TEAGASC SEMINAR
TRANSFERRING THE FAMILY FARM
SOME LEGAL AND TAX ISSUES
BY
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TOPICS TO CONSIDER

• SUCCESSION PLANNING
• GIFT
• INHERITANCE
• ASSET PROTECTION
• CAPITAL ACQUISITIONS TAX

GIFTS – ISSUES FOR PARENTS

• TITLE DEEDS
• MAP
• VALUATION
• SOLICITOR CANNOT ACT FOR BOTH PARTIES

GIFTS – ISSUES FOR PARENTS

• ENSURE OWN FINANCIAL SECURITY IN RETIREMENT
• STRINGS CAN BE ATTACHED / TRUSTS
• CAPITAL GAINS TAX
• ADDED RISKS IN CURRENT CLIMATE

GIFTS – ISSUES FOR PARENTS

• RISK OF CHALLENGE BY THIRD PARTY
• DONE WITH INTENTION TO DEFRAUD A CREDITOR
• MADE BANKRUPT WITHIN 3 YEARS (PERSONAL INSOLVENCY BILL CHANGE)
• NAMA
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<th>GIFTS – ISSUES FOR CHILDREN</th>
<th>INHERITANCES – ISSUES FOR PARENTS</th>
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<td>• MARITAL BREAKDOWN</td>
<td>• MAKING A WILL</td>
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<td>• PRE – NUPITAL AGREEMENTS</td>
<td>• IF NO WILL = INTESTACY RULES</td>
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<td>• LEGAL RIGHT SHARE</td>
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<td>• CAPITAL ACQUISITIONS TAX &amp; STAMP DUTY</td>
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<td>• ENDURING POWERS OF ATTORNEY</td>
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<th>INHERITANCES – ISSUES FOR CHILDREN</th>
<th>AGRICULTURAL RELIEF - NOW</th>
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<td>• CAPITAL ACQUISITIONS TAX</td>
<td>• GIFTS OR INHERITANCES OF AGRICULTURAL PROPERTY</td>
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<td>• GROUP THRESHOLDS</td>
<td>• REDUCES MARKET VALUE BY 90%</td>
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<td>• VALUATION DATE</td>
<td>• CAT PAID ON AGRICULTURAL VALUE</td>
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<td>• TAX PAYMENT ISSUES</td>
<td>• BENEFICIARY MUST MEET FARMER TEST</td>
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<td>• RELIEF CAN BE CLAWED BACK</td>
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<tr>
<td>• COMMISSION OF TAXATION REPORT 2009</td>
<td>• RICHARD IS GIFTED A FARMHOUSE AND LAND WORTH €2.5M BY HIS FATHER</td>
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<td>• “THERE IS A CASE TO SUPPORT TRANSFER OF SMALLER FARMS TO NEW GENERATION”</td>
<td>• HE SATISFIES THE FARMER TEST</td>
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<td>• RECOMMEND REDUCTION OF RELIEF TO 75% &amp; MONETARY LIMIT OF €3M</td>
<td>• UNDER CURRENT RULES NO CAT PAYABLE</td>
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<tr>
<td>• COULD CHANGES BE INTRODUCED IN DECEMBER AS PART OF BUDGET 2013?</td>
<td>• MV REDUCED TO 250K WHICH IS COVERED BY GROUP A TAX FREE THRESHOLD</td>
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AGRICULTURAL RELIEF - CASE STUDY

- WHAT IF RELIEF CHANGED IN BUDGET 2013?
- REDUCE FROM 90% TO 75%
- RICHARD WOULD HAVE CAT LIABILITY OF €112,500

BUSINESS RELIEF - NOW

- GIFTS AND INHERITANCES OF BUSINESS PROPERTY
- BUSINESS OR CERTAIN SHAREHOLDINGS
- OWNED FOR 2 (INHERITANCE) OR 5 YEARS (GIFT)
- REDUCES MARKET VALUE BY 90%
- CLAWBACK RISK

BUSINESS RELIEF - NEXT?

- COMMISSION OF TAXATION REPORT 2009
- “THERE IS A CASE ON SOCIAL GROUNDS TO SUPPORT THE TRANSFER OF SMALLER BUSINESSES”
- REDUCE DISCOUNT ON MV FROM 90% TO 75% WITH MAX REDUCTION OF €3M
- AMALGAMATE AGRICULTURAL RELIEF AND BUSINESS RELIEF

BUSINESS RELIEF – CASE STUDY

- ADRIAN INHERITS THE FARM FROM HIS FATHER
- ADRIAN OWNS A NUMBER OF INVESTMENT PROPERTIES
- HE DOES NOT MEET THE FARMER TEST
- DOES NOT QUALIFY FOR AGRICULTURAL RELIEF
- THE FARM COULD QUALIFY FOR BUSINESS RELIEF