

A family trading company

Business



Taxation PART A a) i) The transfer of the business to Sonya involves the disposal of business to own child. It is a qualifying asset since it involves the transfer of shares in a family trading company. At the date of disposal, the father is 60 years of age, which is above the set limit of 55 years. The business has also been running for many years more than 10 years hence it is qualifying. In relation to Sonya, there is no consideration limit unless disposal on or after 1st January 2014 and then €3, 000, 000 limit apply to the business. Sonya must also retain the business for 6 years from the date of the original transfer.

Failure to retain it, it will expose Sonya to parents original CGT that was evaded by Retirement Relief and any CGT liability on their own disposal. This implies that there will be no capital gains tax liability when Tom transfers the business to Sonya. Disposal of shares in family trading company to Sonya will require standard qualifying conditions, control voting rights requirement and working directorship for 10 year and 5 year periods.

Sonya must also own 25% or more of the voting rights in the company or own 10% or more of the voting rights in the company. In addition, the family must own 75% or more which includes the individual's own 10% throughout the 10 year qualifying period.

ii) The transfer of the business to the local businessman is also qualifying since Sonya is above 55 years and it involves the transfer of shares in the family trading company. Disposal to others are exempt from CGT if the gross sales proceeds from qualifying assets during the individual's lifetime from the age of 55 onwards does not exceed €750, 000. In the case of sale to the local businessman, the amount of 850, 000 exceeds the set limit of 750, 000. The capital gains tax liability will be calculated as follows

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$(850,000 - 750,000) \times 50\%$

$= 100,000 \times 0.5$

$= 50,000$

b) If Tom transfers his business to his daughter, there will be no capital gains tax liability, but when he sells the business to the local businessman there is a capital gains tax liability of 50,000.

This can be analyzed in the sense that an increase in the capital gains tax liability minimizes tax liabilities. Therefore, Tom should consider selling the business to the local businessman so that he can minimise the tax liabilities. It will also help to minimise the requirements of directorship and control of voting rights.

PART B

There is no consideration if Sonya agrees with Tom to take over the business now since it is within the family and she has worked for 5 years plus the current year. However, if Sonya sells the business in 2016, she will have violated the rule that she should retain the business for 6 years from the date of the original transfer.

Thus, she will have only operated the business for 2 years from the date of the original transfer. This will expose her to her father's original CGT that was avoided by Retirement Relief and any CGT liability on their own disposal. The father's original CGT that was avoided by the retirement relief was 50,000. She will be exposed to this CGT. She will also be exposed to CGT on her own disposal depending on her own disposal and this will be greater than 50,000.

PART C

First, it involves the transfer of land and thus it is a qualifying asset. The site was transferred to Daniel in 2011. So by the time he sells it, he will have retained it for only one year. This will violate the rule that the child should retain the asset for at least 6 years before disposal. He will, therefore, be liable to his father's original CGT and also to his own CGT when he disposes the site.