



INCORPORATION AND SELF ADMINISTERED PENSION

The issue of whether to incorporate or not is never far from the mind of a sole trader. The well advertised Corporation tax rate of 12.5% payable by a company purports to be the overriding factor when deciding if one should incorporate. It is outside the scope of this newsletter to discuss in detail all pros and cons of incorporation, but it is worthwhile to refer to some in the light of recent changes in the area of pensions.

The move from Sole Trader to company Entities has increased significantly since the mid 90's, at that time many individuals who had been paying Income Tax at a top rate of 57/58% (including PRSI and levies). With the introduction of the reducing Corporation Tax rates, they sought incorporation for their businesses to avoid the penal Income Tax rates. It is the authors view that the Government and Revenue Commissioners were not ready for this uptake in company formation as was witnessed by the fact that the Company Act governing this area had been passed in 1963, with amendments. As a result of the interest shown in incorporation, there was introduced the Companies Act 1990 and more recently a Companies Act 2003. As a result, the issue involved in incorporation were not widely flagged in the mid 90s and it was only in recent years that each issue has taken on a significance due to the statutory obligations imposed through legislation.

In brief, the issues of significant importance as suggested by this author, incorporation would be as follows:

1. The transfer of a sole trader business to a company is a disposal of the sole trader business. All taxes that arise in the event of a disposal are triggered by the disposal of the sole trader to the company.
2. The issue of shares by the company has a relevance in relation to the passing of the Company to a successor.
3. The appointment of a Director and Secretary, which at one time was regarded as immaterial or nominal, now is an onerous task due to the obligations imposed on those persons by the Companies Acts. There are over 200 indictable offenses committable by a director which can give rise to criminal proceedings resulting in a fine and/or imprisonment. Where before we would have treated these appointments lightly, this is now not the case. We inform all parties of their responsibilities under the Companies Acts.
4. The company has a multitude of secretarial/administrative documents which must be submitted on time or face penalties or strike off.

5. Finally, in this authors opinion, the other pressing issue for discussion in incorporation is the age old problem of extracting the money from the company for the benefit of the shareholders/employees.

The developments in relation to point 5 above have been considerable as Tax Practitioners have been forced to address the issue due to the uptake of incorporation and the demands now being put on them by Directors/Employees to extract monies tax efficiently from the company. One such possibility which has arisen in recent years is as a result of changes in the Pension Legislation's. It is the case that the Government are eager to assist individuals in the creation of a pension fund for their retirement in order to lighten the responsibilities on the Government in future years to fund old age pensioners. It is the concern of the Government (and the concern of individuals in the 30-50 year age bracket) that the demography of the country will result in a short-fall of contributions for pension payments to that category of individuals in twenty/twenty five years. The introduction of Self Administered Pensions (SAP) is to encourage the system which allows individuals to fund their pensions tax efficiently. Again, it is not the intention of the newsletter to discuss this aspect in detail. Self Administered Pensions allow Companies to make a contribution towards a pension fund for the benefit of its employees. A Self Administered Pension has three significant advantages:

1. Whereas previously all contributions were controlled by equity/fund managers, it is now possible for the individual to be involved in the investment/use of the pension monies. The individual/employee can direct where and how these pension monies must be used.
2. As the pension fund will be set up under strict guidelines any income/capital earned by the fund will in itself be tax exempt. For example, where the fund purchases a property for rent, any rents received from that property will not be liable to tax. This is a significant advantage as the growth in the fund will not be limited to the rates available in financial institutions nor be reduced due to the operation of Income Tax/Capital Gains Tax.
3. Probably the main advantage of a Self Administered Pension fund is that the contributions made by the company are not limited to the percentages available to a sole trader i.e. 15% to 30%. The contributions available by the company are based on a percentage of the employee's salary, but can be in certain circumstances be a multiple times that salary, thus allowing a more serious contribution to be made to the pension fund.

On the face of it, the SAP fund would seem a strong argument for incorporation but as in all cases, it should only be employed if it suits the circumstances rather than the circumstances being forced to suit the SAP fund. In this authors opinion, it is only another issue on the list when discussing whether or not a sole trader should incorporate.

Donncha Collims
FDC Tax Department

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



ECC Early Retirement Scheme

With the Single Farm Payment issue now becoming clear, it may be an opportune time for farmers in the appropriate age category to review their position viz-a-viz the Early Retirement Scheme.

The main conditions are:

- Aged between 55 and 66
- Cease all commercial farming
- Minimum area of 5 hectares
- Farm income at least 25% of total income in year prior to retirement.
- Total income not exceeding 200 income units (50,800) if wishing to lease or partly lease land.
- Have farming transferee under age 41 with suitable qualifications and income limits
- Leases must be for the duration of the pension with a minimum term of 5 years.
- If land is jointly owned with a spouse, Old Age pension payments need not be affected, if application is structured correctly.
- If each spouse owns land individually, one can retire and the other can stay farming their own individual land.
- Where a family member is becoming the transferee, careful planning is required to ensure the long-term security of both parents and young farmer.
- The first 7,500 is tax free on a 5 – 7 year lease, rising to 10,000 on a lease of over 7 years. This can be doubled if the land is in joint ownership and both parties over 40.

Vincent Hayes
FDC Dungarvan

REPS

The introduction of REPS has posed the question for many farmers, can we afford to let the opportunity pass, of boosting our annual income?

REPS 3 payments for a farmer with 40 hectares are 7,500 as against 6,040 under REPS 2. This payment increases to 8,550 for 55 hectares. There are also additional payments from the Supplementary Measures, which are optional.

Almost 6,000 farmers who were not previously in REPS have applied to join REPS 3, and another 8,500 REPS 2 farmers have transferred to the new scheme. One of the essential differences between REPS 3 and the previous REPS schemes, is the requirement to take up two additional biodiversity measures to qualify for the increased payment. There are sixteen of these measures divided between two enterprises. There are still eleven basic measures, which are compulsory.

The first year in REPS is the most difficult. Boundary fences must be made stockproof, and pollution problems must be corrected. Farmers with pollution problems may join the scheme in the spring, when cattle have gone on grass. However, there will be a condition, that any adjustments to the winter housing or slurry storage facilities which are necessary, will be in place, before the first winter. This gives the farmer the opportunity to draw his/her first year REPS payment early, and provide cash-flow for any expenses which he/her will incur.

When preparing a REPS plan, the planner will carry out some soil tests. Many existing REPS farmers have reduced their overall tonnage of fertiliser and are getting better results, by following a specific programme and using slurry more efficiently.

More dairy farmers are now looking at the possibility of joining REPS. This might entail cutting back cow numbers to comply with the specifications, but at the end of the year, it might mean more money in the farmers pockets.

All farmers should at least, examine the possibility of joining, and most should avail of the chance to earn extra income that should involve little extra effort

Derry Drew
FDC Kanturk



Health Insurance

October 2004 saw the launch of VIVAS Health which has had a significant impact on the Irish Private health insurance market. As the only health insurance company to be authorised by the Irish Financial Services Regulatory Authority to act as an insurance company in Ireland, they are driving fundamental changes to the benefit of consumers like you.

We are delighted to announce we are part of a select network of intermediaries and consultants working in partnership with VIVAS Health using our experience in the intermediary market to distribute their products.

VIVAS Health offer a range of innovative and flexible health benefits previously unavailable within a market dominated by VHI Plan B. They offer unrivalled benefits including:

Key VIVAS Health Benefits

- New and innovative benefits such as overseas referral for treatment unavailable in Ireland
- New and additional maternity benefits including post natal domestic support
- Unique tiered kids pricing
- Day-to-day health cover covering G.P. and dental medical expenses etc.
- A pricing structure which delivers unrivalled value offering up to 42% savings*

***Sample Price Comparison**

Annual Family Price-2 Adults, 2 Children & 1 Student

'we plan' level 2	Plan B
1,373.40	1,523.67
Plan B options	BUPA Essential Plus
1,661.75	1384.19

If you require any further information, a quote or brochure, please contact your local FDC office or 021-4509022.

**Mortgage/
Borrowing.**

**Corporate Finance
(BES)**

**Income Tax
Planning**

Inheritance/Wills

CGT Planning

Corporation Tax

Auditing

Co. Formation

Co. Secretarial

To be completed by the Customer

Group name/employer (if applicable): _____
Intermediary name (if applicable): _____
Quote reference number (if applicable): _____

Personal Details: _____

Title: _____ First Name: _____ Surname: _____

Address: _____

Date of Birth: _____ Occupation: _____

Home Tel No: _____ Work Tel No: _____

Mobile Tel No: _____ Email Address: _____

PPS Number: _____

Date you wish to commence cover with VIVAS Health: (day/mth/yr): _____

Date you first took out health insurance in Ireland: (day/mth/yr): _____

Previous Health insurer: _____

Previous level of cover: _____

Have you, or any of your dependants, had a break in health insurance cover of more than 13 weeks in the last 10 years? Yes No

If yes, please include details on a separate sheet of paper.

Please note that if this is the first time you are buying health insurance, or if you are increasing the level of your cover or you have a pre existing condition, certain exclusions periods may apply before you can make a claim in relation to the pre-existing condition.

Data Protection Act 1988 as amended:

The information you provide becomes part of the personal data held by VIVAS Health and will be automated. All your personal data is confidential and will be used only for the provision and administration of health insurance products and related services. The public register of the Data Protection Commissioner holds full details of all uses for personal data by VIVAS Health.

VIVAS Health may be required to release details in relation to your policy coverage to health service providers in order for you to make any claim. In addition, your details may be used on an anonymous basis for research purposes to improve the service we provide to you.

In the future VIVAS Health may like to contact you in relation to other products and services it may have on offer. If you wish to receive this information please tick the following box

To be signed by the customer:

I agree to be bound by the rules in the handbook** of VIVAS Health

**will be sent on registration, but may be obtained on request or may be viewed by logging onto www.vivashealth.ie

Signature: _____ Date: _____

Method of payment:

Please tick one box only:

Bank Cheque annually Credit Card annually

Direct Debit monthly

Should you wish to avail of a salary deduction, please contact us.



authorised intermediary

Level of cover required:

Please tick the appropriate box corresponding to your plan and level of cover:

	Level 1	Level 2	Level 3	Level 4	Level 5
'we plan'					
day-to-day care	(a)	(a)	(a)	(a)	(a)
'i plan'					
day-to-day care	(a)	(a)	(a)	(a)	(a)
'me plan'					
day-to-day care	(a)	(a)	(a)	(a)	(a)

Dependants**

1. First Name/Surname: _____ Level of cover required: _____
 Date of birth: _____ **day-to-day:** (a) (b)
 Relationship (e.g. Spouse/Child): _____ Tick if full-time student and aged 18-23
 PPS Number*: _____ Place of education: _____
 Date you first took out health insurance: (day/mth/yr): _____
 Current insurer: _____ Current plan: _____

2. First Name/Surname: _____ Level of cover required: _____
 Date of birth: _____ **day-to-day:** (a) (b)
 Relationship (e.g. Spouse/Child): _____ Tick if full-time student and aged 18-23
 PPS Number*: _____ Place of education: _____
 Date you first took out health insurance: (day/mth/yr): _____
 Current insurer: _____ Current plan: _____

3. First Name/Surname: _____ Level of cover required: _____
 Date of birth: _____ **day-to-day:** (a) (b)
 Relationship (e.g. Spouse/Child): _____ Tick if full-time student and aged 18-23
 PPS Number*: _____ Place of education: _____
 Date you first took out health insurance: (day/mth/yr): _____
 Current insurer: _____ Current plan: _____

4. First Name/Surname: _____ Level of cover required: _____
 Date of birth: _____ **day-to-day:** (a) (b)
 Relationship (e.g. Spouse/Child): _____ Tick if full-time student and aged 18-23
 PPS Number*: _____ Place of education: _____
 Date you first took out health insurance: (day/mth/yr): _____
 Current insurer: _____ Current plan: _____

* You must include your PPS Number in order to avail of tax relief at source on your premiums.

** We recommend all dependants on 'we plan'. If you wish to add dependants to your 'i plan' or 'me plan' please call us on 1850 717 717

