2019

Family Business Network Ireland
Submission to the Consultation on CGT Entrepreneur Relief

Ireland

THE FAMILY BUSINESS NETWORK

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13 Merrion Square North, Dublin 2, D02 HW89, Ireland | Tel: +353 1 634 3050 | Email: info@fbnireland.ie

Background and Context

The Family Business Network International is the world's leading family business organisation. FBN provides a shared-learning space for enterprising families to flourish across generations through the exchange of excellent, innovative and impactful practices. Founded in 1989 and headquartered in Lausanne, Switzerland, it is a global network of some 3,700 business owning families across 65 countries.

The Irish Chapter of the Family Business Network was founded in 2013 by leading Irish business families. It operates as an all-island organization and currently has members from across the island covering a broad variety of sectors, all crucial to supporting and driving the domestic economy.

The purpose of FBN Ireland is to promote the success and sustainability of Family Businesses in the Irish economy. It is a not for profit and non-solicitation organisation that provides a confidential forum for families to discuss and address challenges specific to family businesses. The organization also provides advice on corporate governance and business structures along with assistance on succession planning.

It is estimated that approx. 75% of Irish owned firms are Family Businesses and that these businesses contribute over 50% of Ireland's GDP and employ around half of the workforce[1]. One of the key priorities for FBN Ireland is to highlight the importance of this sector to the Irish economy and to advocate on behalf of its members for better support and treatment of Irish owned Family Businesses and Entrepreneurs within the Irish Tax Code. To that end, members of FBN Ireland actively contributed to the Pre-Budget Submission[2] that was published earlier this month in collaboration with PwC and the DCU National Centre for Family Business.

As part of Ireland's post-crash recovery, a number of tax incentives and business reliefs were introduced in an effort to stimulate the economy and drive entrepreneurship. While these, measures were welcomed, in practice our members have found that they favour the interests of Multinational Foreign Direct Investment firms over those of indigenous businesses.

FBN Ireland has been involved in identifying simple and inexpensive changes that can be made to the Irish tax system that would benefit indigenous Family Businesses and entrepreneurs, thereby helping to create and maintain jobs, increase investment and retain talent in many of the local economies that are sustained by the indigenous business community.

The recommendations contained within this submission have been drawn from the pre-budget submission referenced above.

*** FBN Ireland would like to be included in any future Consultations on this issue ***

[1] https://www.dcu.ie/sites/default/files/centre_for_family_business/Family%20Businesses%20-%20bedrock%20of%20the%20economy.pdf
[2] https://www.pwc.ie/publications/2019/championing-irish-entrepreneurs-budget-2020.pdf

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Recommendations of Changes to CGT Entrepreneur Relief

Ireland has one of the highest CGT rates in the OECD at 33%. This rate disadvantages Ireland's competitiveness and makes entrepreneurship and investment in business in Ireland less attractive and more financially burdensome than it is in other countries.

Despite the current high tax rate however, most Irish family businesses continue to choose to grow and invest in their business. A recent survey by PwC[3] found that 86% of respondents plan on expanding their business over the next two years. This is despite the economic uncertainty posed by Brexit and the challenging tax environment that family businesses face.

Given the nature of family businesses, effective tax structures are essential for forward planning and passing business assets on to the next generation in a family. Within this context, it is difficult to look at Entrepreneur Relief in isolation because within the family business context, this relief is often utilised alongside Retirement Relief in succession planning.

In its current form Entrepreneur Relief can serve as a deterrent to the transfer of ownership in instances where Retirement Relief is not available in full. It can also discourage investment in future businesses within the family network.

The threshold of €1 million over a business owner's lifetime being eligible for the 10% relief does not reflect the scale of many Family Businesses. FBN Ireland therefore recommends that:

- The threshold for Entrepreneur Relief be increased, at a minimum, to the level applicable in the UK. Currently in the UK there is a £10 million lifetime threshold for a CGT relief of 10%. It should also be noted that the base CGT rate in the UK is much lower at 20% so an increase beyond this threshold should also be considered. This increase would be in line with commitments made when Entrepreneur Relief was first introduced.

Given the relationship between Entrepreneur Relief and Retirement Relief in the family business context, we further recommend that:

- A review be undertaken on both the age threshold and relief cap that applies to Retirement Relief. Given changing family demographics, the age restriction of 66 to avail of full Retirement Relief on CGT can force family businesses into making premature succession decisions in order to avail of the relief.

- Furthermore, the cap of €3 million on transfers of business assets made by those over the age of 65 is arbitrary and we would recommend its removal as it can drive generational transfer decisions to be made to avail of the relief and without consideration of the impact on the experience and suitability of the next generation taking over the business.

[3] https://www.pwc.ie/publications/2019/2019-irish-family-business-report.pdf

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- Finally, there is a legislative anomaly within the Retirement Relief system that disproportionally impacts family businesses operated through a company rather than as an unincorporated entity. Under current legislation, the inclusion of investments assets for businesses operated through a company is having a negative impact on the percentage share value that can qualify for Retirement Relief as the value of shares in the company are considered as "qualifying assets" under the relief.

- FBN Ireland recommends the removal of investment assets from the calculation of the relief. This will bring Retirement Relief in line with the Business Relief process of establishing "relevant business property" and will ensure that Retirement Relief operates as intended. It will also encourage business owners to make transfers to the next generation in the knowledge that they will be fairly treated and can achieve a tax efficient outcome on the succession of the business.