newsletter

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Limerick Accounting Service

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in this issue...

THE ONLY WAY IS UP

2010 is a year that will go down as one that most of us would rather forget, such was the flow of bad news on so many fronts. However, just before Christmas the Central Statistics Office was the source of some encouraging news on the economy for a change. Its latest national accounts estimates contained the message that the Irish economy is beginning to emerge from recession.

more...

Real Gross Domestic Product (GDP) expanded by 0.5% in the third quarter relative to the second. This marks the second quarter of expansion out of the past three; the economy grew by 2.1% in the first three months of this year followed by a 1% decline in the second quarter. But, in total, the level of activity in GDP terms is now 1.7% higher than the low point of the cycle which was the end of last year. This a very modest increase given the 14% plunge in activity over the two years up to the end of 2009, but it is a very welcome move in the right direction nonetheless.

Real Gross National Product (GNP) is an alternative measure that strips out monies such as multinational profits and debt interest payments, which, though generated here, leave the country. And the economy is now also growing on a GNP basis too. Activity on this measure rose by 1.1% in the September quarter, marking a second consecutive period of expansion following a small increase of 0.1% in Q2; the cycle low on the GNP measure was the first quarter last year.

Delving deeper into the report reveals that the return to positive economic growth is being driven by a very strong performance in the export sector. Total exports grew by 3.6% in the September quarter, building on the strong gains recorded earlier in the year. Exports have now expanded solidly for each of the three quarters of 2010 such that the annual rate of increase has surged to 13.2%, a dramatic turnaround from the 3.7% annual decline posted in the same period in 2009.

This is the strongest pace of export growth since early 2001; a performance made possible by the combination of gradual recovery in Ireland's main trading partners and ongoing improvements in our competitiveness.

Turning to other areas of the economy, spending by both consumers and the government continues to fall, while investment also recorded another decline. In total, domestic demand is still very weak, and is down over 5% on last year's levels. While the contraction here is very much ongoing, at least the rate of decline does look to be easing off relative to the huge falls seen during the height of the recession (it was plunging at an annual rate of 16% in early 2009).

The strength of the traded sectors of the Irish economy is both extremely welcome and encouraging as it provides a platform on which the recovery process can build in the coming year. Indeed, with exports amounting to some 90% of GDP compared to the 17% attributable to government spending, a return to positive economic growth in a small, open economy such as Ireland has much more to do with the supportive influence of global recovery than domestic budgetary policy.

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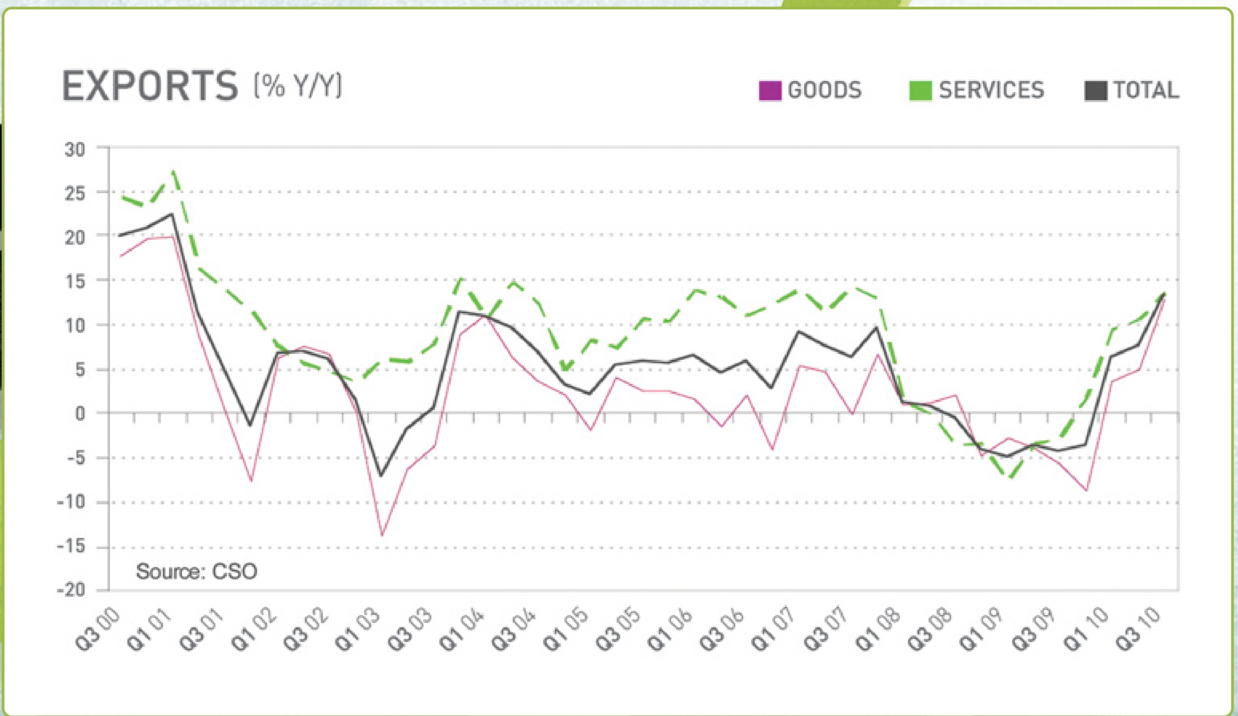

BOOSTS FOR BUSINESS

As mentioned in the National Recovery Plan, there was no change to the Corporation Tax Rate of 12.5%. Furthermore, Budget 2011 introduced new measures and extended other measures with a view to driving forward indigenous business in 2011.

Tax Exemption for Start-up Companies

This relief was first introduced in 2009 and the Minister confirmed in his budget speech that this relief will be extended to qualifying trades started in 2011. New companies, which commence trading in 2011, are given an exemption from Corporation Tax and Capital Gains Tax in each of the first three years to the extent that the tax liability in the year does not exceed €40,000. The scheme is being modified so that the value of the relief will be linked to the amount of employer's PRSI paid by the company in an accounting period, subject to a maximum of €5,000 per employee. If the amount of a qualifying employer's PRSI is lower than the reduction in Corporation Tax liability, relief will be based on the lower amount.

Energy Efficient Equipment

The scheme of accelerated capital allowances for expenditure incurred by companies on qualifying energy equipment is being extended until the end of 2014.

Employment and Investment Incentive

This incentive, which is pending EU approval, proposes to replace the current Business Expansion Scheme (BES). Under the rules of the scheme, the limit of funding that can be raised by a company will be increased from €2m to €10m, while the amount that can be raised by a company in a 12-month period will be increased from €1.5m to €2.5m. Certification requirements are also to be simplified and the scheme is to run until 31 December 2013.

PAY AND FILE SUMMARY

The following is a summary of upcoming pay and file dates:

PAYE	
P35 for the year ended 31 December 2010	**15 February 2011**
Relevant Payments Tax	
RCT for the year ended 31 December 2010	**15 February 2011**
Capital Gains Tax	
Payment of Capital Gains Tax for the disposal of assets made during the month ended 31 December 2010	**31 January 2011**
Corporation Tax	
Filing date for Corporation Tax returns for accounting periods ending in April 2010	**21 January 2011**
Payment of Corporation Tax for accounting periods ending in April 2010	**21 January 2011**

STAMP DUTY BUDGET CHANGES

A Stamp Duty rate of 1% will apply to all transfers of property valued up to €1m, with 2% applying to properties valued at over €1m on or after 8 December 2010. The following relief's have been abolished from 8 December 2010:

- First Time Buyer Relief
- Exemption for new houses under 125sqm in size
- Relief on houses over 125sqm in size
- Consanguinity relief for residential transfers
- Exemption for residential property transfers valued under €127,000

BUDGET 2011: HOW MUCH IS LEFT IN YOUR POCKET?

Budget 2011 introduced three key measures that will increase the tax take for the government by effectively bringing a higher proportion of lower paid individuals into the tax net.

Tax credits and standard rate bands have been reduced by 10% across the board. Health Levy and Income Levy have been replaced by a Universal Social Charge, which applies a single charge on income as follows:

0% on first €4,004
2% on €0 to €10,036
4% on €10,037 to €16,016
7% on excess over €16,016

Given that the Health Levy and Income Levy did not apply to income under €26,000 and €15,028 per annum respectively, this new charge will have particular effect on the lower paid.

From 1 January 2011, the PRSI ceiling of €75,036 will be abolished and the rate of PRSI for Class S self-employed individuals will increase by 1% to 4%.

It is clear that the above amendments to the tax system will affect everyone from 1 January 2011; however, we can take some comfort in the fact that the rate of Income Tax remained unchanged. Furthermore, there were no changes to tax relief on medical expenses or tuition fees as had been anticipated.

RCT REMINDERS

New measures outlined in Budget 2011 introduced a 20% rate of Relevant Contracts Tax (RCT) for subcontractors registered for tax. The existing 35% rate of RCT is being retained for unregistered subcontractors. The current monthly repayment scheme is to be abolished and replaced with an offset system.

Subcontractors are reminded that applications for new C2 cards should be submitted as soon as possible in order to avoid the 35% deduction in 2011. Principals using Forms RCT 46 or Forms RCT 46A to order relevant payments cards (RCT 47) for new and/or ongoing contracts for next year, are reminded to submit these as soon as possible to ensure timely delivery of the cards. The Form RCT 46A should only be used where an ongoing contract is likely to extend into next year, and each subcontractor's current C2 number should be quoted.

How to RAISE VENTURE CAPITAL

FUNDING A BUSINESS

When a promoter seeks to raise capital to accelerate the development of a business idea, all possible sources of funds should be explored. These sources may include: debt finance from banks to finance working capital and asset purchases; grant aid from development agencies; and, indeed, an equity investment from the promoters. In the current economic climate the range of sources is severely limited and a private injection of equity may be the most accessible source availing of attractive tax advantages under the Seed Capital Scheme, the Business Expansion Scheme and the Employment & Investment Incentive when introduced in 2011.

Most fast growing start-ups in Ireland are high-risk early stage knowledge based projects. Given that these projects cannot offer tangible security to traditional debt financiers or predictable cash flows to service loans, venture capital may be the obvious source of finance to fund development. However, it must be said at the outset that venture capital will not be every entrepreneurs 'cup of tea'. Before a promoter makes a decision to seek venture capital, he/she needs to understand the nature of this type of funding; i.e. what it is, what it does and how will it affect plans for the future.

What is Venture Capital?

It is the provision of capital for growth and expansion to companies with underdeveloped or developing products and revenues at an early stage of their corporate life cycle. Typically, investee companies are unquoted, Small-and Medium-sized Enterprises.

What does Irish Venture Capital do?

- It invests in ground breaking innovation.
- It fosters the commercialisation of ideas into new products and processes.
- It is always seeking the disruptive technology and it builds fast growing businesses;
- But it finances only a sliver of the most promising start-ups and has a multiplier effect on wealth creation and higher living standards.

How is the relationship formed and managed?

The venture capitalist operates within a Limited Partnership Structure that typically has a 10-year life. The funds for investment are provided (committed) by long-term investors, e.g. pension funds. The VC fund invests in the first 5 years and harvests the investments in years 5–10 (i.e. the investments are sold). The proceeds are returned to the investors. All of the capital provided must be returned to the long-term investors by the end of the 10-year period at which time the fund is closed.

The VC fund takes an equity stake in return for the provision of capital. The venture capitalist will also provide management support, particularly in the area of business strategy, and will drive the business development with an exit in mind. The success or otherwise of this relationship with the company promoters will be determined by a close alignment of interest; i.e. the common goal will be to build the business and drive it towards an exit. This relationship is often likened to a marriage.

What does a Venture Capitalist want?

VC investors are interested in companies with high growth prospects, enjoy barriers to entry from competitors, are managed by experienced and ambitious teams and have an exit opportunity for investors that will provide returns commensurate with the risk taken.

Accountants, as company advisors, should ask the following questions before a client approaches a venture capitalist:

- Does your client have high growth prospects and is its team ambitious to grow the company rapidly?
- Does your client company have a product or service with a competitive edge or unique selling point?
- Can it be protected by Intellectual Property Rights?
- Can its team demonstrate relevant industry sector experience?
- Does the team have the relevant skills to deliver the business plan fully?
- Is it willing to sell some of the company's shares to a VC investor?
- Is there a realistic exit opportunity for all shareholders to realise their investment?
- Is the founder/senior management prepared to accept that exiting this business at some stage may be in the best interest of all shareholders?

RAISING VENTURE CAPITAL

The most effective way of raising venture capital is to select just a few venture capital firms to target with your business proposition. The key considerations should be to assess:

- The stage of your company's development or the type of venture capital investment required.
- The industry sector in which your business operates.
- The amount of finance your company needs.

You should select only those venture capital firms whose investment preferences match these attributes. The IVCA Directory of members specifies their investment preferences and contact details. It also includes the names of some of the companies in which they have invested, details of these companies are also available on their websites.

While a business plan is the most important investment document, the key to stimulating a venture capitalist's interest is a brief verbal pitch that should cover the following points:

- Product/Service description
- Market size
- Customer engagement – What is problem solved?
- Business/Revenue model
- Go to market strategy – Is there a hosted delivery model?
- Competition
- Management – Role and experience
- Summary financials – Time to cash breakeven
- Funding needs – Raised to date, sources
- Current shareholders
- Exit options

If you believe that venture capital is for you then let the courtship begin.

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business briefs

INNOVATION GETS CASH INJECTION

In December, the Department of Enterprise, Trade and Innovation launched a new €17 million fund for innovative new firms to create high-quality jobs. The Bank of Ireland Start-up and Emerging Sectors Equity Fund will help entrepreneurs to turn ideas into new products and services for export markets. The fund will target investments between €100,000 and €500,000.

CASH INJECTION FOR NEW HIGH-TECH FIRMS

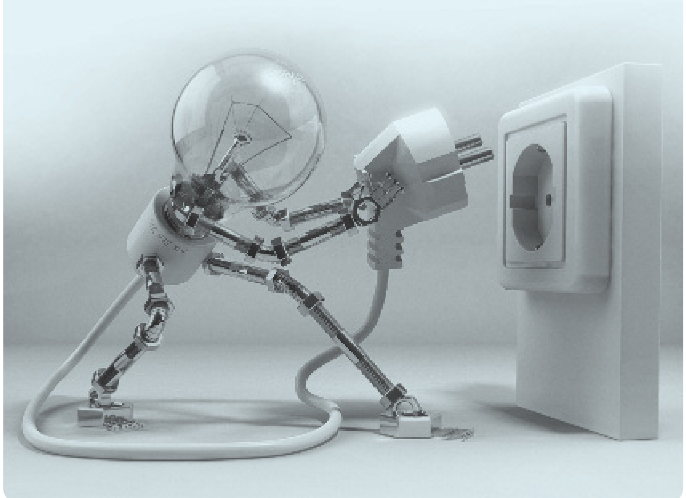
A new venture capital fund worth €85 million was announced in November to help high-tech firms in Ireland and Europe get off the ground. The Atlantic Bridge II fund, which is being supported under Enterprise Ireland's Seed and Venture Capital Programme 2007–2012, will focus on high-tech firms across Ireland and Europe with strong international growth prospects, and will focus particularly on firms in the communications technology, semiconductor and software sectors.

It is expected that the fund will invest between €5 million and €20 million in each firm, with a typical investment cycle of five to eight years.

€40,000 PRIZE FUND FOR BRIGHT IDEAS

The all-Ireland JFC Innovation Awards for Rural Business 2011 are open to application. The prize fund is €40,000 and will recognise the most innovative new businesses and business ideas in the country.

The awards, provided in partnership with JFC Manufacturing Ltd, Teagasc, the Department of Agriculture & Rural Development (DARD) and the Irish Farmers' Journal, are designed to encourage entrepreneurial development within the farming and rural communities throughout Ireland by rewarding the most innovative new businesses and business ideas.



DEAL DONE TO LIFT TRADE BARRIER

Irish services exports in Europe could rise by up to €16 billion annually after the government agreed new measures that will lift trade barriers for small businesses. The government has approved the signing of the regulations giving effect to the services directive in Ireland, making it easier for businesses and consumers to buy services in the single market.

Ireland was the only country in the Eurozone, bar Germany, to record an increase in export activity in the first half of this year. The objective of the directive is to release the untapped growth potential of services markets in Europe by removing legal and administrative barriers to trade in the services sector. It will create a point of single contact for a firm in one member state to complete the necessary formalities, such as getting a licence or an authorisation to do business in another member state.

The website for Ireland's national point of single contact (NPSC) is:
www.pointofsinglecontact.ie.

Although the regulations are only coming into effect now, the NPSC has been operating since January 2010.

GRANT OPPORTUNITY NOT TO BE WASTED

The RX3 Feasibility Study Grant is available to recycling companies and research organisations throughout Ireland for feasibility studies to test the viability of a business idea for a new product, process, technology or service.
The Feasibility Study Grant Aid is provided through the Department of the Environment, Heritage and Local Government as part of the Market Development Programme for Waste Resources 2007–2011. For information on this grant please log on to **www.rx3.ie.**

A FOOTNOTE THAT SAVES MILLIONS

The government has recently scrapped the need to reprint headed notepaper with new names each time directorships change. At present, this reprint costs firms in Ireland about €13.5 million annually in printing.

Under the new rules, directors' names no longer have to be pre-printed on headed paper.
Instead, the names can be included in the footer of the letter template, which allows them to appear automatically when each letter is written. The government has indicated that this is the first announcement of many that will attempt to cut out needless costs for businesses and make them more competitive. It is estimated that around 55,000 changes of director occur each year.

KEEPING THE SHERIFF AT BAY

The office of the Sheriff pre-dates Norman times: the laws governing their activities are complex. While the Law Reform Commission made a number of recommendations in 1988 on changing the law, none of these have yet been implemented. When a creditor obtains a judgment against a debtor for monies which are due, and if the debtor does not pay the monies within a reasonable period of time, it is open to the creditor to employ the services of a Sheriff to carry out 'execution' of the judgment.

Execution Procedure

If judgment is awarded through the High Court, then the execution order that is directed to the Sheriff is known as a writ of fieri facias ('fi fa'); in the Circuit Court it is known as an execution order against the goods, and in the District Court the decree of the court itself is sent to the Sheriff for execution.
The execution procedure is carried out in Dublin and Cork by Sheriffs and in other counties by County Registrars. For the sake of convenience, the expression 'Sheriff' is used in this article as meaning both Sheriff and County Registrars. This article also assumes that the debtor is a Limited Company.

What can be seized?

The Sheriff may seize any goods, chattels, growing crops and any money, bank notes, cheques, bills of exchange, promissory notes, bonds or securities for money belonging to the debtor.
The Sheriff cannot take property belonging to third parties, such as property acquired under hire purchase. Stock, which is subject to Reservation of Title claims, is a more complex area.
A return will be made stating the outcome of the Sheriff's attempts at execution. If no goods have been taken, the return will state 'nulla bona'. A sale of any goods seized will then be arranged for the best price obtainable in the circumstances.
After deducting fees, expenses and poundage, the balance of the proceeds of sale will be paid over to the judgment creditor, up to the amount of his debt.
If the execution is for €20 or upwards, then under Section 292 of the 1963 Companies Act ('the Act'), the Sheriff must, after the sale, hold the proceeds for 14 days to allow for notice of a winding up of the company to be served on him. If such notice is served within that time, he must, after the deduction of his costs, pay the balance to the liquidator, who is entitled to retain it as against the execution creditor. If, however, the Sheriff receives notice of the winding up before the sale or the completion of the execution by the receipt or the recovery of the full amount of the levy, he must deliver the goods or any money received to the liquidator without deducting the costs of execution.

Revenue Sheriff

The Income Tax Act 1967 provides for a Sheriff to seize a tax payers chattels, and such a Sheriff is given all the rights and powers of a Sheriff levying execution under fi fa. The Revenue believe they are empowered to confer Sheriff's powers under the act to somebody other than the Sheriff or the County Registrar, and they have done so for some counties outside Cork and Dublin.
A major advantage of the Income Tax Act 1967 to the Revenue is that unpaid taxes can be collected by a Revenue Sheriff without the need for judgment being given against the tax payer.

How to deal with the Sheriff?

Before the Sheriff makes a visit, it is normal for him to contact the debtor by letter requesting his proposals for payment.

At this stage the debtor, and its business advisors, should consider whether the company is insolvent, and if so should cease trading to avoid the directors being made personally liable for reckless trading. If the company is insolvent and has no prospect of its fortunes reviving then the directors should take immediate steps to place the company into liquidation. A copy of the notice to creditors convening the creditors meeting, pursuant to section 266 of the Act, should be sent at the earliest opportunity to the Sheriff. Provided the Sheriff receives this notification within the appropriate time frame then the judgment creditor, pursuant to section 291 of the Act, is not entitled to retain the benefit of any execution. The purpose of section 291 is to prevent any one creditor being preferred over another. Another alternative open to the debtor is to invite the bank to appoint a Receiver if the bank has the appropriate debenture.
If the debtor considers that his business is viable, but is just suffering from short-term cash flow difficulties, then the debtor should open up dialogue with the Sheriff and present positive proposals for settling the debt. If no such possible proposals are forthcoming, then the Sheriff will visit the premises to seize whatever assets he can. As with any dispute, it is better to keep open the lines of communication. At a minimum, the debtor should negotiate a schedule of deferred payments.

NEW CODE MEANS LARGE FINES

Under new guidelines issued by the Central Bank of Ireland and the Financial Regulator, financial institutions could face fines of up to €5 million for breaching a new Corporate Governance Code. The Corporate Governance Code came into effect from 1 January 2011 and applies to Irish banks, building societies and most insurance companies and reinsurance companies. Financial institutions have until 30 June 2011 to implement the extensive changes required by the code, but they have until 31 December 2011 to deal with any changes required to board composition.

The Corporate Governance Code incorporates severe and wide-ranging penalties for companies who do not comply. Corporate bodies could face fines of up to €5 million and individuals responsible within a firm could face fines of up to €500,000. Part of the new code requires board members to meet at least quarterly, and board members of major institutions must meet in at least eleven calendar months of any year. This rule applies to non-executive directors also. The code also requires financial institutions to implement a considerable amount of documentation including a well-defined organisational structure, formal letter of appointment for directors, and an annual formal review of the board and board members.

BAN ON DEBT JUDGMENTS

The Courts Service of Ireland has banned public access to most debt judgments after an internal review found there was no legal basis for making the information available. The decision will deprive business people of important information about the financial history of anyone they are dealing with, such as whether a debt has ever been registered against the person.

Traditionally, information about debt judgments was available to the public through inspection of 'cause books' within circuit and district courts. This information was collected by a non-profit company, Irish Judgments, and sold to commercial publications such as Stubbs Gazette. Credit unions and other lenders, as well as government departments, relied on this information in their business dealings.

The Courts Service said the decision was taken following a review which found that there was no provision in legislation or in court rules for a general right of access to cause books. There is still public access as required by law to the Register of Judgments in the High Court offices. This allows access to registered judgments to personal callers to the office in the Four Courts, for an €11 fee.

BRIBES: BAD FOR BUSINESS

The OECD Bribery Convention was ratified by the UK in 1998; however, it will not take legal effect in the UK until April 2011. This Act will apply to all Irish Companies and Partnerships operating a business or 'part of a business' in the UK. It is therefore imperative that businesses with a presence in the UK become familiar with this new legislation. The main offences under the Act are as follows:

1) The general offences of paying or receiving a bribe.
2) The bribery of foreign officials.
3) The failure of commercial organisations to prevent bribery.

Where it can be proven that a person 'associated' with a company bribes another to gain business or advantage for the company then that company can be held liable. The only defence for a company in this position is to show that the company had adequate procedures in place to prevent bribery. Guidelines on an 'anti-corruption' policy will be published by the UK government in April 2011.

Under the terms of the new Act, an individual or company may be prosecuted regardless of where the act or omission which constituted the offence took place. The Act will increase the maximum jail term for bribery by an individual from 7 years to 10 years. A company convicted of failing to prevent bribery could receive an unlimited fine.

BANKRUPTCY PENALTY HALVED

Under plans unveiled in the Civil Law (Miscellaneous Provisions) Bill, business people who are declared bankrupt will be back in business after just 6 years. The provision, outlined in the Bill, will halve the length of time that a person remains in bankruptcy. This is the first step in the overhaul of the Personal Insolvency Law, with further changes being proposed in the Law Reform Commission Report, which was published in December 2010.

Franchising:

THE PROS AND CONS

Franchise businesses are everywhere! Most of your interactions in daily life are facilitated by franchise businesses – your favourite cup of coffee, the place you have your car serviced, and the list goes on. Franchising is becoming part of the fabric of people's everyday lives, providing us with an increasing array of familiar products and services. If you are considering starting your own business, or expanding your existing business, franchising may well be the key to success.

The term franchise commonly means: the legal arrangement whereby one party grants a licence to another party for the purpose of retailing its goods or services, often in a specified area or territory for a fixed period of time. The franchisor presents the franchisee with a model of how the business works and imposes strict rules on the franchisee in respect of that business.

In Ireland there is no direct legislation governing franchising. Therefore, apart from competition law requirements, there are no specific legislative obstacles to be overcome before a franchisee may commence business in the state.

WHAT ARE THE ADVANTAGES OF FRANCHISING?

For a business starting out or a business considering expansion there are many reasons why franchising gives you the advantage:

- Expanding a business by means of franchising offers the franchisor an opportunity to expand relatively quickly and at a reduced cost.
- In franchising its business, a franchisor is passing on to the franchisee all the capital costs associated with setting up a business or expanding a business, which include, for example, costs of sourcing, buying and fitting out premises, and finding, employing and training employees.
- The more members there are in a franchise network the greater the purchasing power that will be available to the franchisor.
- Franchising gives many people the opportunity they would not otherwise have of becoming self-employed, as many franchises do not require an individual to have previous experience of the business.
- By taking out a franchise, the lead-in time to establish a successful business can be reduced.
- Ongoing advice and support and the benefit of know-how and experience will always be available for a franchisee.

WHAT ARE THE DISADVANTAGES OF FRANCHISING?

For a business starting out or a business considering expansion there are also a number of reasons why franchising could be a disadvantage:

- Loss of Control: One major disadvantage of franchising is the loss of control suffered by an entrepreneur who may have spent many years building up his business and who now decides to turn to franchising as a means of expansion.
- In any franchise agreement the franchisor will seek to impose many obligations and limitations on the franchisee with the objective of protecting the know-how and goodwill of the franchise.
- The franchisee will have to pay a percentage of its turnover to the franchisor.
- Ultimately the franchisee is a third party who is in business on their own account, and even those franchisees who are controlled by the franchisor are liable for their own success or failure and will have to pay the franchisor whether the business is making a profit or a loss.

Despite the above possible pitfalls it is a mistake to believe that franchising, as a means of doing business, is not worthwhile. A franchise that is well-managed and properly supported and controlled, and which has a franchisor and franchisee who are committed to working together for the mutual benefit of the franchise system, can be a very rewarding business venture.

This Newsletter is intended to provide a general guide to the subject matter and is necessarily in a condensed form.
Advice should be taken before acting on information in it.