FDC Business Newsletter

Autumn, 2005

Accounting
•
Tax Consulting
•
Management/ Interim Accounts
•
Computer Business Systems
•
Computer Network /Communication
•
Payroll
•
Agricultural Consultancy
•
REPS Planning
•
Early Retirement
•
Investments/ Stockbroking
•
Pensions
•
Saving Plan, L/A

TAXATION IMPLICATIONS OF MARRIAGE BREAKDOWN

The breakdown of a marriage is a stressful time for couples, their children and their extended families.

The breakdown will usually be formalised through agreement. More often than not, the agreement will be the result of a process of negotiation between the parties, with neither getting exactly what they want, and compromise from both sides.

Once the couple have separated, i.e. have begun living apart, the tax treatment of each partner reverts as single persons. Each can get a single parent allowance if not re-married or cohabiting provided the children can and do stay with him or her for at least one night of the tax year.

Maintenance payable in accordance with the terms of a legal separation to the former spouse is tax deductible to the paying spouse, but maintenance payable in respect of children is not. It should be noted that there is no tax deductible allowance for voluntary maintenance payments to the former spouse.

Capital Gains Tax, Capital Acquisitions Tax and Stamp Duty

Disposal, gifts/inheritances and transfers between spouses living together are exempt from CGT, CAT and Stamp Duty. A transfer under a court order or formal deed in relation to their separation or divorce is also exempt.

Potential pitfall

If the former spouses are living apart under an informal agreement, a disposal from one to the other could be disastrous. This might happen, for example, where a spouse who has long left the family home transfers it from joint names into the name of the occupying spouse. To avoid this, ensure any necessary asset transfers happen either while the couple are still living together or as part of the formal separation agreement. Otherwise, Capital Gains Tax, Stamp Duty and Gift Tax could become liable on the transfer.

Summary

The tax planning involved in a marital breakdown is more about avoiding pitfalls

MULTI-MANAGER INVESTMENT STYLE

A new Investment Concept,which has been prevalent in the US for some years has recently been introduced to Ireland , thus giving Irish investors more choice in finding a home for their hard earned funds. This concept is known as the MULTI-MANAGER (MM) investment style.

The traditional approach to investing involved picking one fund manager, pinning your colours to his mast and take your return –come what may. How likely is it that you will pick the one that is going to be the leading fund for the next 10 or 20 years? Traditionally a portfolio would be constructed based on past performance data. However history shows us that the same funds rarely perform well all of the time. Research shows that 83% of top quartile performers in one 3 year period performed below average in the next 3 years.

The new MULTI –MANAGER approach combines the best fund managers at any one time from across the globe into a single convenient fund. This means:

- Investors enjoy unrivalled access to the world's leading investment managers (many of whom are not normally available to private investors)
- Fund managers are selected on their skill, professionalism and expertise-not solely on past performance.
- Managers are monitored continually thereby ensuring replacement in the event of under-performance.

Due to the processes involved, the realistic goal of each MM fund is 'out-performance'. This term comes from the lexicon of financial phraseology which is sometimes trotted out and can have very little intrinsic meaning. In normal parlance, the goal is ABOVE AVERAGE returns. Again, the very nature of the approach dictates that for any investment term the MM fund will never be the top performer but can also offer solace that it will never be the worst performer either. A consistent higher return than the average within the peer group is the ultimate goal- and to any experienced

Mortgage/ Borrowing.

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Corporate Finance (BES)

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Income Tax Planning

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Inheritance/Wills

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CGT Planning

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Corporation Tax

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Auditing

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Co. Formation

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Co. Secretarial

The aim is to harness all these strengths to produce a better overall result. To illustrate this point further, think of the different results achieved by a world champion in an individual athletic event versus the results achieved by a decathlete in that event. While the Decathlon champion is very proficient in each event, the achievement in any event cannot match the achievements of the specialist.

To re-cap, the concept of MM investment can be summarised in 2 words- CONSISTENCY and DIVERSIFICATION. Consistency is achieved by the blending of different fund management styles and philosophies. The mix of financial assets together with the mix of global fund managers leads to additional diversification.

I will delve into the adviser's phrase-book to confidently predict that 'going forward', the MULTI-MANAGER approach will be the preferred mode of investment fund management.

PENSIONS

As you are most probably aware from media etc., the pensions deadline of the 31st October is fast approaching. This means that any contributions paid before this date will reduce your liability to tax for the 2004 tax year.

I feel now is an opportune time to introduce some semblance of simplicity to the Pensions issue. The development of the pensions industry in Ireland has brought with it some less savoury elements which have had a detrimental effect on the ordinary workers attitude to providing for his/her retirement. If it isn't some expert expounding on the need to have 2,000,000 in your fund to ensure you can buy your daily paper in retirement, it's a new 'revolutionary' product to add to the myriad of abbreviations already foisted on us –PP,EPP,DC,DB. Not alone do we now have a PRSA and an AVC we have a PRSAAVC. SAP wasn't enough, they had to give us a small SAP –say hello to SSAP (is the teeny weeny SAP that far away).

What is a Pension?
A long term plan that will provide an income in your retirement. It can take the form of property, such as a site, residential etc., it can be a classic car or a piece of antique furniture. It can also be our traditional view of a pension i.e. a regular long term savings commitment

How much must I pay?
What you contribute is dependent on various factors such as: age, tax liabilities, family commitments, other pension provision etc.

The development of the Pensions industry has brought benefits with it. There is now more choice, greater payment flexibility, better tax relief, lower charges and many more drawdown options once you reach retirement. Stripping away the jargon etc. as outlined above, it is fair to say that the provision of pensions and the legislation underpinning that provision is now heavily weighted in favour of the client.

This is just a quick simple guide to pension provision which may encourage workers who have yet to fund for retirement to receive additional information on their options.

Michael McCormack B
Sales Manager
FDC Financial Services

100% MORTGAGES

First Active was the first lender to launch the 100% mortgage product to the market for first time buyers who were struggling to come up with the 10% deposit traditionally required for the purchase of their first property.

100% mortgages were previously offered to professionals such as accountants, doctors, solicitors etc however this has now being extended to all first time buyers.

Even though it is suggested by certain media that now everyone qualifies for a mortgage this is not the case, each lender has certain requirements, a person must qualify for to enable them to secure approval an a 100% mortgage. I would suggest it is more difficult to qualify for a 100% mortgage than a 90% - 92% mortgage.

You do not have to be in a certain line of work however you need to verify 3 years continuous employment with certain exceptions. Some lenders will consider graduates with less than 3 years employment history, or if you are shy of 3 years history you may still be eligible if you are working in a certain profession. If you have been out of work for a while you could find you are out of the loop.

One bedroom and studio apartments, site purchase, self builds and investment properties cannot be purchased under this scheme.

Unlike standard mortgages you cannot use guarantors to support your loan you must qualify on your own earnings.

Some of the lenders are offering the usual home loan

Money & Mortgage Matters/FDC offers an independent mortgage advice and can shop around to the various lenders to secure the most suitable loan approval, so ensure you contact Emily Collins at our offices for a comprehensive assessment of your requirements.

Emily Collins MMII
Money & Mortgage Matters

CHANGES IN AGRICULTURAL / STAMP DUTY RELIEF

The recent Finance Act has changed the rules of the claw-back of Agricultural and Stamp Duty Reliefs. These changes are significant and many are unaware of their consequences. The changes apply to any disposal of land affected after 3 February 2005.

Agricultural Relief on Capital Acquisitions Tax has been in place for many years now and has been invaluable for effective tax planning. This relief is available to a beneficiary of an absolute or limited interest in Agricultural property. The value of the property is reduced by 90% and this value is substituted for the market value for the purpose of arriving at the taxable value. The relief is available to anyone who qualifies as a "farmer". This term can be quite misleading as the individual involved need not be a farmer in the usual sense of the word. The test is that 80% of total assets of the beneficiary on the valuation date and including the benefit must consist of agricultural property.

The legislation provides for a claw-back of the relief where the land is sold with in six years and the entire sale proceeds are not reinvested in other agricultural property within one year from the date of sale or six years in the case of compulsory purchase orders.

This claw-back was previously based on the value of the land sold as at the date of the gift or inheritance.
Therefore if land was inherited in 2000 for 5,000 per acre and sold in 2004 for 20,000 per acre the claw-back that arose was on the 5,000 value.

FA2005 has changed the rules applying to Agricultural Relief claw-back. The new system can be quite penal and applies to all disposals post 3 February 2005. The claw-back is calculated by reference to the following formula:

$$\text{Original Market Value Of Land at Date of Gift} \times \frac{\text{Sales Proceeds not reinvested}}{\text{Market Value of Gift/Inheritance at date of Sale}}$$

This amount is then assessed to tax in the usual manner. The claw-back is now assessed on the current values of the land at the date of sale and can be more penal when a particularly valuable portion of land is sold.

The recent Finance Act amended this and the claw-back provisions are similar to those applied for Agricultural Relief claw-back.

$$\text{Stamp Duty that would have Been chargeable at date of transfer} \times \frac{\text{Proceeds not Reinvested}}{\text{Market Value of all Land at date of Sale}}$$

These changes apply to disposals of land affected on or after 3 February 2005.

John Butler
B.Comm. AITI
FDC Tax Department

AVOID BUSINESS FAILURE

A venture is most prone to failure during its first three or so years of operation - the so-called 'valley of death'. A key to getting through these early years is to avoid the obvious mistakes. Generally speaking, businesses fail for significant and substantial reasons, which are often very evident to outsiders. Insiders often fail to see them because of their closeness, determination and so on. Basic reasons for failure include the following: (See table below)

Clearly, there are very many other reasons as to why businesses fail. The key point is that causes are usually very apparent (especially with hindsight) and the trick is to anticipate them by executing appropriate strategies at the outset. Three examples: Use market research to confirm demand and assess suitability of proposed offerings.
Create a management team to offset any gaps in experience or expertise. Raise equity to reduce exposure to interest rate changes, reduce gearing etc.

Given that reasons for failure are often both simple and clear, it should (in theory) be possible to reduce the possibility of failure through prior experience, forethought and effective planning.

Characteristics of Successful Businesses

A successful emerging growth business is likely to display many of the following characteristics:

- •Sensibly financed (with prudent mix of equity and debt).
- •Strong cash position (with access to follow-on or contingency funds).
- •Offers above-average profitability (in terms of return on capital invested).
- •Aims for rapid growth in revenues (with profits lagging but in prospect).
- •Targets expanding, or otherwise attractive, market segments.
- •Competes on non-price issues (e.g. quality, service, functionality).
- •Very close to customers and responsive to their needs.
- •Seeks specialist/leadership image with superior offerings.
- •Well managed with high-grade staff & good people-management.

Behind every characteristic there should be an explicit strategy designed to increase the chances of success and not simply aimed at reducing the likelihood of failure. For example:

- •A growth business needs a cash *war chest* and <u>not merely</u> "adequate" debt facilities.
- •Likewise, its management team must have the capacity to manage the present business <u>as well as</u> its growth.
- •In planning new strategies for a business, it is essential to define its current (implicit or explicit) strategies for the business as a whole and its main functional areas - finance, marketing, sales, management, operations etc. Do this by setting out a series of short strategic statements.

FDC specialist financial planners generate fully integrated profit & loss accounts with cash flow statements and balance sheets for up to five years ahead and our Plans include a specialist cash flow planner covering 12 months ahead, with weekly projections for the initial three months.

Pat Finucane
FDC Southern Region

Finance	Marketing/Sales	Management	Offerings	Operations
Underestimating start-up costs	Misjudging the size or growth of the overall market.	Lack of relevant sectorial experience.	Inability to supply profitably to required price.	Under-investment in equipment etc.
Insufficient funds or access to top-up finance.	Overoptimistic estimates of market Penetration & shares.	Insufficient functional breath.	Problems with maintaining quality standards.	Excessive over-heads
Wrong mix of funds	Delays in securing or developing distribution channels.	Unresolved differences of opinion.	Restricted range of offerings.	High operational costs and / or low productivity.
Over reliance on trade credit	Underestimating the strength of of competitors.	Unreal expectations.	Lack of innovation	Poor capacity utilization.
Mistaking profit for cash flow.	Misreading customer requirements.	No formal or clear structures.	Problems sourcing supplies.	Inadequate physical distribution.
Overoptimistic projections or overtrading.	Lack of promotion & customer awareness.	Ineffective financial & managerial control Systems.	Offerings out of line with customer needs.	Inappropriate business Location.