

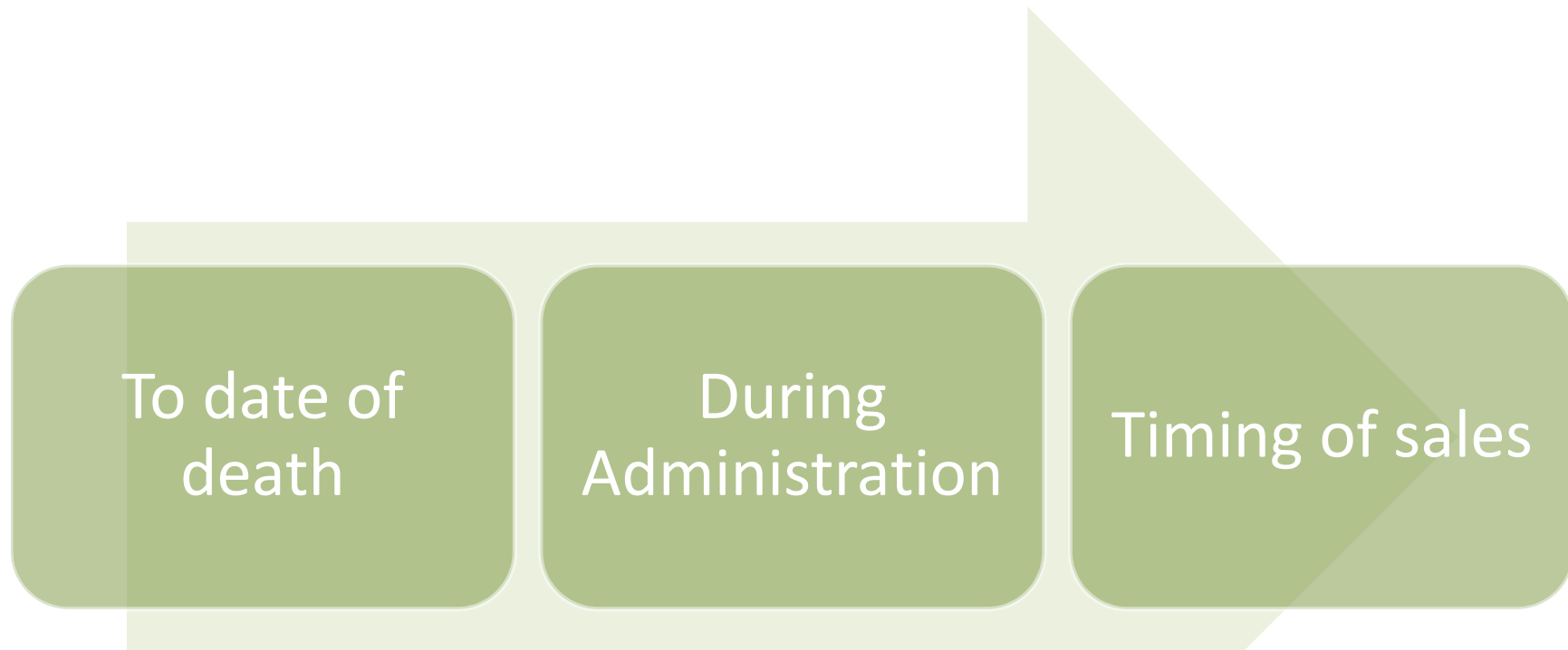
# **Practical Income Tax & CGT issues in the administration of estates**

STEP AGM

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# Income/CGT Taxes



# To Date of Death (“DoD”)

Ascertain all Assets and Liabilities  
For the CA24 (Inland Revenue Affidavit)

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# Date of Death

- Estimate Income tax/CGT to DoD for CA24
- Review prior years? Audit (Julie Burke)
- Instruct final return(s) to be filed to DoD
- Terminal loss relief; cessation rules etc.

# To Date of Death

- Pay final tax or obtain refund
- Send copy Will, CA24 and Grant to Revenue
- Seek letter of no audit
- Widows/widowers – joint assessment
- Apportionment Act 1870 – accruals to DoD

# To Date of Death

## Liability of Per Reps

- s1047 TCA accountability for all income tax and arrears to DoD
- s1048 TCA assessment on per rep

# To Date of Death

s1048 TCA assessment on per rep

- If grant issues within 1 year of death – no assessment post 3 years after year of assessment in which death occurred
- If grant issues after 1 year of death – no assessment post 2 years from year grant issues
- If corrective affidavit filed – extends period 2 years of year of filing

# Administration

## Returns by Personal Representative



# Administration

## Returns by Personal Representative

- Residence of estate = residence of executors. If mix, country of forum of the administration
- Worldwide income & gains or only income & gains of Ireland

# Administration

## Returns by Personal Representative

- General rule – file return to date of ascertainment of residue
- Ascertainment of residue  $\approx$  valuation date of residue
- Accumulated income/gains (or losses) net of income tax/CGT forms part of residue for CAT purposes

# Administration

## Concession re Per Rep Returns

- Available where all residuary beneficiaries are Irish resident
- Can apply if some non resident (eg deposit interest)
- Treats the income & gains/losses as that of residuary beneficiary's from DoD
- Apportion income & gains/losses among residuary beneficiaries

# Administration

## Concession re Per Rep Returns

- “Beneficiaries can be treated as succeeding to the assets from dod”
- “Beneficiaries treated as in receipt of income from the dod”

# Administration

## Concession /Not?

### Basic Rules

- CGT base cost = value at DoD
- CAT - value at Valuation Date
- CAT – include net income and gains/losses if no concession
- Balance - rising/falling market
- Balance – net income earned - CAT
- Requirement to sell in course of administration?

# Concession/Not?

## SALE Values decreasing - per rep return

Income nominal  
Value @ DoD €200k  
Value @ Sale €150k  
Sale by per rep at loss of €50k  
150,000            CAT inheritance  
(50,000)            Loss for per rep

CGT loss for per rep is not available to beneficiary against future gains.

## Values decreasing – concession

Income nominal  
Value @ DoD €200k  
Value @ Val D €150k  
Sale by beneficiary at loss of €50k  
150,000    CAT inheritance  
200,000    Base cost  
(50,000)    Loss for beneficiary

CGT loss is available to beneficiary against future gains

# Concession/Not?

## Values increasing – per rep return

Income nominal  
Value DoD €200k  
Value Sale €250k  
Sale by per rep at profit of €50k  
50,000 @25%= CGT payable  
12,500 by per rep  
250,000  
(12,500) tax a deduction  
237,500 CAT inheritance

## Values increasing – concession

Income nominal  
Value DoD €200k  
Value Val D €250k  
Sale by beneficiary at profit of  
€50k After Val D  
50,000 @25%= CGT payable  
12,500 by beneficiary  
250,000 CAT inheritance

# Concession/Not?

## No immediate sale

### Values increasing

Income nominal  
Value DoD €200k  
Value Val D €250k  
Sale by beneficiary later at profit  
of €50k Base Cost 200k  
250,000 CAT inheritance  
50,000 @25%= CGT payable by  
12,500 beneficiary  
There is no deemed disposal at  
Val date by per rep to beneficiary

### Values decreasing

Income nominal  
Value @ DoD €200k  
Value @ Val D €150k  
Sale by beneficiary at loss of €50k  
150,000 CAT inheritance  
(50,000) Loss for beneficiary  
CGT loss is available to beneficiary  
against future gains  
  
There is no deemed disposal at  
Val date by per rep to beneficiary



# Administration

## Concession /Not?

### CGT disposals shortly after death

- Values decreasing – use concession
- Values increasing – file per rep returns

### CGT disposals much later

- Values decreasing / Values increasing – no difference as no deemed disposal at Valuation date

# Administration

## Concession /Not? BUT INCOME TAX

- Income included in residue if no concession – additional CAT
- Per rep base rate of income tax, no tax credits/allowances, USC applies
- Grossed up income also subject to income tax in hands of beneficiary (s801 TCA) – no real tax ‘advantage’

# Income tax for Legatees

- Income arising from assets specifically bequeathed is income of the legatee
- If received by per rep, tax on per rep and then income tax in hands of legatee
- Interest on legacy – Case III Schedule D
- Limited interests (s800 TCA)
  - mandate income; or
  - pay out after tax and regrossed

# Conclusion

- Finalise pre death
- Analyse administration / distribution
- Do not ignore – employ accountant?
- CGT & CAT ‘planning’
- Give beneficiary details for own returns