# Private Client

October update

28th October 2020


Succession planning
Inheritance planning
Personal tax compliance and planning
Financial planning

# Private Client

Oliver O'Connor

# Topical areas

- Lockdown
- Budget
- Pre end of year planning
- Future plans

# Covid-19 & Finance Bill 2020 key tax measures for individuals

# Occupational pension scheme

Debbie Fry

# Occupational pension schemes

An occupational pension scheme is also known as a "company" pension plan, and it is essentially a pension set up by an employer for the benefit of an employee or collective number of employees.

The aim of the plan is to accumulate retirement benefits for employees in the way of a tax free lump sum and retirement income.

Additional risk benefits such as Death in service cover can also be included.

There is no legal obligation on an employer to set up an occupational pension scheme for employees. However, there is an obligation to give access to some form of pension, for example, a PRSA and operate a net pay arrangement for any employee who wishes to contribute to a pension.

# Occupational pension schemes

The principles of equal treatment must apply with a pension scheme and there can be no discrimination on any of the 9 discrimination grounds when it comes to any of the pension scheme rules.

You can have different benefits on certain grounds (e.g death in service of 4 times salary for married and 2 times salary for single) as long as it applies equally to both males and female employees.

The Protection of Employees (Part-Time Work) Act 2001 and the Protection of Employees (Fixed-Term Work) Act 2003 require that there is no discrimination between part-time / fixed-term employees and their comparable full-time counterparts, unless the part time employees works less than 20% of the full time comparable employees.

Occupational pension schemes are set up under trust. The trustees of the scheme hold the assets of the pension scheme in a trust fund for the benefit of the members of the scheme and their dependents, and for the purpose of providing income in retirement.

# Who are the main stakeholders

# Trustees

Trustees must act as a prudent person in the management of the scheme and always act in the best interest of the members. The trustees do not usually complete the day to day running of the scheme but usually appoint a consultant/broker/life office to look after the scheme.

Regardless of whom is appointed as registered administrator, the governance of the scheme lies with the trustees and it is their responsibility to ensure the members receive information in a timely manner such as investment choice/scheme financial position/legal documentation.

They are required to:

- ensure that contributions are received (21 day rule)
- invest the funds (+10 day)
- make arrangements for paying the benefits
- ensure that records are kept (Trustees are the data controller)
- undertake trustee training (within 6 months of appointment and then every 2 years)
- ensure that a registered administrator is appointed (Service level agreement in place)

# Trustees

Trustees should act prudently in selecting investment options which are to be made available to scheme members. Trustees should not give members advice which they are not qualified to give but must make an appropriate amount of information available to the members to allow investment decisions be made.

Trustees can delegate some powers subject the trust deed allowance however they are ultimately responsible and liable for the governance of the scheme.

Scheme assets must be invested predominantly on regulated markets and any investment in assets which are not admitted to trade on a regulated market must also be kept to a prudent level. Trustees should also diversify the investment of the scheme assets.

If over 100 members there must be a written Statement of investment policy principles (SIPP) in place and reviewed every 3 years

- ensure information is issued to members in a timely manner
- Leaving options – within 2 months of leaving service
- benefit statement – within 6 months of year end
- trustee annual report – within 9 months of year end

# Employer

An employer can set up a defined contribution or defined benefit scheme.

| Defined contribution plan | Defined benefit plan |
| --- | --- |
| Benefits at retirement is are on the value of the contributions received | Benefits at retirement are based on the employees salary and service in the plan. It is important to know that DB scheme benefits are not guaranteed. If the scheme's assets are not sufficient to pay the benefits, and the employer is not able to meet the shortfall, promised benefits may have to be reduced. |

The employer decides the eligibility/ contribution basis/salary basis for contributions and risk benefits.

# Employer

Appoints trustees of a scheme or can act as trustee themselves. Important to note if you opt for the employer to be Trustee, this means all Directors of the company are subject to trustee training obligations and can be individually fined by pensions authority

Employer will usually engage with a consultant or adviser to manage the day to day administration and running of the scheme and the consultant/adviser will in turn act as the point of contact for all stakeholders in relation to the scheme.

No legal obligation on an employer to set up an occupational pension scheme, but if they don’t, they need to provide you with access to some form of pension arrangement, i.e. a Personal Retirement Savings Account (PRSA)

Must confirm in writing the amount of contributions deducted from an employees wages each month (usually on the payslip) and pay the contributions to the trustees (or appointed administrator) by 21st of the month in respect of the previous months deductions

# On the spot fines

Trustees and Employers are liable both to an ‘on-the-spot’ fine from the Pensions Authority if the specified provisions of the Pensions Act, 1990, as amended are not met. The fine for each offence is €2,000.

| Trustee fines | Employer fines |
| --- | --- |
| Trustee training not completed.<br>Member benefit statements not issued.<br>Contributions not remitted/invested in a timely manner. | Not advising an employee of contributions deducted at least once a month. |

# Auto enrolment

Agreement in principle to the implementation of an auto enrolment pension system in 2022.

Considerations that may change this proposed implementation date – Brexit, government composition, IORPS II, COVID19.

Consolation paper has suggested the following will be the key components:

- defined contribution arrangement
- eligible employees between 23-60
- earnings > €20,000 per annum
- 1.5% minimum contribution level, increasing by 1.5% every 3 years until year 10 when reaches 6%
- Employer matching rate and earning limit is €75k
- State financial incentive to be decided
- opt out available after 6 months but will be re enrolled automatically after 3 years
- pot follows member approach

# Investing in post-retirement

Liam Naughton

# Finding what is right for you

| Why people retire their pensions? | Why people shouldn't retire their pensions yet? |
|---|---|
| **Retire from their long term job**<br>Everyone else does it | **Sufficient income from other sources for the time being**<br>Cash, investments, or part time work supplementing income for initial period |
| **Reach "normal retirement age"**<br>Assumed to be the right course of action, but what does it mean? | **They are at "normal retirement age"**<br>This is a label on pension contracts which does not force an individual to take their benefits, unless it relates to a defined benefit pension. Most pensions do not need to be retired until ages 70 to 75 |
| **Attracted to the lump sum**<br>It's hard to pass up "free money" | **Investment and tax planning**<br>Additional tax free growth available within the pension structure, which can increase their tax free lump sum entitlement |
| **Require income to live in retirement**<br>Utilising their fund for its intended purpose | **Inheritance planning**<br>If retired from active service, pension fund can be paid 100% tax free to spouse in the event of an untimely death |

# Finding the right balance

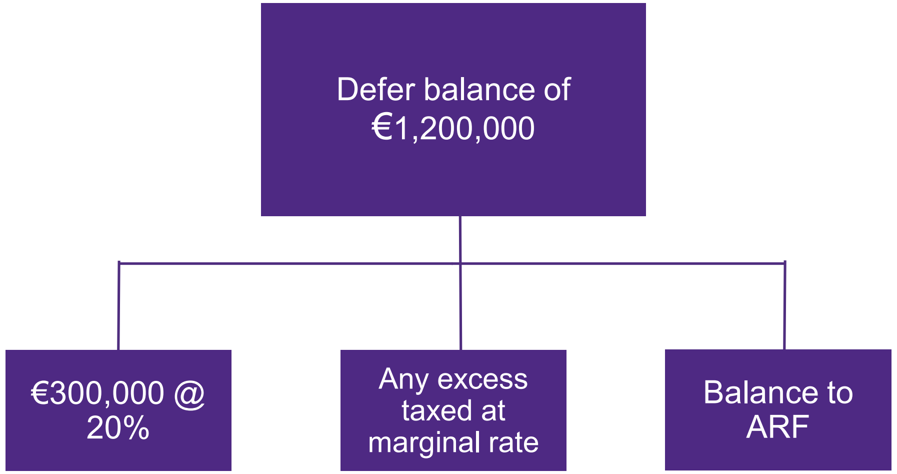
From an investment perspective, it may be more efficient to access your total funds once reaching the SFT, with an ARF availing of tax free investment returns. However from an inheritance perspective, deferring drawdown of pension benefits can offer a much higher benefit to your estate in the event of your untimely death.

### First drawdown

- Access your tax free cash entitlement of €200,000
- Transfer remaining €600,000 to ARF which grows tax free

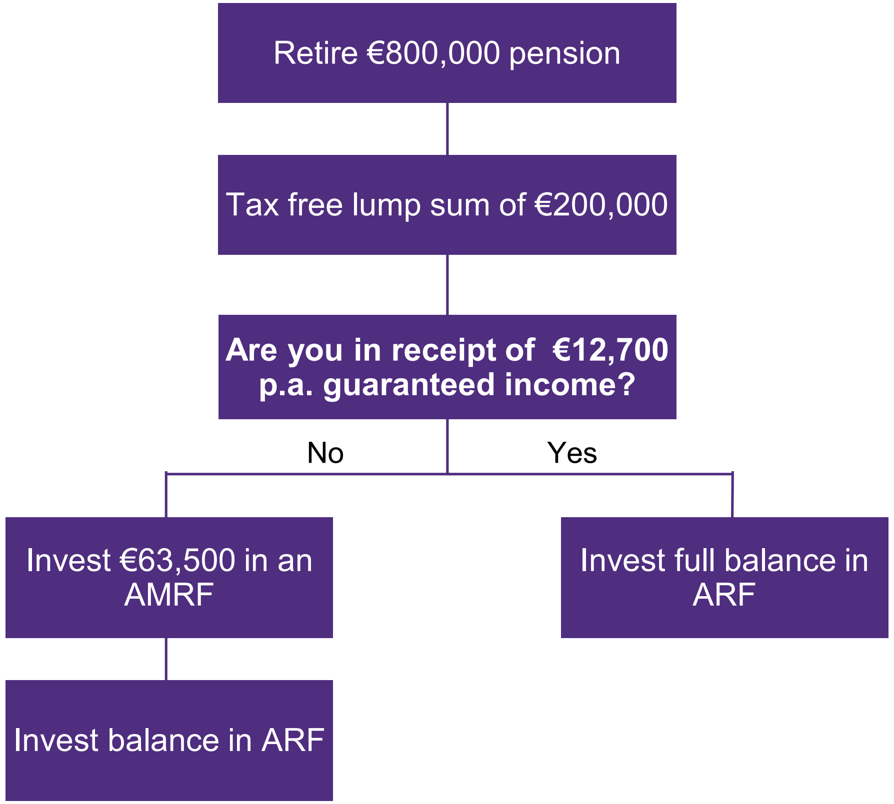

### Balance of funds

- Must all be retired over time by age 70 to 75
- If not accessed, can pass tax free to spouse in the event of your untimely death



# Approved Retirement Funds

There are a number of rules relating to ARFs which may seem confusing, but are relatively straightforward when put into context. ARFs are useful structures which offer a combination of investment returns, annual and ad-hoc income, and inheritance benefits.




## Tax on growth

All investment growth is gross roll up while in the ARF/AMRF structure

## Minimum withdrawals

**ARF**

4% per annum from age 61

5% per annum from age 71

6% per annum where ARF is over €2,000,000

**AMRF**

No minimum withdrawal requirement, but can access up to 4% of the fund value per annum

## Tax on withdrawals

All withdrawals are taxable as income

## Inheritance

Spouse steps into the shoes of the ARF holder on death.

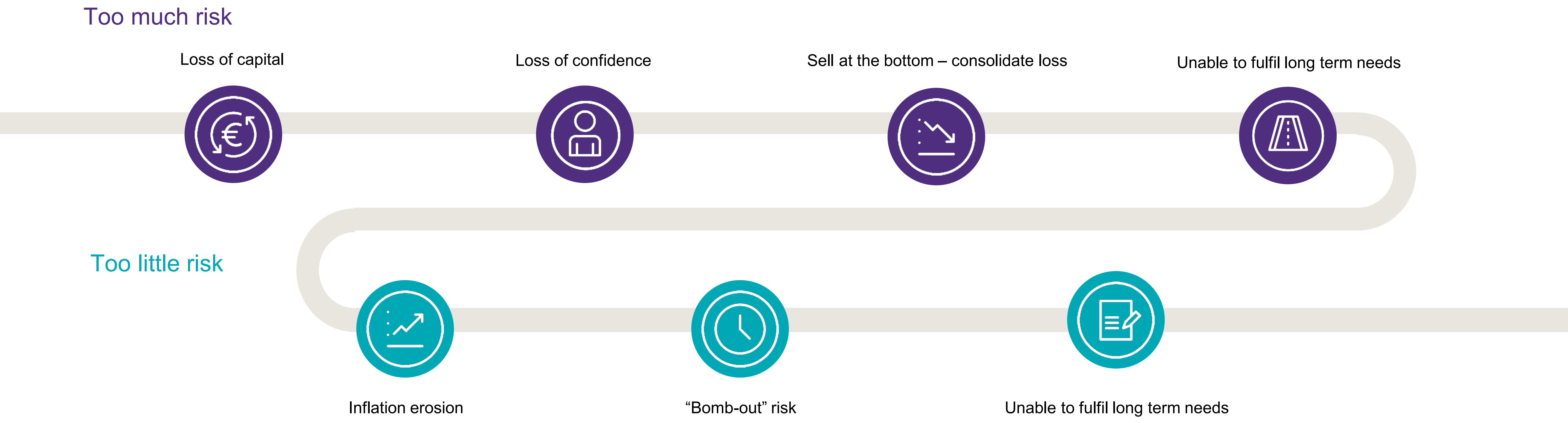
- Growth remains tax free
- Minimum withdrawal rules still apply
- Withdrawals taxable as income

Your funds can be passed to a child or any other individual, and taxed as follows:

- if passed to a child under 21 years of age, the full amount will be liable to Capital Acquisitions Tax (CAT) at 33%, with the relevant thresholds applying.
- if passed to a child over 21 years of age, the full amount will be liable to a special income tax rate of 30%, but not subject to CAT and will not affect the beneficiary's threshold.
- if left to any other individual, the full amount is subject to income tax and also CAT.

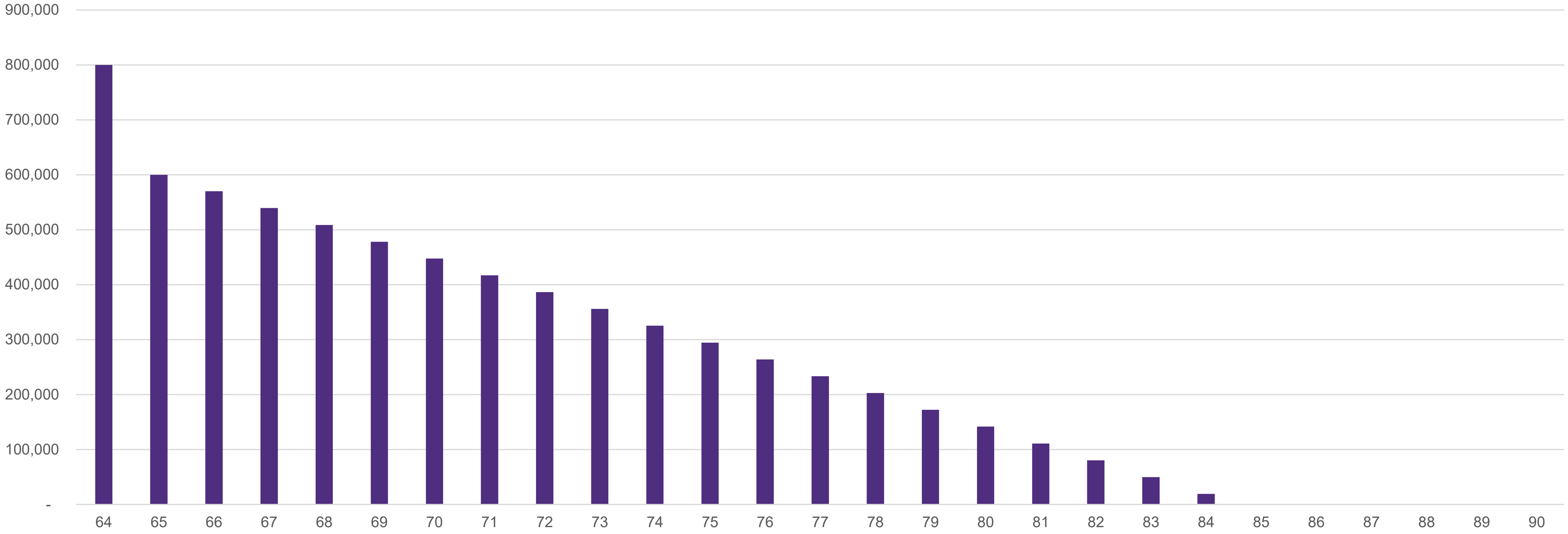
# Understanding risk

With a large portion of ARFs in Ireland invested across lower risk investments, it is important to understand the need for investment risk and return in retirement. With life expectancies and the cost of living increasing, capital preservation is key to ensuring you can provide yourself with sufficient income later in life.



# “Bomb-out” risk

The below assumes a total pension fund of €800,000 at retirement with a requirement for €30,000 income per annum from the ARF. It is important to include inflation as part of your long term income requirements. The below assumes zero investment return net of annual management charges.



# Investment considerations

You may wish to target capital preservation over the long term, to ensure annual distributions do not erode your asset. As per all investment decisions, we recommend going back to basics and examining the first three steps of a successful investment experience.

### Objectives

Provide long term income, while trying to maintain the capital value of your asset.

Ensure bomb-out risk is minimised i.e. funds are not depleted before death.

Offset annual withdrawal requirements with a suitable level of investment growth.

### Time horizon

The fund is expected to provide an annual income for the rest of your life. Given the long term nature of the fund, withdrawals payable over the next 15 to 20 years will have a significant impact on the fund's capital value, if long term investment returns are low.

Therefore the level of risk to be considered for ARF investing is typically greater than that of personal investments.

### Risk appetite/capacity for loss

Given the long term nature of the fund, it is prudent to take greater investment risk than you typically would with a 10 year personal investment.

However, withdrawals paid during times of extreme volatility will consolidate some losses. Therefore it is sensible to have withdrawals paid directly from a lower risk investment option within the fund.

# Creating an income ladder

As annual distributions are paid from your ARF, it is important to avoid consolidating losses during a market correction. In order to avoid this, you could structure your assets to allow you draw income from a lower risk fund each year. The longer term portion of your funds could then take increased risk, in order to maintain the long term value of your ARF, within appropriate limits.

**25% lower risk**

You must be aware of the relevant risks when investing for a shorter period.

Experiencing a large market correction during the investment period may make it difficult for an investment to produce a positive return given its relatively short timeframe, particularly when withdrawals are taken on a monthly or annual basis.

**50% benchmark risk**

A longer investment timeframe allows for a greater level of risk to be taken, and also increases the probability of producing a positive return.
A longer duration would typically lead to increased exposure to growth assets such as equities, property and some alternatives.

As the lower risk portion depletes over time, it would be intended that funds from this section would be moved down the ladder.

**25% higher risk**

We would have a strong bias towards a high growth, mostly passive investment for a period of greater than 15 years.

As markets tend to grow over time, and returns come from growth assets within portfolios, your overall allocation for this type of investment would be predominantly in growth assets. However this is only appropriate should you understand the reasoning, benefits, and risks attached to such an investment.

Should you find yourself in a position where this portion of funds was required for income in the future, it would be expected that some of this investment would also make its way down the ladder as your need for income approaches.

# Asset classes

To simplify the investment process, we have segmented various asset classes into two categories; Growth and Defensive. This helps investors focus on what their investments are trying to achieve over the longer term.

**Growth assets**

**Defensive assets**

**Growth assets**

Assets which are exposed to higher short term risks in order to achieve long term returns:

- equities
- property
- alternatives

These assets attempt to grow the value of your fund over the long term, while experiencing higher levels of volatility, and potentially negative returns, over shorter periods.

**Defensive assets**

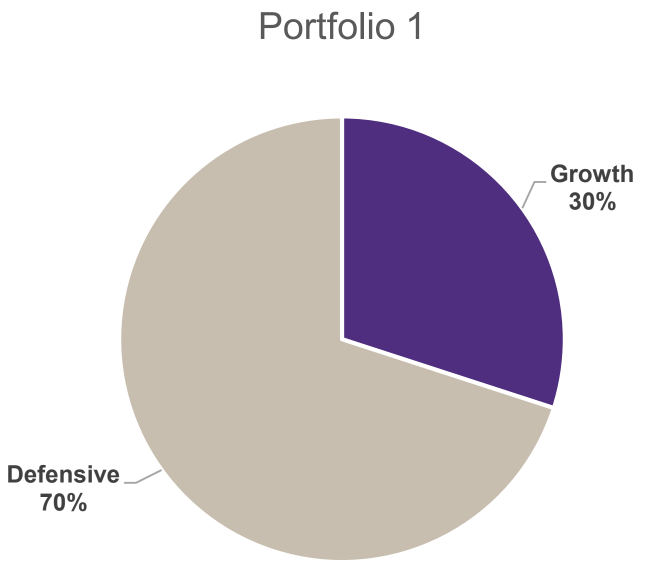
Assets which offer lower levels of short term risk, but also lower levels of long term returns:

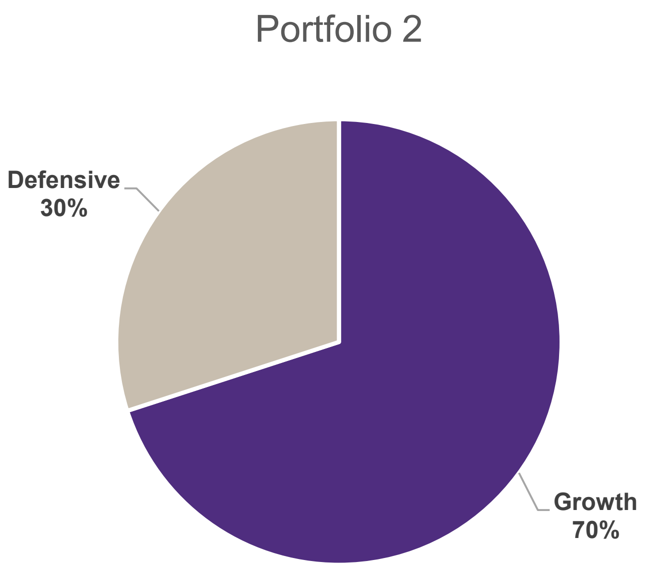
- most fixed income (bonds) assets
- cash

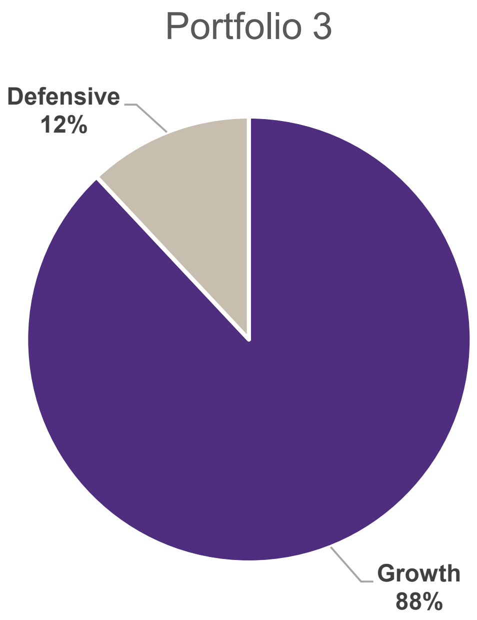
These assets attempt to maintain the value of your fund over the long term, while generating lower returns. They tend to be less susceptible to short term fluctuations and play an important role in the investment process.

# Asset allocations – Real life example

The below charts demonstrate the split of Growth and Defensive assets in three portfolios available in the Irish market. The level of Growth assets increase from portfolios 1 to 3, while the level of Defensive assets decrease as you increase risk.



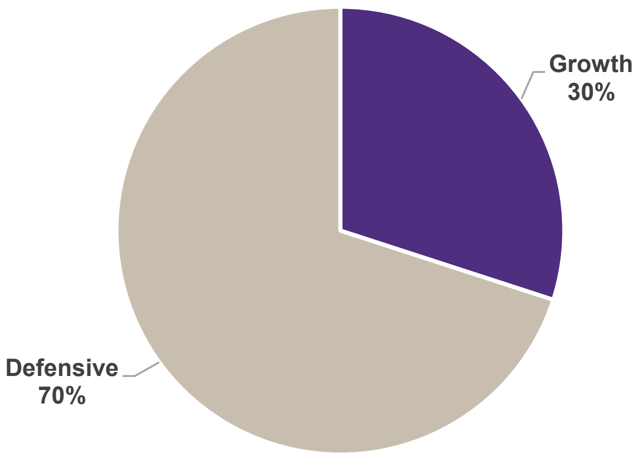
# Applying theory to practice

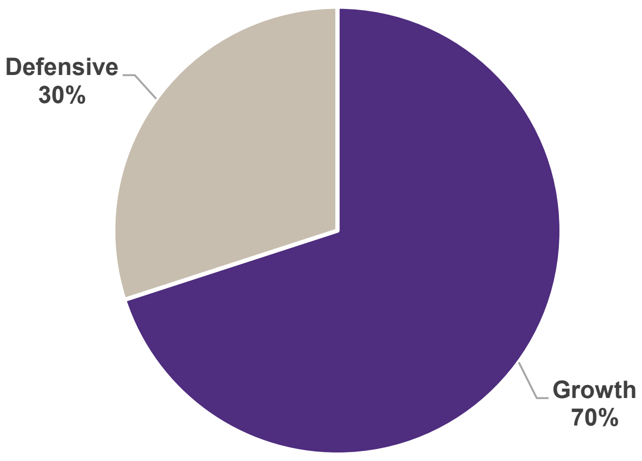
The below structure combines how we would create an income ladder, with three of the portfolios described earlier. This would allow you to take annual income from a lower risk investment than those which are intended to be in place for the long term. The overall combination of the three portfolios would offer a combined split of approximately 65% Growth assets and 35% Defensive assets.

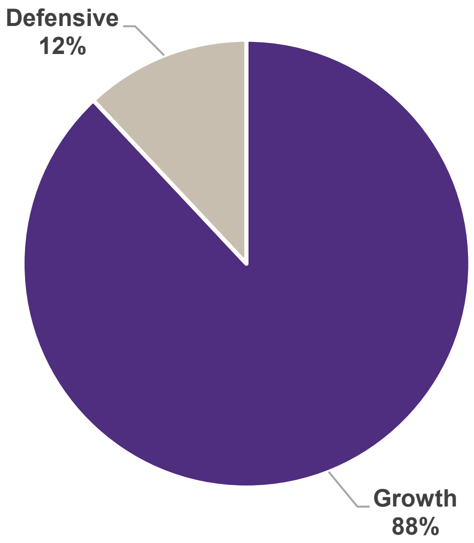
**25% Portfolio 1**

**50% Portfolio 2**

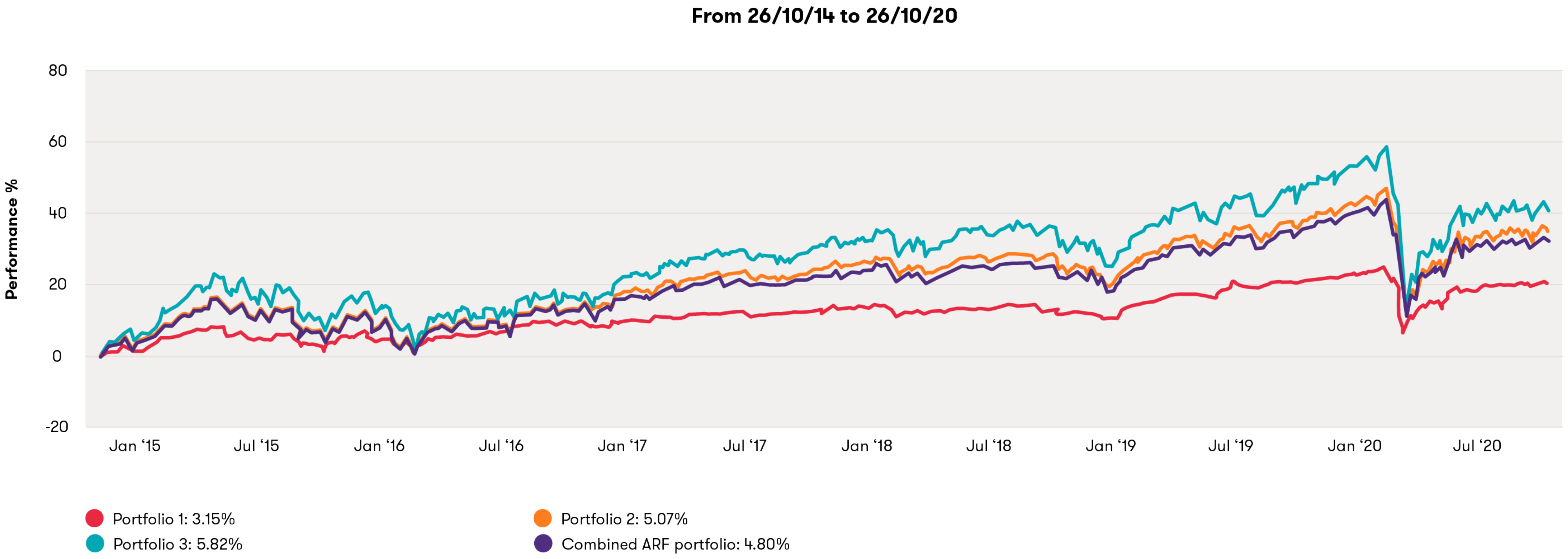
**25% Portfolio 3**



# Performance of combined portfolios



# Where to take income from in retirement?

- Part-time work?
- State pension
- Other income – rental, dividends etc.
- ARF minimum distribution
- Cash and investments – tax payable on growth
- Additional ARF withdrawals – tax payable on capital

# Estate case study

Úna A. Ryan

# Estate of John Doe Deceased

| List of Assets in Will |
|---|
| 100% interest in Staycation Hotel in Cork |
| 60% interest in Irish Tourism Limited |
| Farmland in Co Derry |
| Joint bank account with his daughter Mary |
| Certain Life Insurance Policies |
| Estate House - formerly Lord Avondale's Home |
| Life interest in property to his wife Mary Doe |
| Bank accounts in his own name |
| Section 72 Policy of €1m – specifically mentioned in Will to be used to pay inheritance tax arising |

# Initial issues to consider

Inland Revenue Affidavit – now online – Statement of Affairs (Probate) Form SA2

Valuations of properties / valuations of shares (Date of Death and Valuation Date)

List of liabilities

Who are the beneficiaries?

Joint accounts – pass by survivorship – Valuation Date

Any potential issues against the Estate? The legal right share of John Doe Deceased's spouse Mary?

UK Grant of Probate / UK Inheritance tax needs to be paid within 6 months of date of death

Valuation date for pay and file & claiming reliefs

Review of capital losses / income tax losses of Joe prior to death?

# Administration of Estate

## Register Estate of John Doe for income tax

## Pre and Post Death Income

- Distributions of income received by the executors must be apportioned between the pre and post death period on a time basis
- Distributions of income arising from the pre-death period are distributions of capital
- While distributions of income arising from the post- death period are distributions of income
- Bryan V. Cassin – Income which becomes due after the date of death but which may have accrued wholly or in part before death is to be regarded as income of the estate
- Deposit interest – apportioned on an actual basis pre and post death, the actual interest accruing pre-death being included in the income of the deceased up to the date of death while the interest accruing post-death is assessable on the executors.

## Estate will be subject to Income Tax at a rate of 20%

## Where Executor sells property subject to CGT at 33% with base cost being date of death

## Preparation and completion of Estate Accounts and Distribution Accounts

## Income appointed to beneficiaries - Forms R185

# Reliefs to consider

# Application of reliefs

| Asset | Relief | Application |
|---|---|---|
| Staycation Hotel | Business Asset Relief | 90% reduction in taxable value, only taxed on 10% |
| 60% interest in Irish Tourism Limited | Business Asset Relief | Taxed on 10% only |
| Farmland in Co Derry | Agricultural vs Business Asset Relief<br>UK Double Tax Credit (if available) | Taxed on 10% only |
| Joint bank account | Group A threshold - €335,000 | Taxable on excess |
| Certain life insurance policies | Section 104 CATCA 2003 relief – credit allowed against exit tax | Taxable on excess |
| Section 72 Policy of €1m | Initially not taxed where used to pay all of the inheritance tax | Taxed on the excess not used to pay the inheritance tax |
| Estate House | Heritage Property Exemption | 100% exemption |
| Bank Accounts | Group Thresholds available | Taxable on excess |
| Life interest in property | Spousal Exemption | 100% exemption |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# Our dedicated team

## Oliver O’Connor

Partner - Private Client

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### Experience

Oliver joined Grant Thornton in 1998 as a trainee and appointed director in the Audit and Assurance department of the practice in 2003, before moving to Grant Thornton Financial Counselling. He is a director of Grant Thornton Financial Counselling Limited, the financial advisory arm of the practice, providing financial advice to both corporate entities and individuals.

Oliver has significant experience in structuring the personal financial affairs of company directors and shareholders together with specialist sole traders in a tax efficient manner. He works closely with the tax planning department of the firm to ensure that client’s financial objectives are being met.

Oliver also provides corporate pension and financial advice to many single member and multi member entities. This advisory service encompasses all matters from initial recommendation and set-up to the eventual extraction of funds at retirement.

### Sector experience

Oliver provides a complete financial advisory service to a wide range of clients, both personal and corporate, combining his significant commercial and business advisory experience.

### Professional qualifications and memberships

Oliver is a member of the Chartered Accountants Ireland (CAI), is a qualified Chartered Tax Consultant and is a Qualified Financial Adviser. He holds a Bachelor degree (BA) in Accounting and Finance from Dublin City University (DCU).

## Úna Ryan

Director – Tax

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### Experience

Úna has vast experience on corporate and individual tax planning solutions in respect of debt restructuring, corporate restructuring including tax due diligences, hive-outs, hive-downs, rights issues, share buybacks, tax efficient pre-sale and post-sale restructuring.

She has extensive experience on estates and trusts for high net worth individuals including anti-avoidance provisions, estate planning and cross border estate tax issues and offshore trusts.

Úna regularly contributes to the Irish Tax Institute, Chartered Accountants’ House and STEP educational programmes and currently lectures Revenue Law on the LLB law programme with Griffith College

### Professional qualifications and memberships

A degree in law (BCL) from University College Dublin (UCD), an LLM in Electronic Commerce Law from University College Cork (UCC) and is an Associate of the Irish Taxation Institute (AITI), an Associate of the Chartered Secretaries & Administrators (ACIS) and is a qualified Trust and Estate Practitioner (TEP).

# Our dedicated team

## Debbie Fry

Associate Director – Private Client

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### Experience

Debbie joined Grant Thornton in 2013. Prior to this she worked in a number of the leading Financial advisory brokerages in the Financial Services industry.

Debbie manages our corporate solutions team which offers corporate benefits advice as well as the management of both pension and risk benefit schemes for employees.  In addition to this, she manages a portfolio of individual clients, including pensioneers, company executives, self employed and SME business owners.

Debbie also has experience in compliance, consumer protection and risk management therefore ensures our client services administration is in line with all regulatory guidelines.

### Professional qualifications and memberships

Debbie has been working in wealth management since 2002 and is a Retirement Planning Adviser and Qualified Financial Adviser through the LIA.

She also holds a University Diploma in Financial Services through the LIA as well as a Professional Diploma in Compliance and a Professional Certificate in Consumer Protection Risk, Ethics and Culture in Financial Services through the Institute of Bankers.

She also holds a Bachelor's Degree (BA) in Sociology and Economics (Spec) from NUI Maynooth.

## Liam Naughton

Associate Director – Private Client

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### Experience

Liam joined Grant Thornton in 2016. Prior to this he gained Big Four experience, focusing on personal wealth management for clients.

Liam specialises in financial planning and wealth management for individuals, and is responsible for a portfolio of clients, including high net worth individuals, company executives, and SME business owners.

Liam also has experience in overseeing the management and performance of large investment portfolios for high net worth clients and non-governmental organisations, regularly liaising with and reviewing the performance of fund and investment managers, to ensure managers act within each client's specified mandate.

### Professional qualifications and membership

Liam has been working in wealth management since 2009 and is a Certified Financial Planner (CFP®), Retirement Planning Adviser and Qualified Financial Adviser through the LIA. He also holds an MSc. in Financial Services from UCD, and a Bachelor's Degree in Business Studies (Accounting and Finance) from the University of Limerick.

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