CTA

Chartered Tax Adviser

Irish Tax Institute

Leaders in Tax

UNDERSTANDING TAX FOR SMALL BUSINESSES

A Tax Guide for SMEs/Owner-Managed Businesses

About the Irish Tax Institute

The Irish Tax Institute is the leading representative and educational body for Ireland's AITI Chartered Tax Advisers (CTA) and is the only professional body exclusively dedicated to tax. Our members provide tax expertise to thousands of businesses and individuals in Ireland and internationally. In addition many hold senior roles within professional service firms, global companies, Government, Revenue and state bodies.

The Institute is the leading provider of tax qualifications in Ireland, educating the finest minds in tax and business for over thirty years. Our AITI Chartered Tax Adviser (CTA) qualification is the gold standard in tax and the international mark of excellence in tax advice.

A respected body on tax policy and administration, the Institute engages at the most senior levels across Government, business and state organisations. Representing the views and expertise of its members, it plays an important role in the fiscal and tax administrative discussions and decisions in Ireland and in the EU.

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For further information on how to apply for any of the reliefs or exemptions mentioned in this guide, please contact an AITI Chartered Tax Adviser (CTA) or see www.revenue.ie. For a listing of AITI Chartered Tax Advisers (CTA) in your area, please visit www.taxinstitute.ie.

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Introduction

Tax is a major cost consideration for all businesses, and this guide gives an overview of the tax issues that all small and medium-sized enterprises (SMEs) should consider. This document:

- summarises the relevant tax obligations to consider when commencing your business,
- identifies some tax pitfalls and opportunities for existing businesses to consider and
- provides a brief summary of the tax issues to be aware of when transferring or selling your business.

This guide is written to provide practical advice, checklists and tips with a view to ensuring that the tax affairs of SMEs are organised in an efficient manner. It also provides an overview of some of the main tax reliefs and incentives available to SMEs to enable them to expand and grow.

For further information on how to manage your tax affairs efficiently, contact an AITI Chartered Tax Adviser (CTA). A listing of AITI Chartered Tax Advisers (CTA) in your area is available at www.taxinstitute.ie.

Part 1 – Getting Started: Checklist of Decisions

Tax is a cost of doing business that can have significant implications for your cash-flow. It is vitally important that you structure your business correctly to minimise this cost and that you register for taxes properly and in a timely manner to avoid potentially significant interest and penalty charges should you fail to meet your obligations.

The following is a checklist of the main decisions required to establish your business in a tax-compliant manner.

Decision	Completed (Y/N)
Determine the business structure that best fits your circumstances	
Ensure that you register for tax correctly and on time	
Identify the taxes that your business could be liable to pay	
Ensure that you understand when you have to pay each of these taxes and when you have to file the associated returns	
Consider the record-keeping and accounting system that you will use to allow you meet your legal obligations	
Consider the tax reliefs and incentives that may be available for starting and/or funding your business	

It is advisable that you consider the above queries with your AITI Chartered Tax Adviser (CTA). However, we set out below some information that will help you to identify your tax obligations and provide some tips for avoiding unnecessary taxes and, indeed, potential interest and penalties.

1.1 Determine the Appropriate Business Structure

When starting a business, consideration must be given to the structure that best suits your personal and business objectives. The correct structure will depend on your objectives and projections for the business, and the common structures are reviewed below. In general, a business will be structured as a sole trader, a partnership or a company.

1.1.1 Sole trader

If you choose to operate as a sole trader, the business will be registered for taxes in your name and the profits will be subject to income tax. If you are trading under a business name, that name must be registered with the Companies Registration Office (**www.cro.ie**). Unincorporated sole traders do not enjoy the benefits of limited liability available to limited companies (below), and you may therefore be personally exposed to any liabilities or losses of the business.

1.1.2 Partnership

If two or more individuals wish to work together, they may enter into a partnership arrangement. The partnership must register its name with the CRO and register for the relevant taxes with the Revenue Commissioners by completing and submitting a Taxes Registration Form TR1. The partnership will be issued with a separate tax registration number from the individual partners. An annual partnership tax return will be required, and the respective shares of income and gains will also have to be returned in the individual income tax returns of each partner. Generally, each partner will be personally liable for any liabilities or losses of the partnership, although much will depend on the nature of the partnership and the agreement reached.

1.1.3 Limited liability company

If you choose to operate the business through a company, you will be required to register the company with the CRO. The company will then operate the business and will be regarded as a separate entity from you for tax and other purposes. Generally, the shareholders' accountability for losses or other liabilities of the company should be limited to the extent of their contribution to the capital of the company.

If you commence business as a sole trader or partnership, you can transfer your business to a company in the future, although care should be taken in structuring any such transfer in order to minimise the taxes arising.

1.1.4 Decision aid

One of the first decisions will be whether you should set up your business as a sole trader or via a separate limited liability company. Below is a table setting out some of the key differences that will help you to decide on the appropriate structure for your business.

Consideration	Company	Sole trader
Limited liability	A company can provide protection from the liabilities and losses of the business.	A sole trader will be personally liable for liabilities and losses of the business (subject to insurance).
Set-up costs	Initial costs will be incurred to incorporate a company and register it with the CRO.	There will be no incorporation or CRO company registration costs. A small fee will apply for registering a business name.
Ongoing administration costs	Additional accounting and company law obligations will apply for a company, including filing annual returns and accounts with the CRO. This is likely to result in higher ongoing administration costs.	Compliance administration costs will be minimised.
Tax rates	A company will pay corporation tax at 12.5% on trading profits. A company may also qualify for corporation tax relief in the first three years of trading. Income tax will arise on money extracted from the company, whether through salary or dividend. (See Note 1.)	All profits will be subject to income tax in the hands of the sole trader in the year in which it was earned. The rate of income tax is up to 41%, and Pay-Related Social Insurance (PRSI) and Universal Social Charge (USC) will also have to be considered.
Pensions	In most cases a corporate structure will offer the working director/shareholder more options in respect of the level of pension contributions that can be made into the individual's pension scheme. In addition to pension contributions by the individual from salary, the company can make pension contributions on behalf of the director/employee in a tax-efficient manner.	There are certain restrictions on the level of tax-relievable pension contributions that can be made by an individual each year.

Note 1

While the low 12.5% corporation tax rate (and the start-up relief) look very attractive, it must be considered that, when such profits are extracted from the company, the funds will be liable to income tax, PRSI and Universal Social Charge (USC) in the hands of the individual owner. This can in some cases lead to double taxation. Certain passive income (such as rents and interest) can be subject to a 25% rate of tax in a company. If the company is regarded as a “close company” for tax purposes, additional surcharges may also apply where such income is not distributed within 18 months from the end of the accounting period (see Section 2.4 for an explanation of close companies).

1.2 Registering for Tax

All entities are obliged to register for taxes as soon as they commence in business (for corporation tax this must be within one month of commencing business activities, and for VAT this must be within 30 days of becoming an accountable person – see Section 1.3.3). To register for taxes you will need to identify the taxes that your business may be liable to pay. Section 1.3 sets out more details on each tax that may affect your business. In the vast majority of cases the obligation to register for taxes is met by filing a single tax registration application form at the earliest possible date. In the case of unincorporated entities (sole traders, partnerships etc.) a Form TR1 is used, while companies are required to complete a Form TR2. These forms are available from your local tax office or on Revenue’s website, **www.revenue.ie**. Registration can also be done online for certain taxes. See section 1.2.1 for information on Revenue's Online Service.

1.2.1 Revenue Online Service

You can now also register to pay most taxes via Revenue’s Online Service (ROS), available on the Revenue website. ROS is a secure, interactive, Internet-based facility that provides for the electronic payment and filing of taxes, either by taxpayers themselves or by their agents on their behalf. A business can file returns online, make payments, calculate the liability to tax and claim repayments via this service. Another benefit of using ROS is that the pay and file deadlines for certain taxes are extended when you pay and file using ROS. These extensions are discussed in further detail in Section 1.4. Certain taxpayers are required to pay and file their tax through ROS under Revenue’s mandatory efiling programme. In particular, since 1 June 2011, all companies are required to pay and file most taxes online. Information on the mandatory efiling programme is available on Revenue’s website.

To register for ROS you will need to follow the three-step process outlined on the Revenue website (**www.revenue.ie**) under “Register for ROS”. The entire registration process typically takes eight working days, so you should ensure that you start the process in sufficient time before any filing deadlines that may apply.

Tips

- Register for taxes early. In some cases there can be a delay in the processing of tax registrations, and this can cause some trading difficulties, particularly when acquiring products from other Member States. Late registration could also result in a delay in recovering any VAT on set-up costs and pre-trading expenditure.
- If you are subject to a requirement to pay and file your taxes online but do not have the capacity (i.e. lack the technology or through age or infirmity) to do so you can contact Revenue to seek an exclusion from the requirement. It is important to apply for an exclusion early so that if Revenue refuse your request you can make alternative filing arrangements.
- Given the benefits of ROS, it is advisable to register for ROS at the earliest opportunity.
- You may be able to claim a tax deduction against your income tax or corporation tax liability in the first period of trading for certain expenses incurred in setting up the business in the three years before commencing to trade; for example, you may be entitled to a deduction for business-related leasing costs, legal fees or interest on loans incurred during that time.
- If you incur significant costs before commencing to trade, you may wish to register for VAT before trading commences in order to reclaim VAT incurred on such expenses. A person can register for VAT as soon as it is clear that they will become liable to VAT in their business. If a business exceeds certain turnover thresholds (see Section 1.3.3), it is obliged to register for VAT; however, it is not necessary to wait until the registration thresholds are exceeded to do so.

1.3 Identifying the Taxes that Your Business Could be Liable for

The taxes for which your business is obliged to register will depend ultimately on your business structure and activity. This section provides an overview of the taxes that could apply to your business, together with the corresponding tax rates and the tax returns required. It is important that you are aware of these before you start in business. The payment and return filing obligations for each of these taxes are dealt with in Section 1.4.

Set out here is a list of the possible taxes for which you may have to register, followed by a brief description of each.

Tax to consider	Relevant (Y/N)
Income tax, PRSI, USC for the owner	
Corporation tax	
Value-added tax (VAT)	
PAYE/PRSI/USC on employees	
Capital gains tax (CGT)	
Relevant Contracts Tax (RCT)	
Dividend Withholding Tax (DWT)	
Professional Services Withholding Tax (PSWT)	

1.3.1 Income tax, PRSI and USC

Income tax, PRSI and USC will be chargeable on the taxable profits earned by individuals operating as sole traders or in partnership. (The USC replaced the income levy and health levy from 1 January 2011.) You should note that taxable profits are not the same as accounting profits, and adjustments may need to be made to the accounting profit to determine the taxable profit. For example, capital profits such as from the sale of an asset must be deducted from the accounting profit and, similarly, items of capital expenditure, such as depreciation, should be added back to the accounting profit for tax purposes. Although accounting depreciation is added back to determine your profits for tax, you will see in Section 2.3 below that a business can get a deduction for tax depreciation (known as a capital allowance). You should also be aware that there are special rules around the calculation of taxable profits for the first three accounting periods of the business; however, these rules are complex and beyond the scope of this guide. It is recommended that you seek advice from an AITI Chartered Tax Adviser (CTA) in this regard.

If you operate through a company, any payments that you receive from the company, whether in the form of dividends/distributions or salary, will be subject to income tax, PRSI and USC. It is important to note that there are different tax considerations for the company depending on the type of payment it makes. For example, the company will be subject to employer PRSI (usually 10.75%) on salary payments, or it may get a corporation tax deduction for salary payments and employer PRSI but not for dividends.

Income tax applies at the standard rate of 20% up to certain limits and 41% on the balance. See Appendix 1 for more details.

PRSI and USC arise on income whether it is received by a self-employed individual or by salary or as a dividend from a company. These are complex taxes, and the rates will vary depending on the circumstances and the amount of income received. Details of the PRSI and USC rates and thresholds are set out in Appendix 1.

1.3.2 Corporation tax

If you conduct your business through a registered company, corporation tax will be charged on any taxable profits. As above, taxable profits are not the same as accounting profits, and adjustments may need to be made. Special rules apply in calculating the taxable profits for the first three accounting periods of the company and, again, specialist advice should be sought from an AITI Chartered Tax Adviser (CTA).

Once you have determined the net taxable profit for the company, the following corporation tax rates apply:

- On trading profits, the rate is 12.5%.
- A rate of 33% applies to deposit interest paid or credited on or after 1 January 2013. The rate was previously 30%.
- On other non-trading profits, such as rental income, the rate is 25%. This rate also applies to trading profits of a small number of specialised trades (such as mining, land dealing and petroleum activities).
- For new companies starting to trade in the period beginning on 1 January 2009 and ending on 31 December 2014, a relief from corporation tax on trading profits applies for the first 3 years of trading. The amount of relief is linked to the amount of Employer PRSI paid by the company. Any unused relief in the first 3 years of trading may be carried forward for use in subsequent years, subject to certain conditions – section 1.6.2 for further information.
- Certain companies, regarded as "close companies", can be subject to certain surcharges – see Section 2.4 for more details on close companies.

1.3.3 Value-added tax

Careful consideration should be given to the rate of VAT applying to supplies of goods or services made by your business. The rate of VAT chargeable on your supplies will depend on the nature of the product or service. The supply of certain goods and services is exempt from VAT, while other supplies are subject to VAT at rates of 0%, 4.8%, 9%, 13.5% or 23%. If the supplies are VAT-exempt, you will not be entitled to recover any input VAT on your costs. However, businesses supplying goods or services that are subject to VAT at 0%, 4.8%, 9%, 13.5% and 23% will be entitled to recover VAT generally on costs, provided that they are registered for VAT (see Section 1.2). There are, however, some costs on which no business can recover input VAT, such as expenditure on entertainment, personal expenses and expenditure on petrol (purchased otherwise than as stock-in-trade).

The information given on invoices normally establishes the VAT liability of the supplier and the entitlement, if any, of the customer to a deduction for VAT charged. It is vital, therefore, that these are properly drawn up and carefully retained. VAT law contains specific requirements in terms of the information that must be included on invoices, including the date of issue, a sequential number, the full name, address and VAT registration number of the supplier, and the full name and address of the customer.

Applying the correct VAT rate to your supplies is essential, and it can be a complex process if you are supplying a variety of products or services. If you are not charging the correct rate of VAT, you may be subject to significant interest and penalties should the matter be uncovered during a Revenue audit. Contact an AITI Chartered Tax Adviser (CTA) for advice if you have any doubts in this area.

Any business selling products or services exceeding a certain value must register for VAT (unless its supplies are VAT-exempt). The current turnover thresholds over which a business must register for VAT are €37,500 per annum on the supply of services and €75,000 per annum on the supply of goods. A business can elect to register for VAT if its turnover is below these amounts, even though it is not required to do so. This may be advisable if considerable input VAT has been incurred on commencing the business – for example, on acquiring (including leasing) or developing business premises or on other pre-trading business expenditure – which may then be reclaimed.

When registering for VAT, you may want to apply for the cash-receipts (or "money-received") basis of accounting. The option to do so is given on the registration form (TR1 and TR2). Where a business avails of the cash-receipts basis, VAT can be paid on the basis of when cash is received rather than when the invoice is issued. This helps to avoid the cash-flow difficulty of accounting for VAT on a supply when the invoice has not been paid by the customer. You may be entitled to use the cash-receipts basis where annual turnover (excluding VAT) is less than €1.25 million (€1m prior to 1 May 2013) or 90% of turnover is from Vatable supplies to non-VAT-registered people. More information on the cash-receipts basis and how to opt in is available from the Revenue website.

1.3.4 PAYE/PRSI on employees

If your business has employees, you must operate PAYE/PRSI and USC on their wages. You will also be required to operate employer PRSI on employee wages. PAYE and employee PRSI/USC are taxes that you withhold from the salary payments to your employees and pay over to Revenue on behalf of the employees. However, employer PRSI is an actual cost to the business. For the period 1 January 2011 to 1 July 2011, where any employee had a weekly wage of less than €356, the rate of employer PRSI was 8.5% of the employee's wage. This rate has been reduced to 4.25% from 2 July 2011 until the end of 2013, following the Government Jobs Initiative. The rate will then be restored to 8.5% from 1 January 2014. Where the employee's weekly wage is €356 or more, the rate is 10.75% on all remuneration including the first €356. See also Section 1.6.1 of this guide in relation to certain reliefs from employer PRSI that may apply when recruiting new employees who were previously unemployed.

See Appendix 1 for a more detailed overview of the income tax, PRSI, health levy and USC rates and thresholds.

1.3.5 Capital gains tax

Capital gains tax (CGT) at the rate of 33% may apply on profits from the sale of certain capital assets. For example, if you sold part of your business premises at a profit, the profit may be subject to CGT.

1.3.6 Relevant Contracts Tax

This withholding tax may apply if you operate in the construction, meat-processing or forestry sectors and make payments to sub-contractors in those sectors. A new electronic RCT system was introduced on 1 January 2012 whereby all contact between principals (or agents acting on their behalf) and Revenue is now through an on-line process. The new system has three rates: 0%, 20% and 35%. Subcontractors who satisfied the previous criteria for a C2 card, qualify for the 0% rate. In certain limited cases a subcontractor will be placed at 35% e.g. subcontractors who are not registered with Revenue or where there are serious compliance issues to be addressed. All other subcontractors are eligible for the standard 20% rate.

The following is an overview of how the eRCT system operates:

> When a principal enters into a relevant contract with a subcontractor, he or she is obliged to provide Revenue with details of the subcontractor and contract, on-line, including confirmation that the contract being entered into is not a contract of employment. Revenue will then acknowledge the contract and advise the principal and subcontractor of the rate to be applied, if available.

> Prior to making a payment under the contract, the principal must notify Revenue (by electronic means) of his or her intention to make the payment and state the gross amount to be paid.

> Revenue will issue a deduction authorisation setting out the rate of tax and the amount of tax to be deducted from the payment. The principal must pay the subcontractor in accordance with the deduction authorisation and provide a copy of the authorisation to the subcontractor.

> Revenue will automatically put credit for any tax deducted onto the subcontractor's tax record. That credit will be available for offset as it arises or for repayment annually.

> If the subcontractor is registered for ROS, he or she will be able to access his or her own records through ROS.

- All details of the payments must be notified by the principals to the Revenue. Depending on the filing frequency of the principal, a deduction summary will be issued, either monthly or quarterly, listing all of the payments the Revenue has been made aware of. If the summary is correct, the principal is only required to arrange payment on or before the due date for the return. The return will be deemed to have been made on that date. If the summary requires amendment, the principal can amend it on-line and arrange for payment on or before the due date.
- Payment should be made on-line by the due date which is 23rd day after the end of the period covered by the return.
- If the deduction summary is amended after the due date, the return will be late and a surcharge will apply. Revenue will issue a notice of the tax and any surcharge due.

If your business operates in one of the relevant industries (construction, meat-processing or forestry), you should regularly obtain the advice of an AITI Chartered Tax Adviser (CTA) to ensure that you are not creating a risk for your business by not meeting your RCT obligations. If you are a subcontractor it may be timely to review your compliance record now with your tax agent to ensure that you are fully tax compliant and will not be subject to withholding tax at the highest rate i.e. 35%.

1.3.7 Dividend Withholding Tax

This withholding tax applies to companies that make dividends or other distributions to their shareholders. Where applicable, DWT is withheld at the rate of 20%. For example, where a company decides to make a dividend of €1,000 gross to an Irish individual shareholder, it must withhold €200 (20%) and pay this directly to Revenue. The individual receiving the dividend can claim a credit for the withholding tax when filing his or her tax return.

1.3.8 Professional Services Withholding Tax

If you supply certain services to the State (including semi-State bodies), PSWT at a rate of 20% will be withheld from the payments you receive. You should receive a Form F45 from the relevant State body, which is a certificate of the PSWT deducted from the payment made to your business, and it is important that you retain this form.

Credit for PSWT deducted should be claimed when submitting the income tax or corporation tax return forms for the relevant accounting period. Revenue may request the Forms F45 for verification.

Where you consider that the amount of PSWT deducted from payments is in excess of the likely final liability to tax, you may be entitled on application to your local Revenue office to an interim refund of the excess rather than waiting to have it credited against the final tax liability. Certain conditions apply, and more information is available from the Revenue website.

1.4 Due Dates for Paying Taxes and Filing Returns

Set out below is a summary of the key filing and payment dates for each tax.

1.4.1 Income tax

Self-assessed income tax is paid in two instalments for each year. Preliminary tax is payable on or before 31 October of the tax year (e.g. preliminary tax for 2013 must be paid by 31 October 2013). The balance of tax (second instalment) is due the following 31 October, when filing the tax return. The preliminary tax must equate to at least 90% of the final liability or 100% of the preceding year's liability. In addition, if you pay your income tax by monthly direct debit, you can base your preliminary tax payment on 105% of the pre-preceding tax year's liability.

The income tax return is due by 31 October of the following calendar year (e.g. the tax return for the year ended 31 December 2012 is due on or before 31 October 2013).

Tips

- Filing your return via ROS will normally extend the payment and filing date by around two weeks (the extended date changes slightly each year). For example, for 2013 the extended ROS pay and file deadline is 14 November 2013, rather than 31 October.
- Some taxpayers are required to pay and file online. Consult your tax agent if you are in any doubt about your obligations.
- Avoid unnecessary surcharges and relief restrictions by submitting your returns and payments on time, as automatic surcharges are applied for the late filing of returns.
- Consider paying preliminary tax by monthly direct debit.

1.4.2 Corporation tax

For a business operating through a company structure, corporation tax must be paid over a number of dates depending on the size of the liability.

For "small companies" (companies that had a corporation tax liability of €200,000 or less in the previous accounting period), a preliminary payment must be paid one month before the end of the accounting period (by the 23rd of the month). For example, a company with a financial year ending on 30 November must make a preliminary payment by 23 October. The amount of tax payable can be based on either:

> 100% of the tax liability for the previous period or
> 90% of the actual final tax liability of the current period.

The balance of tax is paid when filing the Form CT1 (discussed below).

For a company whose liability exceeded €200,000 in the preceding accounting period, the tax must be paid in three instalments:

> For the first instalment, the company must pay either at least 45% of the liability for the current period or 50% of the liability for the prior period. This must be paid within six months from the start of the current period (no later than the 23rd of the month).

> The second instalment, to bring the total preliminary tax paid to at least 90% of the final liability, must be paid within one month from the end of the period (no later than the 23rd of the month).

> The balance of tax is payable on the filing of the corporation tax return, Form CT1.

The Form CT1 needs to be submitted to Revenue within nine months of the end of the current accounting period (no later than the 23rd of the month).

Tips

- Since 1 June 2011, all companies are required to pay and file their taxes online. If you obtain an exemption from this requirement from Revenue, you will be required to pay/file your taxes by the 21st of the relevant month.
- Filing and paying via ROS extends the deadline by two days, to the 23rd of the month.
- Consider whether paying tax based on the prior year's liability will reduce the preliminary tax requirement and minimise the risk of underpaying preliminary tax.
- Ensure that sufficient preliminary tax is paid to avoid interest charges.

1.4.3 VAT

VAT payments are generally based on the calendar year, and the following are the relevant filing and payment dates:

> In general, a Form VAT3 must be filed, and any VAT liability paid, for every two-month period by the 19th day of the month following the period (e.g. the January/February return must be filed by 19 March).

> Where total VAT payments for the year are €3,000 or less, the trader can file six-month returns.

> Where total VAT payments for the year are between €3,001 and €14,000, the trader can file four-month returns.

> Traders who pay VAT by direct debit need file only one annual return at the end of their accounting period.

Tips

- Filing and paying via ROS will extend the deadline by four days, to the 23rd of the month.
- Depending on the level of your VAT liabilities, it can be possible to file your returns every four months, six months or annually. This can assist with cash-flow requirements for your business.
- Where refunds are due, file returns early.

1.4.4 PAYE, PRSI and USC for employees

If you have employees, the following tax return and payment dates are relevant:

> A monthly Form P30 must be filed by the 14th day of the following month, accompanied by the PAYE, PRSI and USC withheld from employees (as well as employer PRSI).

> An annual summary Form P35 must be filed by 15 February following the end of the tax year.

> If total annual PAYE/PRSI payments do not exceed €28,800, the returns may be filed on a quarterly basis (with Revenue agreement).

> After the end of the calendar year, you need to provide each employee with a Form P60 and an end-of-year USC Certificate.

Tips

- Filing and paying via ROS will extend the deadline by nine days, to the 23rd of the month.
- Consider whether your business qualifies for the quarterly filing option.
- Certain non-cash benefits (such as a company car) can be subject to PAYE, PRSI and USC, and care should be taken not to omit taxing such benefits.

You will be required as an employer to facilitate deduction of Local Property Tax (LPT) at source from an employee's salary from 1 July 2013. Where this payment option is chosen by an employee, Revenue will notify you (the employer) to deduct LPT from that employee's salary. You must commence deductions of LPT from July 2013 and spread these deductions evenly over the pay periods occurring between July and December 2013. You will be required to account for and remit the deducted LPT to Revenue on the monthly Form P30 and include details of the total LPT deducted in the annual Form P35.

1.4.5 Capital gains tax

Details of any disposals of chargeable assets should be included in the annual income tax returns for individuals and on a company's Form CT1 where applicable. The CGT payments are due as follows:

> For individuals, where a gain arises on a disposal made between 1 January and 30 November, the due tax is payable by the following 15 December.

> For individuals, where a gain arises on a disposal made between 1 December and 31 December, the due tax is payable by the following 31 January.

> For companies making a gain on the disposal of development land, the CGT payment dates are as above. However, other taxable capital gains made by companies are filed and paid on the same basis as their other taxable profits.

Tips

- There are a number of significant reliefs from CGT, and it is important to ensure that all possible reliefs are considered.
- Ensure that details of all disposals are included on your income tax return to avoid surcharges.

1.5 Books and Records

You are obliged by law to maintain proper books and records. In addition to providing you with the relevant information necessary to manage your business properly, this will allow you to file your tax returns on an accurate and timely basis and will avoid unnecessary interest and penalties. You should consult with your AITI Chartered Tax Adviser (CTA) as soon as possible to agree on an appropriate system.

In addition to the obvious advantages of a good accounting and record-keeping system, the following points are relevant:

> You are obliged by tax law to maintain proper books and records to support your tax returns.
> You must retain such records for at least six years.
> If you have reclaimed VAT on the purchase or construction of property, you may be required to retain records relating to that property for up to 20 years.
> Certain industries, e.g. businesses using cash registers, require additional information to be retained. Details of those requirements are available in the Information Leaflet entitled "Cash Registers" on the Revenue website.
> Revenue is actively carrying out spot checks on businesses to ensure proper records are kept.

1.6 What Tax Reliefs or Incentives are Available to Start-ups?

The following reliefs, although they apply to all businesses, are particularly relevant for start-up businesses.

1.6.1 Reliefs for all businesses

Pre-trading expenditure

As noted in Section 1.2.1 above, once you have started to trade, you may be able to claim a tax deduction for qualifying expenses incurred in respect of the business in the three years before the commencement. For tax purposes, these expenses are treated as if they had been incurred at the time that the trade started. Such expenses may include business-related leasing costs, legal fees and the cost of preparing business plans and feasibility studies.

Recruiting employees

If your business is recruiting new employees, consider the Revenue Job Assist Scheme, which may provide a double tax deduction for wages and employer PRSI for the first three years that you employ a person who was previously unemployed for 12 months or more. Alternatively, a second scheme, the Employer Job (PRSI) Incentive Scheme, may be appropriate. It provides for an exemption (as opposed to a tax deduction, provided under the Revenue Job Assist Scheme) from employer PRSI for 12 months where certain conditions are met in recruiting new employees who have been unemployed for at least six months

It is important to note that Finance Act 2013 provides that the abovementioned employment schemes will cease when an alternative or replacement jobs incentive scheme (e.g. "Plus One Initiative") is introduced, which at the time of writing was subject to a Commencement Order.

Consider the activity of the business

Certain additional tax initiatives may be available depending on the activity of the business – for example, relief for expenditure on research and development (R&D) (see Section 2.3.2). You will need to consider this on a case-by-case basis with your adviser.

1.6.2 Reliefs for companies

There are certain reliefs and exemptions that are available only to companies. Each of these reliefs is subject to numerous conditions, and expert advice should be sought, but below is a summary of the main provisions.

Corporation tax relief

Companies which were incorporated on or after 14 October 2008 and started to trade during 2009, 2010 and 2011 were, subject to meeting certain conditions, entitled to a relief from corporation tax on profits for the first three years of trading.

For accounting periods commencing before 1 January 2011, a complete exemption from corporation tax on trading profits applied where the tax otherwise payable would not exceed €40,000. Partial relief was available where the liability was over €40,000 but less than €60,000.

For accounting periods commencing on or after 1 January 2011, the relief is linked to the amount of employers' PRSI paid by the company in respect of its employees and directors.

The relief was extended by Finance Act 2012 to companies that start to commence a new trade in 2012, 2013 and 2014.

Further improvements were made to the corporation tax relief by Finance Act 2013 whereby any unused relief arising in the first three years of trading can now be carried forward for use in subsequent years, for accounting periods commencing on or after 1 January 2013 (subject to a maximum of relief in any one year to the amount of employers' PRSI in that year).

It is important to note that the relief does not apply to certain trades such as those involving the primary production of agricultural products, the processing and marketing of agricultural products, export related activities etc. Furthermore, the relief will not apply where the trade was previously carried on by another person in the State.

Seed Capital Relief

Seed Capital Relief provides income tax relief on investments in shares in a new company by certain individuals who leave employment (or who are made redundant) to set up a newly incorporated company that carries on a qualifying trade, e.g. manufacturing.

The relief is on the new entrepreneur's income tax paid in one or all of the previous six years, at his or her marginal tax rate. However, the amount that can be tax-deducted from the total income of any one year is capped at €100,000. Therefore, a total investment of €600,000 in shares in the new company can be used to claim a refund of all income tax paid in the previous six years.

There are a number of conditions to be met in relation to the investor and the type of business undertaken by the new company in order for the relief to apply. The income tax relief available under the Seed Capital Scheme is due to run out at 31 December 2013. However, Finance Act 2013, proposes to extend the relief to 31 December 2020 but at the time of writing this extension is subject to approval by the European Commission.

Employment and Investment Incentive Scheme

The Employment and Investment Incentive Scheme (which replaced the Business Expansion Scheme (BES)), provides tax relief to individuals for the purchase of new ordinary share capital in a new or existing business The key features of the scheme are as follows:

- The scheme is available to the majority of small and medium sized trading companies.
- The maximum level of funding that a company can raise through the EIIS is €10m (compared to €2m under BES).
- The maximum amount which can be raised by a company in any one year is €2.5m
- The required holding period for shares is 3 years.
- The tax relief for investors is 30%, subject to a maximum investment of €150,000.
- A further 11% tax relief (which is not subject to the high earners' restriction of €150,000) is provided at the end of the holding period where it is proven that employment levels have increased at the company or the company has increased its expenditure on research and development.

The income tax relief available under the EIIS is due to run out at 31 December 2013, however, similar to the Seed Capital Scheme, it may be extended to 31 December 2020, which at time of writing is subject to approval by the European Commission.

Part 2 – Ongoing Tax Issues for Your Business

All owners and managers of small and medium-sized businesses should consider the following tax issues.

2.1 Ongoing Tax Considerations

It is advisable that you review your tax position on a regular basis to determine whether it is appropriate to register for certain taxes that may not have been relevant for the business before, e.g. RCT, VAT (on reaching the VAT registration thresholds). Your business structure may also change – e.g. as the business expands, a corporate structure may become more appropriate, and this will give rise to different tax considerations, as outlined in Part 1.

2.2 Cash-Flow Tips

It is important that you review the following to consider possible improvements to your business's cash-flow.

Tax	Cash-flow tips
VAT	• Consider filing via ROS to avail of extended filing and payment deadlines. • Review total VAT payable to see if your business is eligible to file returns and make payments on a less frequent basis or via direct debit. • File your returns on time to avoid interest. Revenue's interest rate is calculated on a daily basis and equates to an annual rate of 10%. • Consider availing of the VAT "cash-receipts" basis. This helps to avoid the cash-flow difficulty of accounting for VAT on a supply when the invoice has not been paid by the customer. More information on the cash-receipts basis and how to opt in is available from the Revenue website. • Consider whether a claim for bad-debt relief can be made. Where bad debts arise and VAT has been accounted for on the supply, there may be scope for VAT bad-debt relief to be claimed.

VAT	• Review turnover to see if it has fallen below the obligatory registration level. This is particularly helpful if your sales are to non-registered persons and if you are not normally in a constant VAT refund position. The threshold for the sale of goods is €75,000 per annum and for services is €37,500 per annum. • Where at least 75% of your turnover is sales to customers outside of Ireland, it may be possible to register with Revenue to receive all supplies without VAT. Applications for authorisation should be made on Form VAT 56A, which is available from the Revenue District responsible for your tax affairs or may be downloaded from the Revenue website under "VAT Forms".
PAYE/PRSI	• Consider filing via ROS to avail of extended filing and payment deadlines. • Review total PAYE/PRSI payable to see if your business is eligible to file returns and make payments on a less frequent basis or via direct debit. • Consider where employer PRSI savings may be made if you are taking on new employees: • Where your business is taking on new employees, consider the Revenue Job Assist Scheme, which gives your business a double tax deduction for wages and employer PRSI for the first three years in respect of each eligible job where the employee was previously unemployed for 12 months or more. This scheme has been earmarked to be replaced by a new jobs incentive scheme but at the time of writing, the terms of such a new scheme have yet to be determined by Government. Your business may qualify for the Employer (PRSI) Job Incentive Scheme. Under this scheme, where an employer creates a new job and employs a person who has been unemployed for six months or more, there will be no employer PRSI contributions for the first 12 months of the employment. You can only get an exemption from employer's PRSI for a limited number of employees. This limit is 5% of your existing workforce or, for smaller companies, a maximum of 5 new jobs. This scheme has been earmarked to be replaced by a new jobs incentive scheme but at the time of writing, the terms of such a new scheme have yet to be determined by Government. • Consider the potential reduced rates of PRSI that may apply if you are implementing pay cuts or engaging new staff. The lower rate of employer PRSI (of 8.5%) has been halved for all jobs that pay up to €356 per week from 1 July 2011 until 31 December 2013. • Be vigilant if you pay employees mileage and subsistence rates, as the "tax-free" rates have reduced significantly. • Pay your liabilities on time to avoid interest. Revenue's interest rate is calculated on a daily basis and equates to an annual rate of 10%.

Income tax	• Consider filing via ROS to avail of extended filing and payment deadlines. • Review trading losses in the business. If you are a sole trader, it may be possible to offset any trading losses against tax on other income in the year. • If your spouse works in the business, review whether it would be beneficial to pay him or her a salary to avail of the increased standard-rate tax band for a married couple. • Reclaim any withholding tax (RCT and PSWT) at the earliest possible dates. • Consider pension payments as a means of reducing your taxable income. • Pay your liabilities on time to avoid interest. Revenue's interest rate is calculated on a daily basis and equates to an annual rate of 8%.
Corporation tax	• Ensure that your returns and payments are made on time to avoid surcharges of up to 10%. • Ensure that sufficient preliminary tax is paid in order to avoid possible interest charges (at an annualised rate of 8%). • Review trading losses in the business. Any surplus trading losses can be offset against profits of the previous accounting period, which may result in a refund of corporation tax. • Consider tax relief for R&D. Any claim must be made within 12 months of the end of the relevant accounting period. • Scrapping old assets on which capital allowances are available may create a balancing write-off. • Reclaim any withholding tax (RCT and PSWT) at the earliest possible dates. • Where a company is regarded as a "close company" (see Section 2.4), avoid the 20% surcharge by ensuring that sufficient distributions are made in a timely fashion.

2.3 Maximise Tax Reliefs

You should ensure that your company is benefiting from any reliefs that may be available. The following are some of the more common reliefs to consider:

- business expenses,
- research and development (R&D) tax credit,
- losses,
- capital allowances, and
- intellectual property.

2.3.1 Business expenses

You can claim a tax deduction against your business profits for many business expenses that you incur in order to earn your profits. These expenses are normally referred to as revenue expenditure. Revenue expenditure is your day-to-day running costs and it covers such items as wages, rent and running costs of vehicles or machinery.

There are, however, certain expenses for which you cannot get a deduction for tax purposes. The general rule is that you cannot claim for any private expenses, i.e. any expense that is not wholly and exclusively paid for the purposes of the trade or profession. Client entertainment expenditure (i.e. the provision of accommodation, food, drink or any other form of hospitality) is specifically disallowed, and therefore you cannot claim a tax deduction for such expenses.

Furthermore, you cannot deduct capital expenditure in calculating your taxable profits; however, you can claim what are known as capital allowances on certain expenditure (see Section 2.3.4).

2.3.2 R&D tax credit

As an incentive to companies carrying out certain R&D activities, a tax credit was introduced. If the annual level of expenditure on qualifying R&D incurred by a company has increased over the level of such expenditure in 2003, a tax credit of 25% of the incremental expenditure is given. This is in addition to the normal deduction for revenue expenditure against the 12.5% corporation tax rate. For example, if a company spends €10,000 more on qualifying R&D in the year to 31 December 2013 than it did in the year to 31 December 2003, it will reduce its corporation tax liability by €3,750 in respect of this additional expenditure, (i.e. €10,000 x 25% + €10,000 x 12.5%). The relief must be claimed within 12 months from the end of the accounting period.

Finance Act 2012 relaxed the 2003 base year restriction somewhat by introducing a provision for accounting periods commencing on or after 1 January 2012 whereby the first €100,000 of qualifying R&D expenditure in the period would qualify for the R&D tax credit on a volume basis, i.e. it would qualify in full, without the need to benchmark against the level of expenditure in 2003. Expenditure over and above €100,000 would qualify for the R&D tax credit to the extent that it exceeded the expenditure in 2003. Finance Act 2013 has subsequently increased the amount of expenditure allowed on a volume basis from €100,000 to €200,000.

Any excess credit not used in the current period can be carried back against profits of the prior period and can give rise to a tax refund. Where a company does not have a liability that can be reduced or refunded by the tax credit (i.e. a loss-making company), the unused tax credit can be repaid over a three-year basis subject to certain limitations. The maximum amount that can be refunded is an amount equal to the payroll liabilities of two years, (i.e. the current and prior year). This cap may not apply in full where a refund of credits has been received in the past by reference to the corporation tax paid.

Finance Act 2012 introduced a relief for key employees engaged in R&D activities. The relief means that an individual who is a key employee of a company engaged in R&D activities can avail of a reduction in his or her income tax liability as a result of the surrender by his or her employer company of the R&D tax credit to which that company was entitled. The employee can only benefit from the reduction to the extent that the amount of income tax payable on his or her total income for the tax year to which the claim relates is not less than 23%. A number of conditions need to be satisfied by the employee in order to be considered a "key employee" for the purposes of the relief.

A tax credit of 25% of the full cost of a building used for the purposes of R&D can be available, subject to certain conditions. There are provisions for a clawback of relief where the building is sold or used for a non-R&D purpose within 10 years.

This can be a very useful relief for companies in the SME sector, but many are not aware that they would qualify for this relief.

This R&D relief is available only to companies. You may wish to consider incorporating if qualifying R&D expenditure is incurred as part of your business. This relief is not limited to "white coat" scientific research but also includes "brown coat" development work in design and engineering that involves overcoming difficult technological problems. This can include creating new processes, products or services, making appreciable improvements to existing ones, and even using science and technology to duplicate existing processes, products and services in a new way. Some examples of qualifying activities include software development, engineering design, new construction techniques, bio-energy, "clean-tech", agri-food, and life and health sciences.

Tip

- Review your business activities to determine if you qualify for R&D tax credits.

2.3.3 Losses

This can be a complex area, and specialist advice is recommended. Ultimately, the relief available for losses will depend on whether the business is operated as a sole trader/partnership or through a company. In both cases it is important that losses are maximised and that any prior-year refunds are claimed in a timely manner.

If you are a sole trader/partnership, it may be possible to offset any trading losses arising for a particular year against other taxable income in that year. To the extent that the loss is not fully absorbed in this way, it may be carried forward and relievable against future trading profits from the same trade. Special loss rules apply in relation to a sole trader/partnership business that is winding up.

In the case of incorporated businesses, a trading loss in an accounting period may generally be offset against the following:

> other trading income (and foreign dividends taxable at 12.5%) that arise in the same accounting period,
> trading income in the immediately preceding accounting period and
> trading income of future accounting periods.

To the extent that the loss cannot be used against trading income, it can be converted into a tax credit that may be used to reduce the corporation tax payable on passive income and chargeable gains. Special loss rules also apply in relation to an incorporated business that is winding up.

2.3.4 Capital allowances

A capital allowance is a tax deduction for expenditure incurred on capital equipment, e.g. office furniture. It is worth reviewing your fixed-asset register to see if you are claiming capital allowances on all qualifying assets. Capital allowances may be claimed in respect of expenditure incurred on:

- plant and machinery, including fixtures and fittings (12.5% p.a.),
- motor vehicles (12.5% p.a.) and
- industrial buildings (4% p.a.).

Accelerated capital allowances (i.e. a tax write-off given over a shorter period) are available on cars that have low CO_2 emissions and for expenditure on certain energy-efficient equipment (e.g. electric and alternative-fuel vehicles, lighting, heating and ventilation systems).

Tip

- Ensure that any invoices for purchases of the above items are included in the current year if purchased close to the year-end. This will enable you to claim a full period's capital allowance in the current year.

2.3.5 Intellectual property

If your company has acquired certain intangible assets, it may be entitled to claim a tax write-off for the capital cost of the acquisition. Tax relief is available for capital expenditure incurred by companies on a broad range of intangible assets, including trade names, brands, know-how, publishing titles, copyright and goodwill directly attributable to those intangibles. This tax write-off can be in line with the accounting write-off or, if the asset is not amortised in the accounts or is a long-life asset, a company can elect to apply the tax write-off over 15 years. Relief for the capital expenditure and any interest costs is restricted to 80% of the related annual income. Any unused allowances may be carried forward. A clawback of the relief can arise if the intangible assets are sold within 5 years (reduced from 10 years by Finance Act 2013)

2.4 Be Aware of the Rules Relating to "Close" Companies

A close company is a company that is controlled by five or fewer shareholders (a "shareholder" for these purposes is not necessarily a single party but can include related or associated parties) or is controlled by its directors. The vast majority of companies in the SME sector are close companies, and it is important to be aware of the specific tax consequences that arise on transactions involving such companies.

These include:

> A 20% surcharge may be levied on the after-tax non-trading income of a company that is not paid out as a dividend within 18 months of its year-end.

> A 15% surcharge arises on 50% of professional services income of a company if the income is not distributed within 18 months (it is important to consider whether your business would be regarded as carrying on professional services).

> A small amount of undistributed investment and rental income may be retained by a close company without giving rise to a surcharge. This amount was increased from €635 to €2,000 by Finance Act 2013. A similar increase was made in respect of the surcharge on undistributed trading or professional income of service companies.

> Interest paid on directors' loans may be treated in certain circumstances not as a tax-deductible expense but as a distribution (or dividend) paid to that director.

> Other expenses incurred by a company for its directors may also be treated as distributions instead of tax-deductible expenses. The result is that expenses cannot be offset against the trading income of the company, leading to a tax cost of 12.5% of the expenses paid.

> Companies must pay a "deposit" to Revenue on loans made by the company to its shareholders of 25% of the net loan amount. The close company obtains a refund of this deposit only when the loan is repaid by the shareholder. The company loses the deposit if the loan to the shareholder is written off. It is also important to note that there are company law regulations governing loans to directors. In particular, loans exceeding 10% of a company's net assets breach company law. Breaches of company law can result in prosecution.

> Close companies and their owners can incur high effective tax rates as a result of the complex rules above, particularly where the company is in receipt of rental or other non-trading income.

2.5 Dealing with the Revenue Commissioners

2.5.1 Revenue audits

Most businesses should expect a Revenue audit at some stage in their life cycle. If you have been selected for audit, it is important that you prepare correctly and disclose any errors or underpaid tax at the start of the audit. If this is done correctly, it will minimise the cost to your business through:

- significantly reduced penalties,
- non-publication on the list of tax defaulters and
- non-prosecution under criminal law.

Early co-operation can be beneficial in arriving at a settlement. Revenue has issued a "Code of Practice for Revenue Audit", which sets out your rights and the procedures to follow to minimise penalties etc., and it is advisable to seek correct advice on your rights, obligations and the benefits of dealing correctly with the Revenue audit.

If you have not been selected for audit but have realised that you have underpaid tax, it is possible to make an unprompted voluntary disclosure, which, if correctly done, will also result in the above benefits.

2.5.2 Managing cash-flow difficulties and tax arrears

Although Revenue acknowledges the significant cash-flow difficulties facing many businesses, it has stated clearly that it "cannot and will not become a banker of last resort". It will, therefore, pursue tax debts in a timely manner.

If a tax liability runs into arrears and Revenue has not recovered the tax under the normal demands, it has the following powers:

- It can refer the debt collection to the Revenue Sheriff, who can seize assets of the business and sell them to pay the tax debts.
- It can issue a "power of attachment order" to a debtor who owes the taxpayer money, requiring the money to be paid directly to Revenue.
- A court judgment against the taxpayer can be sought, which can result in the forced sale of assets, an instalment order or a bankruptcy petition.

In recognition of the cash-flow difficulties facing taxpayers, Revenue established the "Case Decision Escalation Framework" (available on its website), which provides for procedures to help to manage business tax debts without having to instigate the more serious recovery methods set out above. Therefore, in dealing with Revenue it is vitally important that you or your AITI Chartered Tax Adviser (CTA) communicate properly and work with Revenue to allow it to restructure the tax debt, e.g. to agree a phased payment basis.

2.6 Employment-Related Issues

2.6.1 Employed v self-employed

If an employer does not deduct PAYE, PRSI and USC on payments made to a person under the mistaken belief that he or she is self-employed rather than an employee, Revenue is likely to pursue the employer. Revenue has issued a "Code of Practice for Determining the Employment or Self-employment Status of Individuals", which can be found on its website. This is an area that Revenue is currently actively reviewing and is the subject of numerous Revenue audits. Each engagement should be looked at case by case, with careful consideration given to whether the individual is an employee or sub-contractor.

Before any contractor is paid without the deduction of PAYE/PRSI and USC, steps should be taken by the employer to ensure that the individual qualifies as a self-employed person for tax purposes. You should review the terms of any sub-contractors that you engage to ensure that they would not be regarded as employees.

If you are in doubt about whether an individual is an employee or is self-employed, you should seek advice from an AITI Chartered Tax Adviser (CTA).

2.6.2 Tax relief for certain new employees

If you are considering hiring new employees, bear in mind the Revenue Job Assist Scheme and the Employer (PRSI) Incentive Scheme. More details on these schemes and the tax or employer PRSI savings that they may provide are given in Section 1.6.1. It is important to note that these incentives have been earmarked to be replaced by a new jobs incentive scheme but at the time of writing, the terms of such a new scheme have yet to be determined by Government.

2.6.3 Tax relief for employees working abroad

Many SMEs are seeking to develop growth opportunities overseas. If you are considering such expansion for your business, to do so, is likely to involve sending employees abroad for business development and marketing trips.

The Foreign Earnings Deduction (FED) is a tax relief available to employees of Irish companies who spend time working abroad in certain countries, The relief was introduced in Finance Act 2012 to support efforts by Irish companies to expand into the emerging markets of the BRICS countries (i.e. Brazil, Russia, India, China and South Africa).It is available to Irish resident individuals who spend at least 60 "qualifying days" working outside Ireland in any of the BRICS countries in a continuous 12 month period. The level of the relief available to an individual employee is capped at €35,000 for any one year.

The FED was extended by Finance Act 2013 to include work related travel to Algeria, the Democratic Republic of Congo, Egypt, Ghana, Kenya, Nigeria, Senegal and Tanzania and currently applies for the tax years 2012, 2013 and 2014.

If you are considering operating across borders, you should seek advice from your AITI Chartered Tax Adviser (CTA) on the FED and other employment tax matters to ensure that your expansion abroad is administered in a compliant and cost efficient manner.

2.6.4 Tax relief for termination payments

Many businesses will be faced with the necessity to reduce staff numbers at some stage. If you have to reduce staff numbers, you should consider the following relevant points.

Statutory redundancy rebates

Where statutory redundancy must be paid by the employer to departing employees (typically, where the employee was employed continuously for two years, but see also **www.djei.ie** for other conditions), the employer was previously entitled to a 60% rebate from the State. Finance Act 2013 abolished the rebates paid to employers in respect of statutory redundancy lump-sums paid to their employees. This applies in the case of statutory redundancy lump-sum payments made to employees who are made redundant on or after 1 January 2013. Rebates will continue to be available to employers on or after 1 January 2013 on statutory redundancy lump-sum payments made to employees who were made redundant before 1 January 2012 at a rate of 60%, and on or after 1 January 2012 but before 1 January 2013 at a rate of 15%.

Relief for other redundancy payments

In many cases, the employer may decide to give the employee a redundancy package in excess of the statutory requirements. In such cases, it is important to note that, in the absence of reliefs, PAYE and USC should be operated on such payments. Significant reliefs are, however, available where employees do not have a contractual entitlement to such payments. In addition to the statutory redundancy, a basic exemption of €10,160 plus €765 for each complete year of service can be paid without the operation of PAYE/PRSI or USC. Subject to Revenue approval, this can be increased by a further €10,000 if no tax-free lump sum was received by the employee within the previous 10 years and no tax-free lump sums are payable from an occupational pension scheme. This relief requires prior Revenue approval, and the employer should not apply the relief in making the payment until that approval is received from Revenue. There is also a further method, commonly referred to as the SCSB (Standard Capital Superannuation Benefit), which can result in further increased tax-free lump sums, particularly for those with long service and/or on high remuneration packages. Any amounts given in excess of the reliefs will be subject to PAYE, and the USC, which should be withheld from the termination payment to the employee. Employee PRSI and employer PRSI are generally not payable on termination payments.

2.6.5 Employing family members

If your spouse or other family members are to be involved in running the business, you should note that:

- Salary costs will be deductible in computing profits of the trade only insofar as they are incurred wholly and exclusively for the purposes of the trade. Therefore, the duties of the family member should be clear.
- PAYE/PRSI/USC obligations can arise on any salary paid, with corresponding tax filing obligations.
- A PAYE credit is not available to a director who controls more than 15% of the ordinary share capital of a company. Similarly, the spouse of such a director cannot claim a PAYE credit. The PAYE credit may be claimed by children of the director who work full-time in the business in certain circumstances.

2.6.6 Remuneration of employees

When structuring an employee's remuneration package, the following points should be borne in mind:

- It is possible to make a discretionary annual non-cash gift to each employee of up to €250 without the requirement to operate PAYE, PRSI or USC. If this is provided for in the contract, it will not be regarded as discretionary.
- Travel passes can also be provided to employees without deduction of PAYE, PRSI or USC. In addition, the provision of bicycles and safety equipment to employees who cycle to work is exempt from PAYE, PRSI and USC, subject to certain limits.
- Employer PRSI is chargeable on 100% (previously 50%) of the pension contributions paid by employers for the benefit of employees. In most cases, employer pension contributions are not treated as a taxable benefit-in-kind in the hands of the employee.
- Other non-cash remuneration (other than pension contributions) is subject to PAYE, PRSI and USC. Care must be taken to ensure that tax is being deducted accordingly, as the employer will be liable for any underpayment. Such benefits are referred to as benefits-in-kind and include private use of a company car, payment of medical insurance on behalf of an employee and free use of accommodation.

Part 3 – Transfer or Sale of Business

There are many tax and commercial issues to consider when selling or transferring your business. Every set of circumstances will be different and will give rise to different tax issues. It is important that specialist and timely advice is received.

It is beyond the scope of this summary to give a detailed analysis of all of the tax implications on the transfer or sale of a business; however, the following tax heads and associated reliefs may be relevant and should be considered.

3.1 Capital Gains Tax (for the Seller)

Capital gains tax is a tax on gains arising from the sale or transfer of assets. Therefore, a CGT charge may arise for you if you sell or transfer shares in your private company and that sale or transfer results in a gain. Similarly, you will need to consider CGT implications if you sell or transfer assets of your unincorporated business.

The standard rate of CGT is currently 33%. At its very simplest, a gain for CGT purposes is calculated on the difference between the sale proceeds and the aggregate cost of the asset. However, it is important to note that, where the transaction involves a gift or sale at undervalue (e.g. between related parties), the consideration received can be replaced by the market value for the purposes of ascertaining the CGT liability. For details of the tax filing and payment deadlines for CGT see Section 1.4.5.

3.1.1 Main reliefs/exemptions

The following reliefs/exemptions from CGT may apply and should be considered.

Retirement relief

This provides CGT relief for a person who is aged 55 or over on the sale or transfer of business assets that he or she has owned for 10 years or more. A number of other conditions also apply. Business assets can include personally held assets used in the trade and shares in a family company.

Where the transfer of the business assets is to a child (and certain nieces/nephews or grandchildren in limited circumstances) and the disponer has attained the age of 55 years but has not attained the age of 66 years, retirement relief can provide complete exemption from CGT. Complete exemption can also be availed of where an individual who has attained the age of 66 years makes a disposal to a child on or before 31 December 2013. Where an individual who has attained the age of 66 years make a disposal to a child on or after 1 January 2014 and the market value of the assets exceeds €3m, then a €3m "ceiling" is applied for the purposes of determining the CGT relief available, i.e. relief is given as if the consideration for the disposal had been €3m.

For transfers of business assets to anyone other than a child, certain limits apply to the proceeds in respect of which CGT relief may be claimed:

	Consideration for disposal does not exceed €750,000	Consideration for disposal exceeds €750,000
Disponer has attained age of 55 years but not 66 years	Full CGT relief	Marginal relief – CGT shall not exceed 50% of the difference between the consideration and €750,000
Disponer has attained the age of 66 years and disposes on or before 31 December 2013 **(Note)**	Full CGT relief	Marginal relief – CGT shall not exceed 50% of the difference between the consideration and €750,000

Note: It is important to note that a reduced cap of €500,000 applies where a disponer who has attained the age of 66 years makes a disposal on or after 1 January 2014. Full relief is available where the consideration for the disposal does not exceed €500,000. Where the consideration exceeds €500,000, the CGT payable shall not exceed 50% of the difference between the amount of the consideration and €500,000.

Despite the name, retirement relief may be available where the individual remains actively engaged in the business after the transfer. Where the conditions are met, the relief can be applied automatically. This can be a complex relief, and various conditions apply. Each case will need to be reviewed in detail, and specialist advice should be sought.

Transfers on death

No CGT liability arises where assets (including company shares or other business assets) are transferred on the death of the business owner (e.g. through his or her will). The recipient of the asset will be considered to have bought the asset for its market value at the time of death. This is relevant for CGT purposes if and when the beneficiary subsequently sells the asset.

Other CGT reliefs and exemptions may be relevant on the transfer or sale of assets, and specialist advice from an AITI Chartered Tax Adviser (CTA) should be sought.

3.2 Gift Tax/Inheritance Tax (for the Recipient)

If you are transferring shares or other business assets at undervalue – for example, by way of gift or inheritance – the recipient may be subject to capital acquisitions tax (CAT). CAT is the charge to tax that applies when you receive a gift or an inheritance. The current rate of CAT is 33% on the value of the gift or inheritance that exceeds a tax-free amount ("threshold"). The tax-free threshold that applies will depend on your relationship to the person from whom you received the gift or inheritance (the "disponer"). There are three categories of tax-free threshold. For gifts or inheritances received in 2013, the amounts of those tax-free thresholds are outlined below.

Relationship to disponer	Group	Threshold 2013
Son/daughter/child of spouse or civil partner	A	€225,000
Brother/sister/niece/nephew/grandchild/parent (in some circumstances, a parent taking an inheritance from a child can qualify for the Group A threshold)	B	€30,150
Others	C	€15,075

It is important to note that these are lifetime thresholds. This means that, in determining the amount of threshold that you can avail of, you need to include the value of previous gifts or inheritances that you received from all persons in that threshold group. CAT at 33% is payable on the excess of the value of the gift or inheritance you received over the tax-free threshold amount.

3.2.1 Main reliefs/exemptions

There are a number of reliefs and exemptions from CAT that may apply. The following are some of the most relevant ones in the context of transferring a business asset. This is not an exhaustive list, and specialist advice from an AITI Chartered Tax Adviser (CTA) is recommended.

> There is no CAT liability on a gift or inheritance from a spouse or civil partner.

> Where applicable, business property relief allows certain business assets (including shares in certain family companies) to be transferred at an effective CAT rate of 3.3%, as opposed to the normal rate of 33%. In effect, this relief reduces the taxable value of the gift or inheritance to 10% of the market value. It is subject to a number of conditions.

> Similar to business property relief, agricultural property relief allows certain agricultural assets (including land and machinery) to be transferred at an effective CAT rate of 3.3%, as opposed to the normal rate of 33%. This relief also effectively reduces the taxable value of the gift or inheritance to 10% of the market value, subject to a number of conditions.

3.3 Stamp Duty (for the Recipient)

The rate of stamp duty depends on the type of property that is being transferred. For share transfers, stamp duty is charged at 1% on the value of the shares. Transfers of other forms of property (other than stocks and shares) attract stamp duty at the following rates:

Residential Property – rates of stamp duty for deeds executed on or after 8 December 2010:

Aggregate consideration	Rate of stamp duty
First €1,000,000	1%
Excess over €1,000,000	2%

Non-residential Property – stamp duty of 2% on instruments executed on or after 7 December 2011.

3.3.1 Main reliefs/exemptions

The following are some of the main stamp duty exemptions and reliefs that should be considered in the context of transferring a business:

> There is no stamp duty charge where assets pass on a death.
> Transfers of assets between lawful spouses and civil partners are exempt from stamp duty (this can include certain transfers on divorce).
> Stamp duty rates are halved for transfers of property (other than shares or residential property) between certain related persons. This relief applies to transfers of such property executed on or before 31 December 2014.
> Certain "young trained farmers" may qualify for exemption from stamp duty on the receipt of certain agricultural assets. For more information on this exemption, refer to Revenue's leaflet "Stamp Duty Relief for Young Trained Farmers", which is available from the Revenue website.

The above is not a comprehensive overview of the stamp duty considerations on the transfer of a business asset, and specialist advice from an AITI Chartered Tax Adviser (CTA) should be sought.

It should be noted that the reliefs available for spouses will also apply to qualifying civil partners. See Revenue's website for more details.

3.4 VAT

VAT may arise on the transfer of a business by way of gift or sale. This will depend on the parties to the transaction and the nature of the assets being transferred. However, where the assets are capable of being run as a business, subject to satisfying certain conditions, relief from VAT on the sale or transfer may be available. The transfer of a business to a person who is not registered or entitled to register for VAT in Ireland is not covered by this relief. More information on this relief is available on the Revenue website.

3.5 Income Tax/Corporation Tax (for the Seller)

The transfer or sale of a business may give rise to income tax or corporation tax issues that should be considered in advance. The following are some of the issues that should be considered; however, this is not a comprehensive overview of all of the potential issues. Each of the following is subject to complex rules, and it is recommended that specialist tax advice from an AITI Chartered Tax Adviser (CTA) be sought.

> If income tax relief was obtained on the acquisition of shares in the business, it is important to consider whether the sale of the shares could give rise to a clawback of the income tax relief.
> Where capital allowances have been claimed on assets (fixtures and fittings etc.), the sale of those assets before the expiry of their tax life may give rise to a balancing allowance or a balancing charge.
> Special cessation rules apply to calculating the taxable income for your final accounting period.
> Where losses were incurred in your last year, these may be offset against gains for the last three years of trading.

Appendix 1: Tax Rates

We include a summary of the most common current tax rates, credits and thresholds in this Appendix.

Income Tax Rates

Personal Circumstances	Tax Year 2012 €	Tax Year 2013 €
Single/Widowed/ Surviving Civil Partner without dependent children	32,800 @ 20% Balance @ 41%	32,800 @ 20% Balance @ 41%
Single/Widowed/ Surviving Civil Partner qualifying for One-Parent Family Tax Credit	36,800 @ 20% Balance @ 41%	36,800 @ 20% Balance @ 41%
Married Couple or Civil Partners (one spouse/civil partner with income)	41,800 @ 20% Balance @ 41%	41,800 @ 20% Balance @ 41%
Married Couple or Civil Partners (both spouses/civil partners with income)	41,800 @ 20% (with an increase of €23,800 max.) Balance @ 41%	41,800 @ 20% (with an increase of €23,800 max.) Balance @ 41%
Note: The increase in the standard rate tax band for 2012 and 2013 is restricted to the lower of €23,800 or the amount of the income of the spouse/civil partner with the lower income. The increase is not transferable between spouses/civil partners.		

Income Tax Exemption Limits

Personal Circumstances	Tax Year 2012 €	Tax Year 2013 €
Single/ Widowed/ Surviving Civil Partner 65 years of age or over	18,000	18,000
Married Couple/ Civil Partners, 65 years of age or over	36,000	36,000
Additional for 1st and 2nd dependent child (each)	575	575
Each subsequent dependent child	830	830
Marginal Relief Tax Rate	40%*	40%*

Taxpayers with low levels of taxable income may be exempt from tax altogether as a result of the tax credits available to them.

* The Marginal Relief Tax Rate applies only to persons 65 years of age or over.

Main Personal Tax Credits

Personal Circumstances	Tax Year 2012 €	Tax Year 2013 €
Single Person Tax Credit	1,650	1,650
Married Person or Civil Partner Tax Credit	3,300	3,300
Widowed Person or Surviving Civil Partner Tax Credit		
– qualifying for One-Parent Family Tax Credit	1,650	1,650
– without dependent children	2,190	2,190
– in year of bereavement	3,300	3,300
One-Parent Family Tax Credit (with qualifying dependent children)	1,650	1,650
Home Carer's Tax Credit (max.)	810	810
PAYE Tax Credit	1,650	1,650
Age Tax Credit		
– Single/Widowed/ Surviving Civil Partner	245	245
– Married/ Civil Partners	490	490
Incapacitated Child Tax Credit	3,300	3,300
Dependent Relative Tax Credit*	70	70
Blind Person's Tax Credit**		
– single person	1,650	1,650
– one spouse or Civil Partner blind	1,650	1,650
– both spouses blind or Civil Partners blind	3,300	3,300
Incapacitated Person Allowance for Employing a Carer***	50,000** max.	50,000** max.

*If the relative's income exceeds the relevant limit of €13,837 in the years 2012 and 2013, then no tax credit is due.

**Relief in respect of the cost of maintaining a guide dog (max €825) may be claimed under the heading of Health Expenses

***Relief for Employing a Carer is allowable at the individual's highest rate of tax, i.e. 20% or 41% in 2012 and 2013.

Universal Social Charge

The Universal Social Charge (USC) which came into effect on 1 January 2011 is a tax payable on gross income, including notional pay, after any relief for certain trading losses and capital allowances, but before pension contributions. The USC effectively replaced the health contribution and income levy.

All individuals are liable to pay the USC if their gross income exceeds the threshold of €10,036 p.a. The rates of USC and income thresholds for 2013 are as follows:

Part of Aggregate Income (Note 1)	Standard Rate	Reduced Rates (Note 2)
The first €10,036	2%	2%
The next €5,980	4%	4%
The remainder	7%	4%

Note 1:

'Aggregate' income for USC purposes does not include payments from the Department of Social Protection

Note 2:

Reduced rates of USC apply to:

- People aged 70 or over whose aggregate income for the year is €60,000 or less
- Medical card holders under 70 whose aggregate income for the year is €60,000 or less

Non-PAYE income over €100,000

Individuals who have non-PAYE income that exceeds €100,000 in a tax year are subject to a 3% surcharge. Therefore, for 2013, a USC rate of 10% applies to any income in excess of €100,000.

PRSI rates for 2013

There are a number of classes that can apply for PRSI purposes. Please refer to the Department of Social Protection website for further details at **www.welfare.ie**. We illustrate below the rates applicable to the most common employee Class A1 (where the employees earns more than €500 per week) and the self employed (Class S1).

Employees earning less than €352 per week are exempt from employee PRSI. The employees' annual earnings ceiling has been abolished. The PRSI-free allowance of €127 for employees earning over €352 per week was abolished from 1 January 2013.

From 1 July 2011 the lower rate of employer PRSI was halved (to 4.25%) for all jobs that pay up to €356 per week. The rate will be restored to 8.5% from 1 January 2014.

Employees (Class A1): 1 January 2013 to 31 December 2013			
Weekly income band	How much of weekly pay	Contributors	Rate
More than €500	All All	Employer Employee	10.75% 4%

Self-employed persons (Class S1): 1 January 2013 to 31 December 2013	
Weekly income band	PRSI rate
More than €500	4%

Where reckonable income for a self-employed person is less than €5,000, no PRSI liability arises.

VAT rates for 2013

Rate	Supply
23%	This is the standard rate of VAT in Ireland (effective from 1 January 2012). It applies to supplies not subject to the rates below.
13.5%	Fuel for heating and certain other goods and services
9%	A reduced rate of VAT applies to supplies of certain services, largely in the tourism industry. A full list is available on Revenue's website
4.8%	Livestock, greyhounds and the hire of horses
0%	Exports, certain food and drink, oral medicine, certain books and booklets, certain animal feeding stuffs, certain fertilisers, seeds and plants used to produce food, clothing and footwear appropriate to children under 11 years of age

There are many variations to the rates above, including exempt supplies (exempt goods and services consist principally of financial, medical and educational activities, as well as admissions to and promotion of certain live theatrical and musical performances).

VAT is a complex area, and it is recommended that you contact an AITI Chartered Tax Adviser (CTA) for further details.

Appendix 2: Some Useful Links

www.taxinstitute.ie

www.djei.ie

www.revenue.ie

www.ida.ie

www.sfa.ie

www.enterprise-ireland.com

www.forfas.ie

www.enterpriseboards.ie

www.finance.gov.ie

www.ibec.ie

www.ibec.ie/gradlink

www.fas.ie

www.welfare.ie

www.cro.ie

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