

Tax Newsletter Summer '10.

STAYING POSITIVE IN 2010



HOW COGENT CAN HELP YOU

Welcome to our latest tax and financial newsletter. In this edition we highlight some recent issues that may impact the SME sector and private individuals arising out of the recent Finance Act. We also look at topical tax planning matters and some cashflow techniques for the SME sector. We hope you find this information useful and, as always, we welcome your queries or feedback.

At Cogent we are committed to helping our clients with any issues which they may face in these challenging times. Many see 2010 as the year in which the economy will begin to recover. However, for many businesses and individuals 2010 will be as tough as 2009 given the scarcity of bank funding and debtor payment delays. Coupled with these difficulties, there have been many changes to the tax and legal landscape with the passing of the Finance Act, the NAMA Act, numerous tax briefings and e-briefs and the many issues which have been considered by the Courts in recent times in the area of insolvency.

With all of these changes to consider it is fair to say that what we knew yesterday may no longer apply today. Brian Lenihan recently said 'The best way to predict the future is to invent it', and we believe that clients will be more creative and focused in the new economy in 2010 and beyond.

We have a strong team in house and all of our consultants are accountancy or taxation professionals with experience in areas such as working with Revenue, corporate and private banking, industry and practice.

HOT TOPICS FOR 2010

The following is a non-exhaustive list of matters that may require attention in 2010:

- Succession planning and asset protection
- Cashflow/Financial Review
- NAMA business plans & insolvency
- Managing employer taxes & VAT and other tax cashflows
- Residency & remittances (including redundancy)
- Company formations, Corporate Compliance, Company liquidations
- Pension Planning/ Retirement Planning
- Tax returns and compliance under all tax heads

COGENT TEAM UPDATE

Members of the Cogent team are constantly developing and updating their skill sets by attaining new qualifications to enable us to deal with any client query effectively and efficiently.



Clodagh Fleming recently completed the Qualified Financial Advisor qualification making her the second QFA on the team along with Monica Walsh .



Lorraine O'Flynn has recently successfully completed her final examinations as a Certified Public Accountant.

We would like to take this opportunity to congratulate Clodagh & Lorraine on their achievements!

'IMPORTANT NOTICE' - RE NON PRINCIPAL PRIVATE RESIDENCE CHARGE

The Local Government (Charges) Act 2009 introduced a €200 annual charge on non principal private residences. This charge is levied on the following main types of properties:

- Private rented property
- Vacant property (except new but unsold residences)
- Holiday homes

Certain types of property are exempt from this annual charge, however advice should be sought. You should contact us or your local authority if you are in doubt about the liability of your property.

A property owner's liability to the charge will be assessed on the basis of ownership of the property in question on a single day each year. The liability assessment date for the 2010 NPPR Charge is 31st March 2010 ("liability date").

The €200 charge must be paid within 2 months of this date, i.e. 31st May 2010. Please note that if payment is not made within one month after the last payment date, a late payment fee of €20 will apply for every/part of month thereafter. For 2010, this means that the late payment fee will apply to all payments made after 30th June 2010.

Accordingly, please click on the following link for more detailed information: www.nppr.ie

Registration forms are available to download on the following link: https://www.nppr.ie/forms/NPPR_RegistrationForm.pdf

SME ISSUES & CASHFLOW MANAGEMENT

It is critical for all business and those in the SME sector in particular to improve cash flow. We have summarised below some ideas on how this might be achieved through managing the payments and maximising refunds under the various tax heads.

VAT

There are a number of ways to improve cash flow through VAT management as follows:

- Alternatives available to usual bi-monthly VAT return
- Review turnover to see if below obligatory thresholds
- Assess eligibility to account for VAT on cash receipts rather than invoice basis
- Invoices delayed until first day of the new VAT period
- Look at benefits of writing off debts to recover VAT already paid over
- Make sure all possible VAT credits are claimed, for instance VAT on petrol is not allowed but VAT on diesel is
- Property developers can rent out developed property without upfront VAT clawback

PAYE

- If new employees are required consider Revenue 'Job Assist' scheme which may allow double deduction for tax purposes
- Look at ability to file P30 quarterly rather than monthly
- Using online payment method extends deadline from 14th to 23rd of month
- Offset redundancy rebates against current tax due (see Tax Briefing 59)

CORPORATION TAX

- Review year end and consider changing date if tax cash flow benefit
- Base CT Preliminary Tax on 90% of current year liability rather than 100% of previous year if more beneficial
- Consider incorporating sole trade or partnerships

LOSSES

- Review use of losses to ensure they are maximised and any prior year refunds are claimed

The above list is not exhaustive but serves to highlight that there may be ways to improve the cash flow of business and it may be timely to review your business tax affairs at this time.

FINANCE ACT 2010 (FA 2010) – MAIN CHANGES IMPACTING SME AND PRIVATE CLIENTS

START UP COMPANIES EXEMPTION

A corporation tax exemption was previously announced in respect of new start up companies. FA 2010 confirms that start up companies which commenced to trade in 2010 will be exempt from corporation tax and capital gains tax in each of the first three years subject to certain rules.

80% WINDFALL TAX

The National Asset Management Agency (NAMA) introduced legislation imposing a special tax rate of 80% on profits or gains accruing to individuals and companies on the disposal of land if the profit or gain results from rezoning of land. The 80% rate of tax applies to profits or gains where the rezoning decision was made on or after 30 October 2009.

FA 2010 provides for an exemption from this tax on disposals of sites under 1 acre where the market value does not exceed €250,000 provided the disposal does not form part of a larger transaction or series of transactions.

There are other detailed aspects to this new legislation which could have a significant impact on clients. If you believe any of your property may be subject to these provisions in the future, it is important to obtain advice at an early stage.

MORTGAGE INTEREST RELIEF

The Budget 2010 announced an extension of mortgage interest relief until the end of 2017. The FA 2010 has clarified that the relief will be available at current levels for loans taken out between 1 January 2010 and 31 December 2011, until the end of 2017. For loans taken in 2012, mortgage interest relief will be available at reduced rates.

Loans taken out on or after 1 January 2013 will not qualify for mortgage interest relief and mortgage interest relief will be abolished completely for 2018 and subsequent tax years.

HIGH INCOME EARNER RESTRICTION

FA 2010 provides that the effective rate of income tax for high income earners

will increase from 20% to 30% with effect from 1 January 2010. The entry point where the restriction will apply has been reduced from €250,000 to €125,000 with the full restriction applying to incomes of €400,000 and over.

For individuals with income between €125,000 and €400,000, a graduated rate of income tax will apply and for individuals with income in excess of €400,000, an effective rate of income tax of at least 30% will apply. These restrictions are subject to an individual utilising at least €80,000 of specified reliefs in a tax year.

DOMICILE LEVY

FA 2010 gave effect to the domicile levy which was introduced in Budget 2010. The levy has effect from 1 January 2010. The levy applies to individuals who are Irish domiciled and Irish citizens in a tax year and who have:

- worldwide income exceeding €1,000,000;
- a liability to income tax in Ireland of less than €200,000; and
- property located in Ireland on the valuation date (31 December in the relevant tax year) with a market value exceeding €5,000,000.

The levy will apply irrespective of an individual's tax residence status. The amount of the levy is €200,000. Irish income tax paid by an individual will be allowed as a credit against the domicile levy. The tax is payable on a self-assessment basis on or before 31 October in the year following the valuation date, i.e. 31 December each year.

MANDATORY REPORTING OF CERTAIN TRANSACTIONS

A new section has been inserted to the taxes legislation whereby certain transactions which give individuals a "tax advantage" must be reported to the Revenue Commissioners either by a promoter of the transaction or the individual personally, depending on the circumstances. The legislation is similar to the UK disclosure rules which were introduced in the UK a number of years ago and the provisions will place a

huge responsibility on tax and accountancy professionals. Revenue have yet to clarify what transactions are to be covered and when they must be reported. Regulations in relation to these conditions are to be drawn up by Revenue and the Minister for Finance shortly. The legislation does allow for an initial penalty of €4,000 where the required information is not submitted, with subsequent penalties of up to €1,000 per day.

NEW CAT THRESHOLDS

The Capital Acquisitions Tax (CAT) thresholds for gifts and inheritances taken in the calendar year 2010 are as follows:

Group A: €414,799

Applies where the beneficiary is a child (including adopted child, step-child, and certain foster children) or minor child of a deceased child of the disponent. In certain circumstances parents also fall within this threshold where they take an inheritance from a child.

Group B €41,481

Applies where the beneficiary is a brother, sister, niece, nephew, or lineal ancestor or lineal descendant of the disponent.

Group C €20,740

Applies in all other cases

It is worth noting that the reductions in the CAT thresholds are unprecedented and many in the industry believe that the thresholds may fall lower or that the CAT rate will increase. Indeed the Commission on Taxation also recommended reducing a number of CAT reliefs (such as Business Relief). It may be only a matter of time before the current generous reliefs are phased out. Clients contemplating the transfer of assets or business may well be advised to plan now in advance of further changes.

The above summary is not an exhaustive list of the changes of the Finance Act 2010 and is intended as a general guide only.

Disclaimer: Professional advice should always be sought before acting on any topic covered in these notes.