ISSUE 44»
MARCH 2018

client matters

a newsletter from **pkffpm accountants**

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BREXIT BRIEFING & TAX MATTERS
FREE INSIDE

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The Sunday Times Top 100 Accolade

Leading island accountancy practice PKF-FPM has scored another milestone success being placed in the UK's prestigious Sunday Times Top 100 Best Small Companies to Work for 2018.

Now in its 18th year, the 'Best Companies To Work For' celebrates the elite of Britain's employers across four different categories: The 100 Best Companies, the 25 Best Big Companies, the 100 Best Small Companies and 100 Best Not-for Profit Organisations.

Places in the rankings are determined by measuring seven key areas including Leadership; Personal Growth; Team; and Giving Something Back alongside a review of pay, benefits and work-life balance. Ranked 64th in the small-sized business category, PKF-FPM attained the maximum 3 Stars accreditation for 'extraordinary' levels of engagement. Indeed PKF-FPM were the only independent Northern Ireland firm to be recognised in their category.

PKF-FPM Staff Director Teresa Campbell and Managing Director Feargal McCormack received the prestigious award on behalf of PKF-FPM Accountants. They were joined at the London Awards Ceremony by HR Manager Ciara McFerran and Caroline Preston, Business Development Manager.

THE SUNDAY TIMES 100 BEST SMALL COMPANIES TO WORK FOR 2018

On taking their place in this year's Sunday Times Top 100 rankings, PKF-FPM founder and Managing Director, Feargal McCormack, stated that he was "humbled and overjoyed for the recognition of the collective PKF-FPM team". He added "Our goal is to foster a culture that supports greatness, we strive to attract and retain the brightest and best and to inspire and develop the emerging leaders of tomorrow. PKF-FPM has been successful in managing talent and developing a strong client focused business team, to ensure excellence in service delivery at all levels."

A very excited Staff Director Teresa Campbell added: "Inclusion in The Sunday Times 2018 Top 100 Best Small Companies to work for in the UK, means that PKF-FPM Accountants has now been recognised and acknowledged as an exemplar employer in a variety of national Awards for the fourth successive year."

The Sunday Times Top 100 accolade, when combined with the recent successes at the British Accountancy Awards 2017 - Mid-Tier Firm of the Year, Overall Firm of the Year at the Irish Accountancy Awards 2017 and The Irish News Workplace and Employment Awards 2017 Managing Talent Award, provide PKF-FPM with the opportunity to celebrate a quadruple crown of significant wins in the past 12 months.

Vulture Funds: Opportunity or Threat?

As has been widely reported, Permanent TSB and Ulster Bank plan to sell up to 25,000 mortgages to so called Vulture Funds. This move is mainly driven by the requirements of the European Central Bank for lenders to reduce the number of loans and arrears on their balance sheet.

Deutsche Bank, Apollo Service Loan Star, Carval, Goldman Sachs and Cerebus have emerged as the main purchasers of such loans.

The term vulture fund is a metaphor used to compare investment funds to the behaviour of vultures preying on debtors in financial distress by purchasing the debt at discount to make a large gain.

However we at PKF-FPM see vulture funds as an opportunity for borrowers to finally achieve a long term, sustainable full and final settlement.

Loan Servicing in Ireland

Although vulture funds are not regulated, they must appoint a regulated entity to service the loans they acquire which includes managing the process with borrowers in financial difficulties.

The contractual position between the borrower and lender does not change when the loan is acquired by a vulture fund. Whatever rights the borrower had with the original bank they still have with the vulture fund. The legal process is also unchanged and the code on the mortgage arrears still applies.

PKF-FPM experience is that judges in the Circuit and High Court tend to favour borrowers over vulture funds trying to repossess Irish citizens' principal residences.

TO PG2>

HOW WILL BREXIT AFFECT YOU?

Brexit will have profound tax implications for individuals domiciled in Northern Ireland, the UK and Ireland.

Find out how you and your business will be affected and how to minimise your future tax liabilities.

Contact PKF-FPM's Brexit Centre of Excellence.

about us

PKF-FPM CORE VALUES

- Passionately believe in caring for our clients, colleagues and community.
- Listen, understand and solve, to make it happen.
- Invest in the Best!
- Pushing out boundaries and creating opportunities.
- A culture of ethical business and trust.
- An ethos of positivity, enthusiasm and fun!

PKF-FPM CORE FOCUS

- Caring and proactivity are at the heart of everything we do;
- We commit to helping you maximise your wealth and lifestyle aspirations, through understanding you and your business; and
- We have a proven track record in delivering simple solutions to complex problems.

PKF-FPM THREE UNIQUES

(1) We 'get' you, and foster a sense of urgency, with a bias towards passionate thoughtful action – (we're business owners ourselves).

(2) We're different ("brave, bold and gutsy", we tell you what we think, rather than what you would like to hear).

(3) Acknowledged independently at local, regional and national level as "best in class" with unique Cross Border expertise.

Newry Office:
Dromalane Mill,
The Quays, Newry
T 028 302 61010

Belfast Office:
1 - 3 Arthur Street, Belfast
T 028 9024 3131

Dungannon Office:
30 Northland Row, Dungannon
T 028 8775 0400

Mallusk Office:
Unit 1, Building 10, Central Park,
Mallusk Road
T 028 9083 0801

Dundalk Office:
Block 5, Quayside Business Park
Dundalk, Co Louth.
T 042 9388898

Balbriggan Dublin North Office:
Balbriggan Business Campus
Balbriggan, Co Dublin
T 01 6913500

www.pkffpm.com
info@pkffpm.com

Vulture Funds: Opportunity or Threat?

< CONTINUED FROM PG1

All borrowers have access to the legislation introduced in the Personal Insolvency Act 2012. The fact that their loan is now owned by a vulture fund can enhance their chances of getting a deal under the Personal Insolvency Act.

Personal Insolvency Arrangement (PIA)

The Personal Insolvency Act introduced a new insolvency procedure called a Personal Insolvency Arrangement (PIA). A PIA can be entered into by a debtor and one or more of his creditors. Importantly a PIA can include both secured and unsecured debts.

Secured debt is a debt backed or secured by an asset, for example a mortgage.

Secured debts can be restructured under a PIA and one or all of the following restructuring methods can be applied:

- Write down of the debt to market value of the property.
- Reduction or change in the Interest Rate to fixed or variable for the term of the mortgage.
- Extension of the Mortgage Term.

Will the funds / Bank accept such deals?

In short, usually 'No'. However, Section 115A (S115a) was introduced in 2015 to give the personal insolvency legislation more teeth. This section gives the courts power to review and approve a PIA which has been rejected at a meeting of creditors. In effect, the courts can force the deal on the funds/Bank. The Court's power to force a proposal on a bank or fund is commonly known as a 'no veto proposal'.

In a recent S115A case, the courts forced a PIA on the vulture fund that included a fixed rate of interest of 3.65% for the extended 27 year period of the restructured mortgage. Funds are not banks. In this case, the terms on which the fund had purchased the mortgage debt was not presented to the court and it was unclear when the fund might need to return to the market to finance its capital needs. Taking into account that the mortgage loan was owned by "an investment vehicle and not a commercial bank," Judge Baker did not see sufficient evidence that the 27 year fixed rate caused unfair prejudice to the fund.

This decision reflects the tendency of the Irish courts to encourage arrangements which enable debtors to

By Gary Digney Associate Director & Personal Insolvency Practitioner

remain in their family homes, and to encourage secured creditors to approve PIA proposals.

As funds are highly unlikely to disclose to the courts the cost of the purchase of the loan, it is possible that an even more favourable rate of interest could be applied to a restructured loan in a PIA where the owner of the debt is a vulture fund.

Conclusion

PKF-FPM experience is that the borrowers who are not in default should not be disadvantaged when their loans are transferred to a vulture fund.

For borrowers who want to sell their property and reach compromising residual debt, dealing with a vulture fund means dealing with a motivated party who expects a debt write off.

While it is true that for some mortgage holders whose situation is irretrievable, dealing with a vulture fund may bring forward the day of reckoning, that day of reckoning was going to arrive sooner rather than later in any event.

The situation facing borrowers under a loan sale may push others to seek novel insolvency deals such as that signed off by Ms Justice Baker under the new Personal Insolvency Act.

The introduction of Personal Insolvency Arrangement provides borrowers with the opportunity to restructure their mortgage, allowing them to retain the family home on a sustainable basis. One of the first steps borrowers should consider, therefore, is whether they are eligible for a no veto type PIA.

The underlying principle of the PIA process is that no Irish resident should have to leave their principal residence. This should provide significant comfort for borrowers struggling with their mortgage and is something they may have to call upon to provide protection perhaps from vulture funds and other lenders.

PIA Case Study

The Problem: *Mr and Mrs Hillen have a property with a mortgage of €500,000. The property is valued at €250,000. The mortgage has been in arrears since before January 2015. The interest rate is 4.65%. The Hillens have little disposable income and their loan has been sold to a vulture fund.*

STATEMENT OF AFFAIRS:

	NRV €		€
Matrimonial Home	250,000		-
Less debt to ABC Bank	(500,000)		
Shortfall		**(250,000)**	Nil
Assets available for unsecured creditors			Nil
Less unsecured creditors			
Shortfall on matrimonial home ABC Bank		(250,000)	
Credit Union Loan		(20,000)	
Credit Card		(3,000)	
TOTAL UNSECURED LIABILITIES		**(273,000)**	273,000
NET LIABILITIES			**(273,000)**

The Solution: *A Personal Insolvency Arrangement (PIA) is proposed and the home mortgage is written down from €500,000 to €250,000. The mortgage term is extended from 16 years to 25 years. The interest rate is reduced to 3.65% fixed for the term of the mortgage. A relative introduced a lump sum payment of €15,000 in full and final settlement of the debt. The creditors were paid 3.6 cent in Euro in full and final settlement.*

Real-Time Accounting Protects Your Business

While nobody sets out to be a bad manager, every manager risks making bad decisions if they don't have access to reliable business information.

When things go wrong in business, managers often blame external factors. Yet studies show that most business crises are caused by management failures. Opportunities and revenue are lost and problems arise which can ultimately lead to business failure.

Running out of cash is one such problem. This happens for various reasons - from miscalculating profit margins to over-spending and inadequate credit control. Yet cash flow problems can be managed with a reliable accounting system.

Inadequate monitoring of competitors is another common problem. New competitors spring up all the time and customer demands change rapidly. Therefore access to reliable market information is vital.

If you do not have the resources to employ an in-house accounting team, it makes sense to look for an external service provider.

Real time accounting can be a very cost-effective solution in this regard. It gives you access to qualified accounting professionals and up to date, reliable information about your business alongside commentary and analysis.

For information on PKF-FPM's real time accounting solution, contact Aoife Loughran (a.loughran@pkffpm.com) or any member of the PKF-FPM team.

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Family Business Seminar

PKF-FPM has received excellent feedback on our recent family business seminar in Balbriggan where we outlined the steps family-owned entities need to take to secure the long term future of their businesses.

Three quarters of all businesses in the UK and Ireland are family-owned yet fewer than 30 percent survive beyond the second generation. One of the reasons for this is that business owners delay planning their strategy for exiting the business. Then, when the unexpected happens, such as accident or illness, this creates conflict and financial losses that could have been avoided through better planning.

At the seminar, we explained that succession planning is a process not an event. The first step is to begin planning now. Think about where you want to be this time next year, then in five years from now, then in ten years, and so on. Keep in mind that not every succession plan involves passing the business to the next generation. You may need to think about options such as selling the business or bringing in a junior partner and developing them for a future leadership role.

Once you have decided on your objectives, you can begin to implement your plan to achieve them. A good plan will optimise your operations and maximise the future benefits for your family, your business and yourself. Remember to review the plan regularly as your business evolves.

PKF- FPM Director Michael Farrell with John Cumiskey President of Balbriggan Chamber and Larry Hagan at PKF-FPM's Family Business Breakfast Seminar at the Bracken Court Hotel Balbriggan.

Business owners sometimes fail to take account of the tax consequences of their succession planning decisions. As well as securing the continuity of the business and providing for your family members, a key objective of your plan should be to safeguard your personal financial independence and security. So, before you finalise your succession and asset transfer objectives, it's important to consider tax planning.

Finally, remember that whatever your plan for the future of your business, it's essential to communicate it to everyone involved. While it is natural for emotional factors to come in to play, particularly in times of crisis, conflict can be avoided if everyone understands the plan and knows it is based on sound business reasons.

PKF-FPM organises regular events for family-owned businesses. If you would like an invitation to our next event, please let us know.

Team PKF-FPM's Keith Lynch, Tanya Macken, Lauren Quinn, Michael Farrell and Antem Eyong.

Elizabeth Eastwood with Edel Mc Guinness, EMG Property, Mary White, Hodgestown Farm and Martha Zabicki, Starpolska Ltd.

Attendees enjoying the PKF-FPM's Family Business Breakfast Seminar.

CIOT / ATT Annual Dinner

In his Chairman's address at the CIOT Annual Dinner, PKF-FPM's Malachy McLernon said that for Northern Ireland driving up productivity is the key to boosting output, improving wages and facilitating community cohesion – and the onus is on the private sector to deliver these gains as cuts to local government departments continue to cause difficulties in the public sector.

Malachy said that President Trump's economic pledge of "American jobs for American people" could signal worrying times for the Northern Ireland economy, and the 20,000 people employed by US companies here, while Brexit may push Northern Ireland towards focussing more on Non-EU trading partners.

Pictured recently at a joint Chartered Institute of Taxation and ATT dinner in the Europa Hotel were CIOT Chair and PKF-FPM Director Malachy McLernon with members of TEAM PKF-FPM.

"As long as we don't have clarity on Brexit, we not only creep closer to the cliff edge of no deal – we risk taking our eyes off Northern Ireland's other key priorities such as the skills and infrastructure we need to transform our economy …. We need to get Brexit sorted so that employers, employees, unions, government, researchers and educators can turn their attention to come together and agree on the best way forward to make the most of the revolution that is hurtling towards us. Our future can be bright and exciting but only if we have the courage and confidence to focus less on our differences and more on our shared goals," Malachy said.

GDPR Planning will be Ongoing

Businesses, charities, sports clubs, government departments and voluntary organisations are continuing to prepare for GDPR, says Feargal McCormack.

With only weeks to go until the General Data Protection Regulation comes into force (25 May 2018), PKF-FPM clients are reviewing and updating their data protection policies and procedures. What is clear from this exercise is that compliance is not a question of meeting a one-off deadline. Rather, it is a continuous process with data protection needing to be built into decision making and planning across all functions and monitored and refreshed on an ongoing basis.

The purpose of GDPR is to strengthen the privacy rights of European citizens by making organisations more accountable for how they collect, store, protect and use personal data. Businesses, charities, sports clubs, Government departments and voluntary groups all come under GDPR if they keep or use personal information, regardless of whether this data is held on computer or in structured manual files. Examples include employee records, customer databases, application forms, email and marketing lists, contracts, suppliers and websites.

GDPR - an ongoing process

While there has been much talk about the 25 May 2018 deadline, organisations need to focus on the fact that maintaining GDPR compliance will continue to be an important priority well beyond 25 May 2018. PKF-FPM clients who require advice should contact our Governance and Risk Management team.

AREAS TO FOCUS ON

• Accountability: In order to demonstrate GDPR compliance, you will need to be able to explain why you collect data, how you obtain it, how long you retain it for, whether it is shared with third parties, where it is stored and how it is secured.

• Transparency: You must be open, honest and transparent in your communication including using language that is clear and easy to understand.

• Personal privacy and subject access requests: GDPR gives individuals rights over their personal data including the right to have their data corrected or deleted. You need to be able to cope with these requests in a timely fashion.

• Legal basis of obtaining data: Examples of a legal basis include data obtained for the performance of a contract, data necessary to protect a vital interest, data obtained by consent, or in public interest, or to meet regulatory requirements or to meet another legitimate interest, Where you rely on consent as your legal basis, you need to be able to show that you obtained it appropriately and you will need to have an audit trail.

• Security: Your data security procedures must include addressing vulnerabilities and cyber risks on an ongoing basis.

• Data protection officer: Where you are required to appoint a data protection officer, you must make sure that this person has the knowledge and authority to carry out their duties effectively.

• Data breaches: Where data breaches occur, you must be able to detect, investigate and report them in a timely manner.

• Training: Staff should receive appropriate data protection training with regular updates to refresh awareness and knowledge.

Training in Healthcare Award for Health Matters

Health Matters (Health & Safety) Ltd, who have premises in Belfast, Newry and Dublin, picked up the 'Training in Healthcare' award at the Randox Health Healthcare awards in February.

Established in 1997, PKF-FPM client Health Matters has grown to become one of the UK and Ireland's premier Health and Safety organisations, offering an array of services that includes General Workplace, Construction and Healthcare Training and consultancy support packages. The company serves clients across the island of Ireland.

First Derivatives in Tech Deal with Red Bull Racing

In February, First Derivatives (FD) announced that it has signed a contract with a FTSE 100 gaming company for the use of Kx technology to provide data analytics services. The contract win follows a successful proof of concept in which Kx provided operational intelligence that demonstrated a compelling return on investment versus traditional database solutions and open source alternatives. The customer is one of the world's leading sports betting and gaming operators with over four million customers globally and processes billions of transactions per day.

Last year, FD was selected by Red Bull Racing as a team supplier for the use of its Kx technology to analyse sensor data from its Formula 1 vehicles.

FD is a global technology provider with 20 years of experience working with some of the world's largest finance, technology, retail, pharma, manufacturing and energy institutions.

Padraig McManus Keynote PKF-FPM / Ulster Business

"If you can get those around you to buy into your strategy and what you are trying to achieve, you are on the road to becoming a leader."

These were just some of the thoughts shared with business leaders by former Chairman of Eir and Mincon Group Plc, Padraig McManus, as keynote speaker at the PKF-FPM Annual Leadership Talk.

The event was part of the 2018 MLM Management Month initiative, in association with Ulster University Business School held at the Belfast campus in February.

Born of Northern Ireland parents and having lived in Co. Kildare for most of his life, Padraig McManus graduated as an engineer from UCD in 1973. He then joined the Electricity Supply Board (ESB) following in the footsteps of his father who was also an ESB engineer.

Padraig worked in a number of roles with ESB including serving as CEO for almost 10 years. In 2010, he led the £1bn acquisition of NIE Networks overseeing the financial, political and general stakeholder issues of integrating the business into the ESB Group.

Chairman of Eir (Eircom Holdings Ltd) from 2012 to 2017, he was also Chairman of mining equipment manufacturer Mincon Group Plc from 2013 to 2017.

A Fellow of the Institute of Engineers in Ireland, Padraig is currently

At the PKF-FPM Annual Leadership Talk in association with Ulster University Business School were Mark Durkin, Executive Dean of Ulster University Business School, PKF-FPM Managing Director Feargal McCormack, keynote speaker Padraig McManus, and event host Gerry Kelly.

First for MJM Group

PKF-FPM client MJM Group, the world-leading fit-out specialist, headquartered in Northern Ireland has signed an historic, multi-million pound contract with Royal Caribbean Cruises Ltd and operator Azamara Club Cruises®.

This will see MJM Group create history by bringing one of the first major refits of a cruise liner to a UK dry dock. MJM Group, which specialises in high end marine fit outs will bring the luxury cruise company's newest ship to Belfast, to manage and complete a full refit.

The announcement is an unprecedented, potential game changer both for MJM Group and the global cruise ship industry, as it represents the first time a cruise ship owner has awarded complete project management responsibility to an individual organisation.

Azamara Pursuit is on the way to Belfast for a multi-million pound refit by MJM Group.

China trade mission

In January, Brian McConville, founder and Chair of MJM Group was one of two business leaders from Northern Ireland to join Prime Minister Theresa May on her first official Trade Mission to China to build on existing strong ties between the two countries.

GECKO Secures US $1m Investment

Gecko Governance's Shane Brett with Damien Cahill and ITI's Laurence Lord.

GECKO Governance, which created the first RegTech blockchain solution for financial services institutions, has secured US $1 million in seed investment financing from COSIMO Ventures.

The investment will accelerate GECKO's global expansion as it pioneers a new market for RegTech in financial services through its Blockchain solution.

Based in Dundalk and with offices in New York and Sydney, PKF-FPM client GECKO was a winner of the 2016 Seedcorn Competition and was placed tenth in the 2017 RegTech 100.

The company's blockchain-integrated technology products allow fund managers and banks to schedule all end-to-end compliance and regulatory tasks in a single platform, and provides them with a verifiable, independent audit trail of compliance that satisfies global financial regulators.

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Speaker at School Leadership Talk

President of the Economic and Social Research Institute of Ireland, Chairman of the National Maternity Hospital Foundation and Chairman of the Curragh Racecourse. He is on the Council of Chartered Accountants Ireland and is a former board member of the Irish Management Institute and Business in the Community.

During the one-hour conversation with broadcaster Gerry Kelly, Padraig gave a detailed overview of his career and also talked about the many community projects in which he has been involved, including voluntary trips to Ghana to rebuild primary and secondary Schools.

Speaking at the event, which attracted a capacity audience, PKF-FPM Accountants Managing Director, Feargal McCormack, stated that Padraig's contribution to both social and economic sectors on the island of Ireland has been considerable.


We're Powered Up
for this FREE inspirational and informative PKF-FPM leadership talk.

This event will take place as part of the 2018 MLN Management Month in association with the Ulster University Business School, Ulster University, Belfast campus, York Street Belfast, BT15 1ED on Thursday 8 Feb 2018.
Starting at 10.30am sharp (Registration from 9.45am)

Places are by invitation only and are limited - to reserve your seat please confirm today with our Belfast Office:
1-3 Arthur Street, Belfast BT1 4GA - Tel: 028 9024 3131
Email Lauren Quinn at: lquinn@pkffpm.com

Ulster University | Management Month | PKF FPM

"Padraig has shared his business experience and expertise most generously in supporting many organisations and individuals across Ireland and as such, is a significant role model for our own existing and aspiring business leaders. It has been most inspiring to hear his story today and to get some insight into the approach of a great leader."

Professor Mark Durkin, Executive Dean of the Ulster University Business School, said: "We were delighted to work with Professor Feargal McCormack and his team at PKF-FPM in organising the now very well established Annual Leadership Talk. As a business school that is committed to stimulating entrepreneurial thinking and driving innovative approaches to doing business, it is invaluable to hear from leaders who have practical and real experience. Padraig demonstrated that entrepreneurial flair in his talk and it was an honour to welcome such a successful business figure to share with us his thoughts on leadership."

Top Award for Celine Grant, Re-Gen Waste Ltd

Congratulations to PKF-FPM client Celine Grant who recently scooped the award for Best Exporter at the Women In Business Awards. Celine has rocketed Re-Gen Waste Ltd to become one of Europe's leading waste management companies. She is responsible for 84% of Re-Gen's revenue.

Re-Gen announced signing a £10 million contract in April 2017 to provide all their collected glass to Belgian glass recycling specialists, High 5 Recycling Group. In September Regen completed a £2million extension to their paper recycling lines, which allows them to offer China and other markets, higher grades of paper. They have also doubled their German paper export order and have sourced new customers in Europe who will take all grades of paper so that they are not heavily reliant on the Chinese market.

Celine (centre) is pictured with Andrea Hunter (left), business development manager with Aer Lingus who sponsored the category award and Imelda McMillan, chairperson of Women in Business.

Commenting on the company's future plans, Celine said, "We have significant plans for the continued growth and evolution of Re-Gen with a clear strategy to expand in the UK and European markets. We are aggressively targeting a number of public sector contracts across the UK and have earmarked £9m to invest in innovation and improvement over the next few years."

Mid-Ulster Young Professionals

Mid Ulster Young Professional Society organised a very successful charity table quiz in Hagans Bar, Dungannon on 14 December 2017, raising £800 for local charity the Buddy Bear Trust, which supports the conductive education of children with cerebral palsy and other motor disorders. Pictured above, presenting the cheque to Buddy Bear Trust Chairman Brendan McConville are PKF-FPM's Eoin Brannigan and Michael Kennedy who are both members of the Young Professionals. Michael is currently the group's chairman.

PRSI / USC Working Group

On 6 February, Minister Paschal Donohoe announced the establishment of a working group to examine and make recommendations on the merger of USC and PRSI. PRSI is a social insurance tax and USC is a payroll tax which was introduced as an emergency measure during the financial crisis. The objectives of the USC/PRSI amalgamation include simplification of personal tax system, preservation of current tax base and providing stable footing for social insurance. The group's report is expected to be completed in the summer and may form part of the October budget. However, the minister said that this is a complex undertaking and is expected to take place over a number of years.

Micro-entities

If your company is dormant or qualifies as a small company or 'micro-entity', you may be able to send simpler accounts to Companies House.

To qualify as a micro-entity, a company has to meet two out of three limits, for two consecutive years: turnover of £632,000, total assets of £316,000 and 10 or fewer employees.

Accounts prepared under FRS 105 consist of only a simplified Profit & Loss Account (not included in the accounts filed at Companies House), a Balance Sheet and two notes to the accounts.

Companies are not required to add any further disclosure as Company law presumes that micro-entity accounts give a true and fair view. FRS 105 imposes simpler accounting treatment compared to FRS 102. If the company opts for the reduced disclosure regime under FRS 102, there may be a need for extra disclosure to ensure that the accounts give a true and fair view.

KEEP Scheme

At the end of January, Finance Minister Paschal Donohoe signed a commencement order enacting the KEEP Scheme (Keep Employee Engagement Programme).

KEEP is a share-based remuneration incentive to help unquoted SME companies attract key employees. The aim is to enable SMEs to reward, motivate, and retain employees in a tax efficient manner.

Under the KEEP scheme share option gains are not subject to income tax, PRSI and USC at the date of exercise but, instead, are subject to Capital Gains Tax on disposal of the shares. The current rate of CGT is 33%. For further details contact Caroline Murphy. Email: c.murphy@pkffpm.com.

Pictured are Around Noon CEO Gareth Chambers, left, and executive chef David Graham

Top Awards for Around Noon

Congratulations to PKF-FPM client Around Noon, recently announced winner of the prestigious 'Fast Growth Business of the Year' and 'Company of the Year' awards at the UTV Business Eye awards.

The latest awards build on the company's success late last year when it was one of just two companies headquartered in Northern Ireland to be included in the Sunday Times Fast Track 100 which ranks private companies with the fastest growing sales. The other company listed was fit-out and construction firm Mac interiors, who are also based in Newry.

Set up from a kitchen table in 1989, Around Noon is run by Chief Executive Gareth Chambers, son of founders Frances and Sheila Chambers. The company supplies sandwiches and salads under its Scribbles brand as well as bakery items from Sweet Things. Around Noon recently bought the Slough-based sandwich firm Chef In A Box.

Making Tax Digital

Making Tax Digital will be applicable for VAT only businesses from April 2019. Businesses that are affected will be required to keep digital records of their accounting transactions and file their VAT returns from within their accounting software. If you require assistance, please contact a member of our team.

Managing Conflict IN A FAMILY BUSINESS

Good communication plays a vital role in preventing and managing family business conflict, says Feargal McCormack.

There are many reasons why conflict arises in a family business. Tensions in family relationships, feelings of resentment or entitlement, fear of change, reluctance to share information, financial disagreements, clashes between family members who want to invest in the business and those who want to take a dividend, personality clashes — these are all typical issues that arise in family-owned enterprises. They can be difficult to deal with, and for that reason, they are sometimes ignored. Left unresolved, however, tensions can have a damaging impact on decision making, planning and profitability. Consequently, it's important for family business owners to prevent conflict arising in the first place where possible and to develop techniques for managing it without damaging family relationships in situations where conflict cannot be avoided.

Preventing conflict

One way to minimise the chances of conflict arising is to establish a family council. The role of the council is to oversee strategy for the business. Importantly, the council should develop a shared understanding of core business values and an agreed set of rules to govern family interactions with the business. At PKF-FPM we encourage clients to document these values and rules in a formal constitution. While this can be time consuming initially, businesses generally find that it helps them to manage more effectively.

Improving communication

It is inevitable, however, that conflicts will still arise from time to time in all businesses. More often than not, communication issues are the root of the problem. Consequently, improving communication is one of the key areas family businesses need to focus on.

Communication should be a two-way process that involves both sending and receiving information. Most of us are good at the 'sending' part — we're happy to put our point of view across — but we're often less good at 'receiving'.

Improving Communication

When thinking about how to improve communication in your family business, the elements to consider include:

- AGM
- Formal family meetings
- Formal weekly/monthly/quarterly meetings
- Family retreats
- Factory / site visits
- Individual meetings
- Social gatherings and family events
- Newsletters
- Email

Learning to listen is the key to understanding the needs, wants and responsibilities of family members and a necessary first step in preventing conflict.

Formal vs informal communication

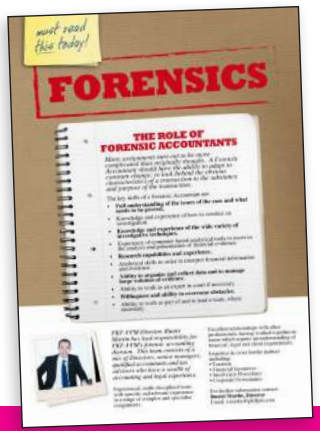
A question that often arises, is what can we do to improve communication for our shareholders and family members?

Families often meet informally at social gatherings, family parties, funerals and so on and it's not unusual for business conversations to take place at these events. However, it's important to find the right balance between formal and informal communication. Miscommunication often happens when a conversation is remembered and reported differently by individual participants. This is one reason why formal meetings are minuted.

As family businesses grow and more people become involved, the need for formal communication increases but informal communication will always remain part of the picture.

It's rare to come across a business where conflict never happens. In family businesses, emotional factors are almost always part of the picture and disputes can spill over and damage family relationships. For this reason, many businesses bring in independent directors and involve mediators or facilitators in family meetings. To find out more about PKF-FPM's services for family businesses, please contact a member of our team.

FREE INSIDE Your Guide to Our Expert Forensic Accounting Services...



Many assignments turn out to be more complicated than originally thought. A Forensic Accountant should have the ability to adapt to constant change; to look behind the obvious characteristics of a transaction to the substance and purpose of the transaction.

At PKF-FPM our team consists of a mix of Directors, senior managers, qualified accountants and tax advisors who have a wealth of accounting and legal experience to help with your business dispute.

AVOIDING BAD DEBT WORKSHOPS

Due to a recent surge in high profile insolvencies PKF-FPM is teaming up with Coface, a leading global risk management company, and Credit Risk Brokers, Ireland's leading independent specialists in credit insurance, to deliver an informative presentation on how to protect your business in uncertain times.

The workshop takes place on

11 April 2018
Glenavon Hotel, Cookstown

For further information and bookings contact Lauren Quinn email l.quinn@pkffpm.com
Tel: 028 30261010

PKF FPM
Caring Business Advisors
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Beware Bogus Calls and Emails...

Businesses can be an attractive target for fraudsters so it is important to implement processes to protect against bogus calls and email.

Almost every day we read reports in the news of individuals who have fallen victim to bogus calls and emails. Recently, fraudsters purporting to be from the tax authorities contacted individuals demanding immediate payment of a tax bill over the phone. Last year Revenue posted a warning about these calls on their website and the PSNI posted a similar warning on their Facebook page.

PKF-FPM have seen instances of similar bogus calls and emails seeking payment for late filing penalties, registration fees and directory listings. If you receive calls like this, you should never disclose personal or bank information and should report the call to the relevant authorities.

Invoice tampering

Invoices are another potential target for fraudsters as they provide information that can be used to divert payments. Any request to change a supplier's bank details should be treated with suspicion and verified. Never rely on contact information provided in the suspect communication to verify the request.

Overpayment fraud

Unusual requests for refunds should also be treated with suspicion. For example, there is scam where a new customer places an order for goods and pays by cheque or bank draft. They then call or email to say they accidentally overpaid and request a partial refund by electronic bank transfer. Refunds should not be paid until the original payment has cleared in case the original cheque or bank draft was fraudulent.

Fraudster impersonating staff member

Another scam to watch out for is where a fraudster contacts one of your team purporting to be a senior staff member. The contact can be by phone or by email and usually requests an urgent transfer of money. It is important to train your staff to spot these potentially fraudulent requests and be aware that such requests may be received by email, phone call or letter.

Protecting your business

Often, fraudsters use publicly available information to select their targets. The more information they have, the more plausible they appear when making their requests.

For advice on any specific concerns, please contact us.

Basic Steps to Protect Your Business

- Be wary of suspicious calls, emails or letters
- Be suspicious of contacts that require an urgent response
- Use strong passwords and avoid using the same password for different websites and/or services
- Do not open or click on links in suspicious emails
- Implement robust processes for payment requests, verification and authorisations
- Check bank statements carefully

Changes for Solvent Winding-Ups

HMRC have been reviewing a number of areas lately and solvent winding ups, also known as Members Voluntary Liquidations (MVLs) have not escaped.

Up to now, MVLs were a tax efficient tool for withdrawing funds when a Company came to the end of its economic life or its shareholders wished to retire or exit the Company. If the Company opted for MVL, any corporation tax due was paid on the normal date i.e. nine months after the date of the Company's last tax period. Late payments attracted interest penalties at 3 percent after the due date.

By Alison Burnside, FPM Business Recovery & Insolvency Director

In future, HMRC will claim 8 percent interest on tax payments running from the date the Company enters liquidation until the date the tax is paid. It is no longer permitted to pay on what would have been the 'due date' had the Company not entered liquidation. However, the additional costs can be mitigated through careful tax planning.

For more information, or if you have specific concerns, please contact Alison Burnside on 028 9024 3131 or by email a.burnside@pkffpm.com.

Pensions Reform

A major reform of future State, private and public service pension provision in the Republic of Ireland was announced on 28 February 2018.

Among measures included in the Roadmap for Pensions Reform 2018-2023 are a Total Contributions Approach (TCA) for the State Pension (Contributory) to be introduced from 2020 and a new 'Automatic Enrolment' retirement savings system to be introduced from 2022.

Under TCA, a person's contributory pension will be proportionate to the contributions they make, with fair regard for periods of child rearing, full time caring, and periods in receipt of social protection payments. With effect from March 2018 (with arrears paid at the start of 2019), people who reached pension age from 1 September 2012 will be offered the option of transferring to a TCA model, and following a consultation in 2018, a TCA model will be proposed for all new pensioners from 2020.

Improvements in pension scheme governance standards and regulatory capacity, reforms to public service pensions to ensure the sustainability whilst safeguarding the delivery of promised retirement benefits and greater individual flexibility in retirement decisions are also included in the Roadmap.

Margaret Hearty, director of programmes & business services, InterTradeIreland with Julian King from Deluxe Art & Theme and Alan Moynagh from STATSports Technologies.

STATSports Technologies Recognised

PKF-FPM client STATSports Technologies, who design, develop and manufacture electronics and software for the elite sports market, was recently awarded 'Project Exemplar' status by InterTradeIreland, as part of the FUSION programme.

This initiative supports business development and innovation by companies north and south partnering with third level institutions and graduates in science, engineering or technology.

STATSports, which more than doubled its workforce in the last year as a result of strong sales worldwide and new partnerships agreements, partnered with Dr Fergal McCaffery at the Dundalk Institute of Technology, and graduate Alan Moynagh, to develop new technology that measures players' statistics during indoor sporting fixtures and training sessions.

"We do appreciate referrals...

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STAFF FOCUS

Graduate Recruitment

TEAM PKF-FPM members Kathryn Mussen, Aisling Hughes and Molly Kennedy attended the Queens University Belfast Graduate Recruitment Business and Finance Fair to talk about the opportunities our firm provides in a fast-paced corporate environment.

Following success in The Sunday Time Best Companies to Work For in 2018 and as proud winner of the 'Managing Talent' Award for Small/Medium businesses at the Irish News Workplace and Employment Awards, winner of Employer of the Year at the British Accountancy Awards and winner of the Irish Accountancy Large Practice and Overall Practice of the Year Awards, PKF-FPM believes in investing in the best and our culture supports individuals as they develop both personally and in their professional careers. For information on opportunities at PKF-FPM, check out our website or email recruitment@pkffpm.com

Bronagh King, winner of a £100 Victoria Square Voucher following her expression of interest in PKF-FPM Graduate Opportunities with PKF-FPM HR Manager Ciara McFerran.

Honour for PKF-FPM Director

PKF-FPM Director Alison Burnside has been elected All Ireland President of the Girls Friendly Society in Ireland. Founded in 1875 by Irishwoman Elizabeth Townsend, the GFS today is active in eighty branches throughout Ireland. Alison's formal commissioning service will take place in May when the World Wide President of GFS will be in attendance from South Africa.

National Heart Month

In preparation for National Heart Month, TEAM PKF-FPM got together on 17 February for a walk in the fresh air on a beautiful, sunny day at Ardgillan Castle.

Pictured left, are staff members, family and friends from the Balbriggan and Dundalk offices.

Brain Injury

Team PKF-FPM were delighted to support the Red Rose Ball in aid of Brain Injury Matters, a charity dedicated to supporting people affected by Acquired Brain Injury by helping them rebuild their lives and reach their full potential in the community.

The evening attracted a great turnout and raised £15,000 for the charity.

New ATI Members

Managing Director Feargal McCormack pictured congratulating PKF-FPM's Tanya O'Hare, Laura McConkey and Diana Carvalho on their admission to membership of Accounting Technicians Ireland at a recent conferring ceremony in Belfast's Titanic Quarter.

Carlingford Adventure Centre

The highlight of a recent episode of popular RTE TV programme, Operation Transformation, was a challenge between the 2018 and 2017 leaders over PKF-FPM client Carlingford Adventure Centre's Skypark. With snow and wind to take on as well as the course, the participants did fantastically well.

Kukoon Nominated for Family Business Awards

PKF-FPM client Kukoon Rugs has been nominated for two awards at the prestigious National Family Business Awards 2018. The awards are open to family businesses incorporated with Companies House who have been trading for at least 2 years and are VAT registered in the UK. Winners will be announced at Wembley Stadium, London on 14 July

Cryptocurrencies Inquiry

The UK's Treasury Committee has launched a new inquiry into digital currencies and distributed ledger technology.

People are becoming increasingly aware of cryptocurrencies such as Bitcoin, but they may not be aware that these currencies are unregulated in the UK, and that there is no protection for individual investors.

The Treasury Committee will look at the potential risks that digital currencies could generate for consumers, businesses, and Governments, including those relating to volatility, money laundering, and cyber-crime

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brexit centre of excellence

Brexit Briefing

No: 05 // MARCH 2018

The Border

Businesses across the island of Ireland took some comfort late last year at the conclusion of Phase 1 of the EU-UK Brexit negotiations when it was stated that "the United Kingdom will maintain full alignment with those rules of the internal market and the customs union which, now or in the future, support North-South co-operation, the all-island economy and the protection of the 1998 [Good Friday] agreement".

Three potential border solutions were envisaged - some form of new relationship between the EU and UK, an alternative solution to be put forward by the U.K, or a solution maintaining existing regulatory rules and procedures which would effectively keep Northern Ireland in the customs union.

So far, there has been no discernible progress on the first two options. In February, Prime Minister Theresa May, said the UK will leave both the single market and the customs union while the EU's Chief Negotiator Michel Barnier said that the UK's decision to leave the single market and customs union makes border checks unavoidable. Mr Barnier indicated that the EU plans to include the third option in the text of the withdrawal agreement. This appears unlikely to be politically acceptable to the DUP in Northern Ireland where any move to treat Northern Ireland differently to the rest of the UK is likely to prove problematic.

Meanwhile, Taoiseach Leo Varadkar is seeking to have the commitments made in December written into the legally binding withdrawal agreement.

As the clock continues to tick down, the absence of certainty is frustrating. PKF-FPM continues to encourage businesses North and South to take every opportunity to make their views known.

Brussels Effect

Regardless of the outcome of the EU-UK negotiations, the reality for businesses wishing to sell into the European market is that they will have to comply with EU rules. This so-called 'Brussels effect' suggests that, based on their need for global compliance, companies operating in the UK will opt to comply with EU regulations even if they don't have to.

Post-Brexit VAT

VAT is an important consideration when preparing for Brexit. Once the UK leaves the EU, goods sold by a UK supplier to a Republic of Ireland customer will be treated as goods from outside the EU which means that VAT will be payable by the customer at the point of entry. Goods will be held by Customs until the VAT is paid. Similarly, a supplier in the Republic of Ireland selling to a UK business will be exporting and may have to complete export documentation

Post-Brexit, the current method of zero-rating sales and the customer accounting for the VAT in Ireland and vice-versa will end. This will create a cash flow disadvantage for the customer and will be an administrative burden on the supplier as export documentation will be required.

Northern Ireland traders carrying out services in Ireland, such as construction, where the trader does a self supply of goods from their UK business to their Republic of Ireland site will encounter similar cashflow and administrative disadvantages. Arrivals or dispatches of goods crossing the border will also no longer be EU acquisitions.

These changes may create opportunities for customs warehousing businesses along the border.

Tariffs

In June 2017, IntertradeIreland published a useful report examining the potential impact of World Trade Organisation tariffs on cross-border trade. This report examined current cross-border trading patterns and considered the potential impacts on overall trade of the application of current EU WTO tariffs. The impact of non-tariffs and changes to the euro-sterling exchange rate were also examined. The report contains useful tables which you may find helpful when projecting the likely Brexit impact on your business. It can be downloaded from intertradeireland.com.

InterTradeIreland is providing support in the form of a £2k voucher (inclusive of VAT) for manufacturing and internationally tradable service businesses to meet the costs of obtaining Brexit-related advice. The cost of the advice is invoiced directly to InterTradeIreland so there is zero cashflow impact on applicant businesses. Further information is available from Aveen McShane, Senior Manager in PKF-FPM's Brexit Centre of Excellence.

Dublin Port

The Irish Times recently reported that Dublin Port is to apply for planning permission to construct new infrastructure in anticipation of a hard Brexit.

Chief executive Eamonn O'Reilly said he could not wait for political solutions, and was planning for the UK's exit from both the European single market and the customs union.

"Our view always was that the British government has clearly said they are leaving the customs union and the single European market," Mr O'Reilly told The Irish Times. "We've taken that as our starting point here in Dublin Port. We have to be ready for March 2019."

Brexit Briefing

No: 05 // MARCH 2018

Agri-Food Sector

A position paper on Northern Ireland and Ireland published by the UK government in August 2017 stated that, "An agreement on regulatory equivalence for agri-food, including regulatory cooperation and dispute resolution mechanisms, would allow the UK and the EU to manage the process of ensuring ongoing equivalence in regulatory outcomes following the UK's withdrawal from the EU. Providing the UK and the EU could reach a sufficiently deep agreement, this approach could ensure that there would be no requirement for any SPS or related checks for agri-food products at the border between Northern Ireland and Ireland."

In Ireland, impacts in the agri-food sector are likely to be driven by a combination of tariffs, customs costs and the risk of regulatory divergence. Processed foods, beef, sheep and other cattle meat and dairy are likely to be worst affected but other sectors, such as grains, fruit and vegetables, forestry and fishing may also experience a negative impact, albeit to a lesser extent.

Negative Impact

Two recent reports highlight the potential negative impact that Brexit will have across the island of Ireland. In January, a leaked report, prepared by the UK's Department for Exiting the European Union examined three Brexit scenarios and found that in each case the impact would be negative, with Northern Ireland among the regions projected to experience the greatest decline in economic performance. A 'no deal' Brexit could see NI GDP take a 12% hit, according to leaked report.

A recent report prepared by Copenhagen Economics for the Irish government examined the potential impact of four different scenarios and found that in each case Brexit will have a negative impact on Ireland with the worst affected sectors being agri-food, pharma-chemicals, electric machinery, wholesale and retail, and air transport. To minimise the overall economic loss to Irish GDP, this report says the best possible trade negotiation outcome for Ireland would be an agreement that has an acceptable balance of rights and obligations for all parties including no tariffs, large quotas for agricultural products, low border costs, landbridge transit, low barriers for service trade and low regulatory divergence.

European Commission Brexit Preparedness Notices

The European Commission has a dedicated website where it publishes notices aimed at preparing citizens and stakeholders for Brexit. These notices set out the consequences in a range of policy areas covering areas such as customs, taxation, import/export licences, company law, food law and so on. https://ec.europa.eu/info/brexit/brexit-preparedness_en

Distance Selling Rules

EU rules stipulate a threshold under which member state businesses can sell goods online or via mail order to non VAT registered private individuals in other member states without needing to register for VAT in that country.

Depending on the outcome of the EU-UK negotiations (which will not be known for some time), post-Brexit the UK may no longer qualify for distance selling rules.

Similarly, under MOSS (mini one stop shop), EU member state traders who sell digital services to non business customers in other EU member states do not have to register for VAT in the other country. However, when the UK is no longer an EU member state, UK traders will no longer be able to use MOSS and will need to register for VAT in the other countries.

There may of course be customs duties implications also.

Transition Period

The thinking behind a Brexit transition period is to provide a time-limited period of around two years before the eventual permanent arrangements for UK-EU relations come into force.

As yet, there is no clarity what these permanent arrangements will be. Consequently, businesses must prepare for the worst (a no-deal Brexit scenario) while hoping that a better deal will ultimately be arrived at. Substantive talks on the transition deal will only start once the European Commission has put the terms of the divorce agreed last December into a legal text.

The EU is currently drafting this legal text. EU Brexit negotiator Michel Barnier recently warned that a transition period immediately after Brexit in 2019 is "not a given".

Customs Union

In February, Prime Minister Theresa May ruled out Britain remaining in the single market and the customs union while the EU's chief negotiator Michel Barnier warned that if the UK leaves, border checks on the island of Ireland will be unavoidable.

UK business representative groups, notably the CBI, continue to argue that staying in is the best option for business and would go a long way towards solving the border problem in Ireland.

"There may come a day when the opportunity to fully set independent trade policies outweighs the value of a customs union with the EU. A day when investing time in fast-growing economies elsewhere eclipses the value of frictionless trade in Europe. But that day hasn't yet arrived," CBI's Director-General Carolyn Fairbairn said in January.

MARCH 2018

tax matters

a tax supplement from **pkffpm accountants**

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IR35: Employed or Self-Employed?

Government has announced it is to consult on tackling non-compliance with IR35 in the private sector. Pat Donnelly explains the background.

IR35, first mooted in March 1999, was an attempt by the UK Government to address the problem of 'status' for tax purposes, determining whether an individual is employee or self-employed and countering the growing use of 'intermediaries' (generally but not always limited companies) to disguise what HMRC believed were actually employments.

Neither employment nor self-employment are defined in statute. The guiding factors in determining status have been built up over the years, mainly via Employment Tribunals.

If an individual is working via an intermediary (usually a company), IR35 requires that company to consider whether the relationship between the individual and the client would have been one of employment, had the company not existed.

IR35 asks 'would the worker have been employed by his client if there was no intermediary?'

If the answer is yes, the engagement falls within IR35 and the worker's company either has to pay the earnings as salary, or account for National Insurance contributions and PAYE on deemed salary.

A key feature of IR35 was that the effective PAYE burden fell on the intermediary and not the principal contractor. This was an incentive for contractors to insist that those providing services do so via an intermediary.

By
Pat Donnelly
Senior Manager
p.donnelly@pkffpm.com

Why 'Status' Matters

To understand why 'status' and IR35 are so important to HMRC, main contractors and sub-contractors, one needs to consider the outcomes for these parties if the individual falls on one side or other of the dividing line.

The statutory rules determining whether an expense is deductible for tax purposes, if incurred by an employee, are a somewhat higher hurdle than those which pertain to deductions for the self-employed or for companies.

The contractor does not have to operate PAYE in respect of payments to an individual who is self-employed or to an intermediary who employs that individual (assuming IR35 does not apply). There is both the administration advantage to the contractor and a timing of receipt of tax disadvantage to HMRC.

Employer's NIC at 13.8% provides a powerful incentive for the contractor not to treat the individual as an employee.

Incorporation is fiscally attractive in its own right.

A contract for employment confers certain rights on the employee and corresponding responsibilities on the employer such as entitlement to sick pay or maternity leave, entitlement to notice or redundancy pay and so on.

This latter point has been a historically important factor in 'status' cases.

Say, for example, that an individual is taken on to provide services temporarily and, five years later, is still in place. This individual may realise that their rights and entitlements would have been considerably better had they been treated as an employee. Where matters such as this proceed to a Tribunal for determination as to whether or not the individual was in fact an employee, each case is a determined on its particular facts.

Over the years the Tribunals have devised a set of rules to assist in their determinations.

Factors which indicate that a person is an employee include mutual obligation (where the payer is under an obligation to provide the worker with regular work and the worker is under an obligation to make himself available), contract of service (where the worker is bound by the terms of his contract to be available to perform general services (usually for an indefinite period) rather than a specific task), the provision of bonuses, benefits-in-kind and expenses. An employed person is likely to be paid a fixed wage or salary on a regular payment date, will usually participate in the company pay, benefits and pension schemes on the same terms as other employees, and will be entitled to paid holiday, sick leave and notice of termination. Exclusivity is another indicator as an employed person will not normally be free to work for other employers whilst under contract, without the express permission of his employer. Where an employer provides the facilities and equipment required to do the job, this is also an indicator of employment as is integration, where the employed person is recognisable as part of the organisation.

Factors which indicate self-employment include substitution by which a self-employed person may have partners or employees who can undertake work his/her absence.

A self-employed person will normally risk his own capital in his business and will be personally responsible for any losses arising.

Self-employed individuals normally provide their own tools and equipment. They may have already established the taxation status of their business and are usually free to provide their

Continued Over >>

services to whichever customers they choose. They decide how, where and when they conduct their work, without being under the direct supervision of the payer. They normally have a contract stipulating a specific service to be delivered within a set time frame and are usually required to correct unsatisfactory work in their own time and at their own expense. They are normally paid by reference to the volume of work produced. Commission-only work can also indicate self employment .

The tests to determine employment status derive from numerous cases and change as new decisions emerge. This creates complexity and a grey area.

In practice those potentially affected by IR35 adjust the contracts under which they work, so that they contain terms indicating that they are outside IR35.

Since April 2017, for public sector employers, responsibility for deciding if IR35 should be applied shifted from the worker's intermediary to the public authority the worker is supplying services to. Thus far the placing of the burden onto public sector contractors is reported to be a success and it is thought that Treasury may introduce it into the private sector in 2018. The Chancellor did not directly announce anything in the November Budget statement but a consultation on introducing the new measures into the private sector was announced.

If and when change comes, it is likely that those upon whom the potential burden will fall will seek to ensure that there is a contract for services which ensures that the engagement falls outside IR35. Smaller workers and contractors may simply continue to ignore the provisions.

For more advice contact Pat Donnelly or any of our Tax Team TODAY...

Extracting Cash from a NI Company at 10% tax

During my golf game last Saturday, I was shocked to hear that my golf partner had managed to extract cash from his Northern Ireland business and paid only 10% tax. All he had to do was to sell some of his shares back to his company. He said that the UK Revenue call this tax planning 'Purchase Of Own Shares' as it involves a company buying back some of its own shares. I checked with my accountant and he said that this is legal and HMRC fully endorse this method of extracting cash from a UK company, however, it seems just too good to be true. I currently own 100% of the shares in a UK trading company. Can I really sell some shares back to the company and receive cash at a 10% tax?

By Janette Burns
Associate Director
j.burns@pkffpm.com

Purchase of own shares (POS) tax planning is indeed an excellent tax opportunity for those who fulfil the conditions required to qualify for the capital tax rate of 10%. However, as with all tax planning, the scenario outlined by your golf partner may not be as straightforward as you've been led to believe since there are many conditions to be fulfilled.

Current UK tax legislation provides that where a company buys some of its own shares back from an individual shareholder an income distribution occurs. This results in an income tax charge arising on the individual, at the shareholders dividend tax rate, which can be up to 38.1%. However, where certain conditions are met, the company purchase of shares is not considered an income distribution and instead capital tax treatment prevails, meaning that the UK shareholder may be able to pay tax at only 10% on the proceeds received.

The conditions which must be fulfilled to qualify for the capital tax rates are as follows: Firstly, the buyback of shares must be for the benefit of the trade and must not be for the avoidance of tax. This condition is fairly subjective, but could include purchasing shares from a retiring or dissenting shareholder. The shareholder must be UK resident and must have owned the shares for at least 5 years. Also, immediately after the share sale, the shareholder's interest in the company must be substantially reduced. This means that if your golf partner is still the 100% shareholder after the share buy back the capital tax rate would not apply. Likewise, as you currently have 100% control of your family company, if you were to sell some of your shares back to the company, you would still have 100% control of the company after the share sale. Therefore, you would not fulfil this condition. Finally, it is important that the shareholder disposing of shares is not connected with the company after the buyback. HMRC include shareholdings of spouses and associates when determining the level of connection an individual has with the company after the sale. The connection test will not be fulfilled if the person holds 30% or more of the share capital, loan capital, voting rights or rights to assets in a winding up, after the shares have been sold.

If in any doubt as to whether you fulfil the conditions for the capital tax rate, HMRC allows you to apply for UK advance clearance that the capital tax rates will apply. Where clearance is granted, HMRC will confirm that the transaction is considered to be for the benefit of the trade and that all the other conditions are met. It is important to note that there are various capital tax rates in the UK, with 10% being the lowest rate. An individual's personal circumstances will determine if the lowest rate of 10% will apply.

Other taxes which may become payable on the transaction, such as stamp duty, should not be ignored. It is also important to consider the legal requirements of the transaction.

Before embarking on this type of tax planning it is recommended that specialist legal and tax advice should be sought and advance UK HMRC clearance should be obtained.

For more advice contact Janette Burns or any of our Tax Team TODAY...

must read this today!

FORENSICS

THE ROLE OF FORENSIC ACCOUNTANTS

Many assignments turn out to be more complicated than originally thought. A Forensic Accountant should have the ability to adapt to constant change; to look behind the obvious characteristics of a transaction to the substance and purpose of the transaction.

The key skills of a Forensic Accountant are:

- **Full understanding of the issues of the case and what needs to be proved.**
- Knowledge and experience of how to conduct an investigation.
- **Knowledge and experience of the wide variety of investigative techniques.**
- Experience of computer based analytical tools to assist in the analysis and presentation of financial evidence.
- **Research capabilities and experience.**
- Analytical skills in order to interpret financial information and evidence.
- **Ability to organise and collect data and to manage large volumes of evidence.**
- Ability to work as an expert in court if necessary.
- **Willingness and ability to overcome obstacles.**
- Ability to work as part of and to lead a team, where necessary.

PKF-FPM Director, Ruairi Martin has lead responsibility for PKF-FPM's forensic accounting division. This team consists of a mix of Directors, senior managers, qualified accountants and tax advisors who have a wealth of accounting and legal experience.

Experienced, multi-disciplined team with specific and relevant experience in a range of complex and specialist assignments.

Excellent relationships with other professionals, having worked together in terms which require an understanding of financial, legal and client requirements.

Expertise in cross border matters including:
- Taxation
- Financial Incentives
- Insolvency Procedures
- Corporate Governance

For further information contact:
Ruairi Martin, Director
Email: r.martin@pkffpm.com

AREAS OF SPECIALISM

At PKF-FPM we have a wealth of industry and sectoral knowledge and experience which we combine with modern forensic accounting techniques established by case law and best practice.

We specialise in a wide range of complex and specialist accounting assignments including:

Expert Witness Reports
Specific experience of having reported to Court as an expert witness. This has included numerous appearances at Court to explain our findings.

Commercial Disputes
Retained by client base and by other professionals to provide an independent opinion in areas of commercial dispute.

Proceeds of Crime
Preparation of expert witness reports for either the defence or prosecution teams in a range of criminal cases.

Loss of Earnings
Quantifying an individual's loss of earnings as part of a personal injury or fatal accident claim.

Loss of Profits
Quantifying the loss of business profits as a result of a specific incident. Assisting in negotiations in order to reach a settlement agreement.

Financial Investigations
Detailed and thorough investigations, including technical expertise in forensic analysis of computers.

Breach of Contract
Quantification of damages resulting from a breach of contract, including an evaluation of the likely outcome of the items in dispute.

Matrimonial Disputes
This is a highly emotive area, with our role being to provide a professional and pragmatic approach to quantifying the income and assets of respective parties.

Business & Share Valuations
Expertise in business and share valuations for a wide variety of industries, for businesses ranging from the start up phase to those which are well established.

Corporate Governance Review & Risk Analysis
Exposure to a number of high profile cases has resulted in extracts of our reports having been published in the media.

www.pkffpm.com

call Ruairi at PKF-FPM to make appointment - 028 87750400

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