the house and she would be faced with a tax bill of €159,637.

After three years family home relief may apply, assuming all the other conditions are met.

OTHER ASSETS

With the possible exception of the family home, the total value of all assets is liable to inheritance and gift tax, regardless of how long the couple are living together. Where a cohabiting partner inherits other property, including a death benefit under an insurance policy, the €15,075 threshold could easily be exceeded.

PERSONAL PROTECTION

When you are structuring a life assurance policy for your cohabiting clients, whether or not inheritance tax will be paid on any pay-out from the contract will be decided by two things:

- Who will receive the policy proceeds on death (the beneficiary)?
- Who paid the premiums on the policy?

If the beneficiary did not pay the premiums, or if the beneficiary is not the legal spouse or registered civil partner of the person who paid the premiums, the policy proceeds will be liable to inheritance tax.

EXAMPLE 1

John Brown takes out life cover of €100,000 on his own life and pays the premiums by direct debit from his own bank account. John dies and based on the terms of John's will the €100,000 is paid to his cohabiting partner Mary Smith.

Assuming Mary inherited no other assets, the liability to tax is as follows:

- Mary's taxable inheritance is €100,000.
- Threshold of €16,250 exempt.
- Balance €83,750 taxed at 33% = €27,637

EXAMPLE 2

John Brown and Mary Smith take out dual life cover of €100,000 each. John and Mary are joint owners, and pay premiums out of their joint account. John dies and the €100,000 is paid to his cohabiting partner Mary Smith because she is the surviving policy owner. Assuming Mary inherited no other assets, and Revenue agrees that she has paid 50% of the premiums, she will be taxed on 50% of the benefit.

- So, Mary's taxable inheritance is €50,000.
- Threshold €16,250 exempt.
- Balance €33,750 taxed at 33% = €11,137.

EXAMPLE 3

Mary Smith takes out a life policy with life cover of €100,000 on John Brown's life, i.e. Mary is the proposer / policy owner with John as the life assured. Mary pays the premiums by direct debit from her own bank account. John dies and the €100,000 is paid to his partner Mary Smith, as she is the legal owner of the policy.

Mary has no liability to inheritance tax, as she is both the beneficiary and the person who paid the premiums.

SMALL GIFTS EXEMPTION

The examples given assume both parties are in a position to contribute to the cost of the policy. Where one party is financially dependent on the other, then no matter how the policies are arranged, on the death of the person who financed the policy the survivor will take a taxable inheritance equal to the full value of the policy.

One way of avoiding the potential taxable inheritance for someone who does not have their own means of income would be to avail of the annual gift tax exemption of €3,000. For this to work, it is vital that the donor first gifts the €3,000 to the beneficiary, who then uses it to pay the premium on the life of another policy. A simple way of setting this up would be for the donor to set up a direct debit to the beneficiary's bank account, and then the beneficiary could effect the life of another policy and pay the €3,000 or part of the premium from his/her own bank account.

WHEN ADVISING COHABITING COUPLES

When putting in place 'mortgage protection' type cover, arranging the cover on a joint life first death basis may give rise to a potential tax liability. The sum assured could be increased to cover this potential liability. The amount of increased cover will depend on the percentage of the property inherited by the survivor and what, if any, contribution they have made to the mortgage.

When putting in place additional 'family protection' type cover, arranging the cover on a single life 'life of another' basis will avoid any potential liability to inheritance tax but only where the proposer actually pays the premium, i.e. the proposer must have independent financial means.

If the policy is effected on a dual life basis then the cover will need to be increased to take into account the potential tax liability. The amount of increased cover will again depend on the percentage inherited by the survivor and what, if any, contribution they have made to the policy.

Where a couple are planning to marry in the near future, they may decide that it is more practical to have a jointly owned policy in the long term. So they may be happy to take the risk that in the (hopefully unlikely) event of death before they 'tie the knot' a tax liability may arise.

If a couple have other substantial assets it may be more prudent for them to either effect Section 72 cover on a single life basis nominating each other as the beneficiary of the policy, or alternatively each of them could effect a 'life of another' policy on the other to cover any potential tax liability.

UNDERWRITING CONSIDERATIONS - INHERITANCE PLANNING PROTECTION

WHAT ADDITIONAL INFORMATION WILL AN UNDERWRITER LOOK FOR WHEN ASSESSING A SECTION 72 CASE?

In Irish Life, for most cases, an inheritance tax financial questionnaire, outlining how the level of cover is calculated, completed and signed by the Financial Broker and the customer, will be sufficient evidence. However, for very large cases the questionnaire may have to be signed and stamped by a solicitor or an accountant. Check with the underwriting department for individual requirements.

Contact them on 01 704 1888 or email underwriting.help@irishlife.ie

EXAMPLES OF CAT CASES FOR ILLUSTRATION PURPOSES

EXAMPLE 1 - ASSUMING NO RELIEFS APPLY

Estate valued at €1,500,000

The three beneficiaries are the client's children, each to receive 33% of the estate.

Tax Liability
The taxable value of the estate is €1,500,000, which gives each child a taxable inheritance of €500,000, on which tax is charged as follows:

		Inheritance Tax
First	€335,000* @ nil rate	Nil
Balance	€165,000 @ 33%	€54,450
Total	€500,000	€54,450

*Group 1 threshold currently available.

Therefore each child would have an estimated inheritance tax liability of €54,450, giving a total inheritance tax liability of 3 x €54,450, which is €163,350.

So the total inheritance tax liability amounts to €163,350.

The above assumes that full thresholds are available to the three children; and that the three children have not received any gifts or inheritances from their parents since the 5th of December 1991.

It also assumes that no reliefs (business / agricultural / dwelling home) will apply to the value of any of the assets in the estate.

This example is for illustration purposes only.

EXAMPLE 2 - ASSUMING BUSINESS RELIEF APPLIES

Estate valued at €2,500,000, consisting of:

Family Home	€500,000
Business Assets	€1,500,000
Savings / Investments	€500,000.

The two beneficiaries are the client's children, each to receive 50% of the estate.

Tax Liability
The taxable value of business property is reduced by 90%, assuming business relief applies.

This reduces the taxable value of this property to €150,000.

With other assets valued at €1,000,000, the total taxable value of the inheritance is €1,150,000, which gives each child a taxable inheritance of €575,000 on which tax is charged as follows:

		Inheritance Tax
First	€335,000* @ nil rate	Nil
Balance	€240,000 @ 33%	€79,200
Total	€575,000	€79,200

*Group 1 threshold currently available.

Therefore each child would have an estimated inheritance tax liability of €79,200, giving a total inheritance tax liability of 2 x €79,200, which is €158,400.

So the total inheritance tax liability amounts to €158,400.

The above assumes that full thresholds are available to both children; and that neither child has received any gifts or inheritances from their parents since the 5th of December 1991. Dwelling home relief will not apply to the value of the family home.

Business relief applies to the total value of the business assets.

This example is for illustration purposes only.

EXAMPLE 3 - EXAMPLES TO SHOW THE BENEFIT OF FAMILY HOME RELIEF

Estate valued at €1,000,000, consisting of:

Family Home	€500,000
Family Protection /Life Assurance	€250,000
Savings / Investments	€250,000

Assuming the estate passes to one child the inheritance tax bill is calculated as follows:

3a. Assuming the child still lives at home and family home relief applies:

If family home relief applies the value of the family home is not taken into account when calculating the child's tax liability. This reduces the taxable value of the child's inheritance to €500,000, on which tax is charged as follows:

		Inheritance Tax
First	€335,000* @ nil rate	Nil
Balance	€165,000 @ 33%	€54,450
Total	€500,000	€54,450

*Group 1 threshold currently available.

3 .b. Assuming the child lives in a dwelling house he/she purchased themselves and family home relief does not apply.

If family home relief does not apply to the value of the family home, then this amount must be taken into account when calculating the client's entire estate. This gives the child a taxable inheritance of €1,000,000, on which tax is charged as follows:

		Inheritance Tax
First	€335,000* @ nil rate	Nil
Balance	€665,000 @ 33%	€219,450
Total	€1,000,000	€219,450

*Group 1 threshold currently available.

The above assumes that the full Group 1 threshold is available to the child; and that the child has not received any gifts or inheritances from anyone else since the 5th of December 1991.

This example is for illustration purposes only.

EXAMPLE 4 - NON MARRIED COUPLES

Mary and John have been living together for ten years. They have never married. John dies and his assets pass, through his will, to Mary. His assets are valued at €790,000.

His share of the Family Home	€250,000
His Pension Death in Service Benefits	€240,000
Holiday Home in Cork	€250,000
Savings / Investments	€50,000.

Tax Liability
The total taxable value of Mary's inheritance is €790,000, on which tax is charged as follows:

		Inheritance Tax
First	€16,250* @ nil rate	Nil
Balance	€773,750 @ 33%	€255,337
Total	€790,000	€255,337

*Group 1 threshold currently available.

Therefore Mary's inheritance tax liability is €255,337.

The above assumes that the full Group 3 threshold is available to Mary. Mary has not received any gifts or inheritances from anyone else since the 5th of December 1991. Dwelling home relief will not apply to the value of the family home – this is because Mary is now the owner of another 'residential property', being the holiday home in Cork.

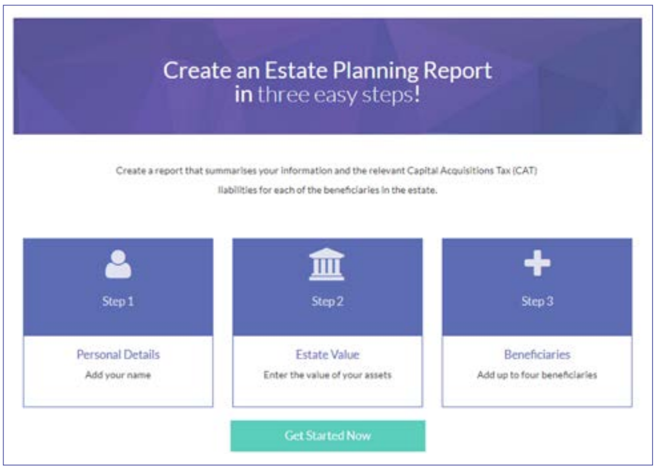
This example is for illustration purposes only.

Your client should seek professional tax and legal advice as the information given is a guideline only and does not take into account your client's particular circumstances.

ESTATE PLANNING PATHFINDER

DIGITAL CLIENT CHECKLIST

Estate Planning Pathfinder is a comprehensive, easy to use Inheritance Tax calculator that has been designed to help you with your clients' inheritance planning needs.



IN THREE SIMPLE STEPS YOU CAN:

1. Calculate the acquisitions tax bill that will be payable on your client's estate.
2. Easily create a tailored personalised report in minutes.
3. Guide your client through the relevant exemptions and reliefs in order to determine whether they apply.

With a simple step by step approach, the estate planning pathfinder will allow you to create a detailed, professional report for your clients.

In addition, by using the digital estate planning checklist provided you can easily obtain the information required to provide your clients with a comprehensive outline of the value of the estate they will bequeath, and the tax bill that their beneficiaries will face as a result.

By using our estate planning pathfinder we aim to support you in easily providing your clients with a tailored, professional report to accompany your client recommendation.

UNRIVALLED SUPPORTS FROM IRISH LIFE

Sales Aids: Illustrations to support your client conversations and reducing complexities.

Couples where one life is declined: Ensure that any CAT bill is properly provided for even where one party cannot get life cover because of health issues.

PROTECTION SUPPORTS YOU CAN ACCESS

UNDERWRITING TEAM

Our underwriting team are dedicated to supporting you in your dealings with your clients. In particular our large case team are on hand to help with your business protection and estate planning cases. Contact them on 01 704 1888 or email underwriting.help@irishlife.ie

TECHNICAL EXPERTISE FROM OUR ADVISORY SERVICES TEAM

Our Life Advisory Services team have the expertise to guide you through the various options that you might want to discuss with your clients. They understand that each client is unique, with a unique set of needs. They are here to support you to meet those needs. Contact the team on 01 856 3160 or email advisoryservices@irishlife.ie.

SOME MORE USEFUL LINKS

Capital Acquisitions Tax - An Advisers Guide

Passing on business assets

Capital Acquisitions Tax - A Customers Guide

Protection cover for co-habiting couples

Civil Partners and Cohabitants Life Assurance Issues

Digital Estate Planning Client Checklist

Tax efficient succession planning for your Approved Retirement Fund (ARF)

CAT for business owners

Using life assurance to fund for inheritance tax

Using life assurance to fund for gift tax

Underwriting questionnaire:

Inheritance Tax Questionnaire

PENSIONS
INVESTMENTS
LIFE INSURANCE

Irish Life

ILA 11910 (REV 02-21)