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Tax and legal update

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- late or non-filing of annual returns;
- Finance Bill 2017 – Corporate tax; and
- maturing deposits in a low rate environment – what questions should you ask?

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Late or non-filing of annual returns

The Companies Registration Office (CRO) have now commenced criminal prosecutions against companies

The CRO has confirmed that they have now commenced criminal prosecutions under the Companies Act 2014 against companies for late or non-filing of annual returns. It is important to note that where the registrar has commenced criminal proceedings for late or non-filing of annual returns, any subsequent applications by the company concerned under section 343(5) Companies Act 2014 (application for waiver of late filing fees), will be objected to by the registrar on the basis that proceedings have already been commenced against the company for the said late filing of annual returns.

Any company that currently has a late annual return can be prosecuted and the CRO are currently targeting companies who have a poor filing history.

The offence is a Category 3 offence under the Companies Act 2014, with a fine of up to €5,000.

It is advisable for all companies to submit their late annual returns as soon as possible to potentially avoid receiving a summons from the CRO.

Finance Bill 2017 – Corporate tax

Finance Bill 2017 was published on 19 October 2017. The Bill provides the legislative basis for measures announced in Budget 2018, as well as introducing new, previously unannounced measures.
On the corporate tax side, the following measures were introduced.

Interest as a charge relief

Interest relief under Section 247 of the Taxes Consolidation Act 1997 (TCA 1997) will now apply for multiple holding company structures, which removes ambiguity that existed in the past for such structures.

Intangible asset allowances

The 80% cap on allowances/interest against Intellectual Property (IP) related income has been re-introduced under Section 291A TCA 1997 in relation to IP expenditure incurred post 11 October 2017.

Energy-efficient equipment

Certain energy efficient equipment that qualifies for 100% capital allowances in the year the asset is acquired and brought into use has been extended until the end of 2020.

Impact of accounting changes for tax purposes

Irish tax law provides for the tax impact on changes in accounting standards, eg from old Irish GAAP to FRS 102. The Bill extends these provisions to changes in accounting policies and correction of accounting errors, which previously in certain cases had not been taxed/deductible for tax purposes.

Maturing deposits in a low rate environment – what questions should you ask?

In recent years there have been a large number of long term deposits maturing in Ireland, following the generous rates on offer from financial institutions during 2010 and 2011. Many investors experienced gross returns of up to 25% over five years and took advantage of these attractive rates and relative security provided by financial institutions at the time. Now investors are facing an environment of extremely low deposit rates and must look at investing in alternative options and taking on investment risk, in search of a return.

Before taking this step, it is important to assess your current financial position and how this has changed since investing in long term deposits. The questions which you should ask include:

- Can I afford to take risk with my money?
- Do I have an appetite for investment risk?
- Do I need a return and if so how much?
- How long can I invest for without needing access to my funds?
- What do I need this money for in the future?

If you are one of these individuals with money recently coming off deposit, it is likely you will be contacted by your existing adviser or bank to discuss the investment options now available to you. The investment process may contain a free consultation, completion of a risk questionnaire and investment in a fund which matches your identified 'risk profile'. Although this may be compliant with Central Bank regulations, it may not be the most suitable option in order to meet your financial needs now and in the future.

A number of institutions which offer financial advice are tied to one particular investment provider and cannot review the entire market in order to identify the most suitable investment solution for their clients. Unfortunately, most individuals do not wish to get overly involved in the investment process and tend to make decisions based on what requires the least amount of effort on their part. As a result, people are investing in funds which are readily available off the shelf, but may not be most suitable to their needs over the long term.

In order to make an informed decision and identify investment solutions which will aim to satisfy your financial objectives, it is extremely important to seek independent financial advice. An independent adviser has access to investment solutions across the Irish market and has the ability to assess your need for investment return and risk in relation to your overall wealth and need for income.

One of the most important steps of the investment process is regularly reviewing your investments, not necessarily to review performance against benchmarks and other funds, but to ensure your investments are suitable to your needs on an ongoing basis. Without building a long term relationship with an independent adviser, it is more difficult to ensure your needs are being met as your life changes.

It is their job to ensure your needs are met at the outset of your investment, but just as importantly to manage your actions in the event of material changes in your life, which impact your need for income, risk and return.

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