

Newsletter

Issue 2 Autumn/Winter 2009

Welcome to CrowleysDFK



"I would like to wish all our clients a very happy and peaceful Christmas and the very best for 2010."

James O'Connor
Managing Partner

I would like to welcome all readers to this the second edition of the Crowleys DFK newsletter. We were delighted with the positive feedback we received from you on our first edition earlier this year and we encourage your continued feedback. I hope you find this issue's articles relevant and informative.

I am also delighted to share news on a very exciting development at Crowleys DFK. On November 23, Crowleys DFK acquired the Waterford-based accountancy practice, Michael Walsh & Co.

Located in the heart of the Waterford business community, Michael Walsh & Co has delivered audit, accountancy and tax services to individuals, companies and the local business community for over 10 years. The firm is especially strong in the tourism and hospitality industry and has particular expertise in providing management reporting and advisory services, including providing monthly reports on business performance and benchmarking.

This acquisition allows us to branch into new markets and develop new specialisms within the firm. We are particularly excited by the quality of specialist advisory services being provided by the staff. With established offices in Dublin, Cork and Waterford our clients now have greater access to broader expertise in an ever-changing environment.

Finally, I would like to wish all our clients a very happy and peaceful Christmas and the very best for 2010.

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Budget 2010

Highlights from the Budget

Budget 2010 was the country's most feared budget of recent times and its unveiling on December 9 confirmed many of the measures we were told to expect in order to achieve the €4 billion cuts required.

Public Sector workers and social welfare recipients bore the brunt of the pain. The main income tax rates were left unchanged with the emphasis on increasing the tax take aimed at the higher earners and tax exiles.

Mr Lenihan's commitment to maintaining our Corporation Tax rate of 12.5% for the foreseeable future is most welcome as it has become an international brand known all over the world and continues to attract new business and jobs.

The Budget also contained many messages of newer taxes and other measures to be introduced in the coming period, including water charges, property rates and changes to the reliefs available for pension contributions.

We hope this budget proves Mr Lenihan correct in his belief that we are now on the road to economic recovery and set to return to positive growth in six to nine months. There was, however, a notable absence in the budget speech of any policies to stimulate economic growth or promote job creation.

A significant reduction in capital expenditure was another feature of the budget. While this measure saves money for the Government, a reduction in infrastructure spending along with reduced income for the majority of taxpayers over the last twelve months will undoubtedly reduce the overall tax take in 2010. We hope that the reduction in public and private spending power does not have a deflationary effect on the Irish economy.



Edward Murphy
Tax Partner

"Public Sector workers and social welfare recipients bore the brunt of the pain."

The following outlines the key points from the Budget:

Income Tax

- Standard and higher rates of income tax remain at 20% and 41%. Income Tax will apply on a progressive basis to those on higher incomes
- A new universal social contribution from 2011 to replace employee PRSI, the Health Levy and the Income Levy
- Effective rate of tax on high earners availing of tax incentives to increase from 20% to 30% in 2010, with income level restriction reduced to €125,000
- Irish nationals and domiciled individuals to pay €200,000 annual domicile levy where worldwide income exceeds €1 million and whose Irish-located capital is greater than €5 million
- Homeowners in negative equity whose mortgage interest relief is due to expire in 2010 will continue to receive it for a further seven years to 2017
- Mortgage Interest Relief will be abolished completely by 2017 but qualifying loans taken out by 1 July 2011 will continue to get relief at current levels for seven years (with transitional arrangements to apply to loans taken out in the subsequent 18 months)

Carbon Tax / Excises

- Introduction of a new carbon tax on Transport Fuels (4.2 cents/litre petrol and 4.9 cents/litre diesel, effective immediately), on Non Transport Fuels (from 1 May 2010) and on Solid Fuels. The equivalent rate of carbon tax per tonne is €15
- Excise Duty on alcohol reduced – 12c cut on beer and cider, 14c cut on a measure of spirits and 16c cut on a bottle of wine

Business Tax

- Corporation tax rate of 12.5% is unchanged
- The three-year corporate and capital tax break for start up companies is to be extended
- Accelerated capital allowances scheme has been extended to other categories of energy-efficient equipment including refrigeration and cooling systems

Value Added Tax

- Standard rate of VAT will be reduced from 21.5% to 21% from 1 January 2010



Budget 2010

Social Welfare Adjustments

- Child Benefit reduced by €16 per month
- Qualified Child Allowance increased by €3.80 per week
- No cut in State Pensions planned
- Social Welfare payments to be cut by 4.1%
- Jobseekers and Supplementary Welfare Allowances cut to €100 per week for persons aged 20 and 21 and to €150 per week for those aged between 22 and 24

Public Service Pay and Pension Adjustments

- Public Servant pay to be cut by 5% on first €30,000 salary, 7.5% on the following €40,000 of salary and 10% on next €55,000
- Public Sector pay reduced for those in the higher pay bands, including hospital consultants – 8% for those with salaries from €125,000 to €165,000, 12% for those with salaries from €165,000 to €200,000 and 15% for those earning in excess of €200,000
- Taoiseach's pay to be cut by 20% and Ministers to take a 15% pay cut

- Pensions for new public staff to be calculated on career average rather than on final salary

Other Measures

- Site Valuation Tax and Water Metering to be introduced in the future to finance local authorities
- A 50c charge on medical card prescription items from April 2010
- Multi-annual investment programme in mental health projects to be introduced
- Intention to create a National Solidarity Bond aimed at small investors
- Capital Investment programme to take account of economic realities and to promote economic recovery and employment
- Car scrappage scheme introduced for 2010
- Public services spending to be reduced on professional fees, services etc

If you require any further information or advice on how the Budget may affect you, please contact:

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Service Area Spotlight

Outsourcing your payroll

In today's dynamic business environment more and more organisations are seeking robust solutions to reduce costs, streamline procedures and improve operational efficiencies.

Crowleys DFK can offer a complete payroll service that will ensure you are fully compliant with all statutory requirements while helping you keep control over your costs and freeing up your time to concentrate on developing your business.

We have a proven track record of delivering reliable and cost-effective payroll services to a range of organisations. The numbers of employees in these firms can be as few as 1 and as many as 500.

Our dedicated payroll team can provide you with an individually tailored service and ensure that all your staff are paid accurately and on time.

We can offer you:

- Professional qualified payroll staff with a dedicated point of contact
- Guaranteed confidentiality
- Professional and up to date advice on changes to PAYE/PRSI
- Assurance that all staff are paid on time using EFT
- Provision of payslips
- Provision of duplicate pay slips and other revenue forms as appropriate
- Provision of reports designed to suit your needs
- Electronic holding and archiving of all historic payments and relevant rates of pay
- Application for tax credit certificates for new employees
- Returns to the Revenue Commissioners filed on time
- Preparation of P45's and P60's
- Preparation of P35 year end returns



Mike Scanlan
Tax Consultant

"...losses can be used to minimise income tax, corporation tax and capital gains tax liabilities."

All is not lost!

The recession has led to many businesses suffering losses. A small comfort to business owners and managers may be the way in which such losses can be used to minimise income tax, corporation tax and capital gains tax liabilities. A basic summary of loss relief is set out below.

Corporation tax losses

Corporation tax losses can be utilised in a number of ways to reduce current year tax liabilities, prior year liabilities or future liabilities.

Trading losses

A company which suffers a loss in its trade can utilise a loss in an accounting period as follows:

- 1. Offset against income and chargeable gains (subject to corporation tax) in the same accounting period**
Relief can be obtained against other income of the company in the same accounting period.
- 2. Offset against income in the preceding accounting period**
Losses may be 'carried back' to the prior corporation tax period in order to reduce taxable profits in the prior period.
- 3. Offset against income in the succeeding accounting period**
A company that does not utilise the losses may carry forward the losses until such time as they have taxable profits.

There are however, some restrictions on the use of corporation tax losses. These include restrictions on loss relief if the tax returns are filed late, restrictions on the use of losses from 'excepted trades' and the 'ring-fencing' of rental losses (i.e. rental losses may not be utilised against trading income).

Capital Losses

Capital gains tax (CGT) is a tax on capital gains arising from the disposal of assets. The charge to CGT is made for a year of assessment i.e. gains/losses in a year of assessment are grouped together. Some common issues that arise when dealing with CGT and losses are outlined below.

Capital losses cannot be offset against income and vice versa. There are restrictions on the use of capital losses. Currently many taxpayers may have unrealised capital losses i.e. paper losses on assets purchased. If these losses are crystallised, loss relief may be available. This relief involves offset of the losses against current year or future gains. It is not possible to carry back capital losses against prior year gains. A taxpayer may decide to take a loss on an asset that has diminished in value in order to shelter future gains against CGT.

There are other reliefs from CGT available. For example, where an individual's asset values have diminished

substantially, they should consider making a negligible value claim. This allows the client to create a "paper loss" while still retaining ownership of the asset. This may be appropriate where the taxpayer is reluctant to sell their assets. A claim can be made to the inspector of taxes to create a paper loss for CGT purposes. If the inspector agrees that the assets have diminished in value, the asset is deemed to have been sold and reacquired at its market value.

No CGT arises on a death. If losses arise in a year of death there is an allowance to offset losses against gains of the prior three years.

Another common issue in the treatment of CGT is disposals between connected persons and the creation of artificial losses: If a capital loss arises between connected persons, these losses may only be used against future gains on disposals between the same parties.

Income tax losses

Losses in income tax for individuals can be used in a similar way to corporation tax losses.

When a person makes a loss in their trade or profession it can be used as follows:

- 1. Carry loss forward for offset against future profits**
A person may use their losses against future profits of the same trade.
- 2. Reduce total income for current year**
A taxpayer may offset losses in a trade against other income arising in the same year i.e. income from another trade or profession or employment income.

A loss is calculated in the same way as tax adjusted profits. There are rules regarding loss calculation for businesses that commence to trade and cease trading.

There are restrictions on loss relief. Losses on non trading income may be ring-fenced and not utilised against one another.

In summary it is important to note that losses are not permanent losses and may be of some value to a business or individual.

If you require further information or advice on this issue, please contact:

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We are constantly updating our website with articles and news alerts which we believe will be of interest to our clients.

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Early public sector retirees and the state pension



Siobhán O'Neill
Tax Manager

“...starting a new business or becoming a private sector employee can have the added advantage of helping you qualify for the state pension”

With a large number of public service employees currently taking early retirement, many are now looking to either start up their own business or take full or part-time employment in the private sector.

As well as generating additional income, starting a new business or becoming a private sector employee can have the added advantage of helping you qualify for the state pension (contributory) at 66. This is in addition to any pension you may receive as a result of your public service employment.

PRSI Contribution Classes

Employees in different sectors pay PRSI at different rates or “contribution classes”. Your entitlement to the various social welfare benefits and pensions depends on what class or classes of PRSI you have paid during your working life.

In general, permanent public servants who were recruited before 6 April 1995 pay PRSI at Class D. Class D is a “modified rate” contribution class and entitles you to a limited number of social welfare benefits but not the state pension (contributory).

Class A contributions are paid by most private sector employees and Class S contributions are paid by the self-employed. These classes are “full-rate” contribution classes. Class A and Class S entitle you to the state pension (contributory).

People who have a combination of “modified rate” and “full-rate” contributions over their working lives can, since November 1991, qualify for the mixed insurance pro-rata state pension (contributory).

How to qualify for the state pension (contributory)

In order to qualify for the state pension (contributory), you must be aged 66 or over, and satisfy three conditions:

1. Age requirement

If you are currently under 66, you must have started to pay PRSI (at any contribution class) before the age of 56.

2. Minimum number of “full-rate” PRSI contributions

PRSI contributions are allocated on a weekly basis. The required number of “full-rate” PRSI contributions to qualify for the state pension (contributory) depends on when you reach retirement age. If you reach 66:

- before 6 April 2012, you must have 260 paid contributions (effectively 5 years contributions).
- on or after 6 April 2012, you will need to have 520 paid contributions (10 years paid contributions). The 520 contributions can be made up of either 520 “full-rate” contributions, or 520 contributions of which at least 260 must be “full-rate” contributions

3. Yearly average PRSI contributions

Once you have satisfied the minimum number of PRSI contributions to qualify for the state pension (contributory), you must establish what your yearly average of PRSI contributions has been since you first started to pay PRSI. This determines how much of the state pension (contributory) you are entitled to receive. You need a minimum yearly average of 10 contributions to qualify for the pension.

Establishing the yearly average PRSI contributions can be complex for people with a combination of Class D and “full-rate” PRSI contributions. We recommend getting professional advice on this condition.

What does this mean for me as a public servant?

Case Study

Barry was born in March 1951. He started employment in January 1970 and worked for 6 years in the private sector until he joined the public service in January 1976.

He worked in the public service from 1976 until 2009 paying PRSI at Class D.

On 1 November 2009 he leaves the public service and begins work for a local company, paying PRSI at Class A.

On the basis that Barry continues to work for the local company until he reaches 66 in March 2017, his entitlement to the state pension (contributory) will be decided as follows:

- (a) Barry started paying PRSI in 1969, before the age of 56
- (b) He has in excess of 520 paid “full-rate” contributions since he joined the workforce

Years	No of contributions		Comments
1970 – 1975	52 x 6	312	Class A paid
2008	52 x 1	52	Change of status credits
2009	43 x 1	43	Change of status credits
2009	9 x 1	9	Class A paid
2010 – 2016	52 x 7	364	Class A paid
	Total:	780	

- (c) His yearly average is 17

This is calculated by dividing his total number of contributions i.e. 780 by the total number of years since he first started paying PRSI (2017 – 1970) = 47

Therefore, Barry is entitled to 75% of the state pension (contributory). This is currently €172.70 per week.

The above article is only a general guide. There are many aspects to qualifying for the state pension (contributory) and each individual’s circumstances will differ. For further clarification on the points raised above, please contact:

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Why creditors should attend creditors meetings?



Seamus McCarthy
Insolvency Consultant

“Creditors can nominate an alternative liquidator to the company nominee”

When creditors of insolvent companies receive notification of a creditors meeting many often question the benefit in attending and their actual influence over the meeting. So why should a creditor attend?

- The Statement of Assets and Liabilities together with explanations provided by the company directors at the meeting will give creditors a good indication as to the likelihood of being paid.
- Creditors can nominate an alternative liquidator to the company nominee.
- The meeting provides creditors with the opportunity to assess whether the directors have engaged in reckless or fraudulent trading or have breached their fiduciary duty to creditors.
- As creditors will be furnished with a list of the other creditors of the company, they will be able to determine whether the liquidation of the company will have a knock-on impact on their other customers i.e. whether there is a possibility of customers themselves going into liquidation.

Procedures at a creditors' meeting

1. The chairperson i.e. one of the company directors, will present a Directors Statement which will set out a brief history of the company and the reason for the failure of the company.
2. The director will then read out the Statement of Affairs. This shows the book values of the company's assets, the estimated realisable value of the assets on the winding up, together with a list of creditors of the company.

3. Creditors will be given an opportunity to question insolvent company directors regarding the company affairs and their stewardship of the company.
4. Creditors now have an opportunity to nominate an alternative liquidator. If an alternative liquidator is proposed, a formal vote needs to be taken on whether the shareholders' nomination or the creditors' nomination will act as liquidator.
5. Once the liquidator has been appointed, the creditors may decide to appoint a committee of inspection to assist the liquidator in the conduct of their duties. The committee can also approve the fees and costs of the liquidator.
6. The chairperson concludes the meeting.

Proxies

If the creditor cannot attend the creditors' meeting, they can nominate a proxy (this can be a solicitor or other representative of the business) to attend the meeting in their place, ask questions and vote for or against the appointment of a nominated liquidator.

However, proxy forms need to be completed correctly and returned to the company registered office no later than the time and date specified on the notice convening the meeting.

If you require any advice on creditors meetings, please contact:

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Typical questions a creditor may raise with the company directors:

1. Who prepared the estimated Statement of Affairs?	6. Did the bank have personal guarantees as security for the company's lending?
2. What happened to the stock I provided to the company?	7. Are all taxes to the Revenue Commissioners up to date?
3. When did the company cease trading?	8. Did any of the directors or persons connected with them acquire any property from the company within the last 5 years?
4. When was the last set of audited accounts prepared?	9. What were the directors' salaries?
5. When did the directors first realise the company was insolvent?	10. Will the directors continue the business through another company?

For more information, please contact us at marketing@crowleysdfk.ie

This publication is intended only as a general guide and should not be used as a substitute for professional advice.

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