newsletter issue 1 • 2016

BKRM REGISTERED AUDITORS& BUSINESS CONSULTANTS

81/82 North Strand Road, Dublin 3.
Tel: 01- 8365522 (5lines)
Fax: 01- 8551234
Email: info@bkrm.ie

in this issue...

IRISH ECONOMIC Outlook

2015 turned out to be a very good year for the Irish economy. The recovery that commenced in 2014 gathered momentum and all economic indicators showed a marked improvement. This time last year, the consumer sector represented the most vulnerable and fragile part of the recovery story, but as the year progressed consumer spending gradually improved, although for businesses dealing with the stretched personal sector, it remains a challenging environment.

We currently have official growth data for the first 9 months of the year. In the first three quarters, gross domestic product (GDP) was 7% ahead of 2014, and gross national product (GNP) was 5.6% higher. These are strong growth numbers, but the most re-assuring aspect is that the components of growth show that the recovery became more broadly based. Consumer spending expanded by 3.5%; gross domestic physical capital formation (investment) expanded by 26.4%; exports of goods and services expanded by 13.3%; and imports of goods and services expanded by 16.8%. As these numbers show, it is probably no longer appropriate to talk about recovery – the economy has recovered. At the end of 2014 the economy re-attained the levels of activity that prevailed in 2007, and in 2015, it moved considerably ahead. Further progress will be made in 2016.

Continued

Continued

IRISH ECONOMIC *Outlook*

The prospects for the coming year look positive. All components of economic activity should strengthen as the year progresses. Consumer spending should be boosted by a further improvement in employment (unemployment rate could fall close to 7% by year-end); a continued improvement in earnings; and the impact of the tax changes in Budget 2015 and those contained in Budget 2016. Consumer spending could expand by up to 4%.

Construction activity will strengthen further, with residential construction the strongest component. Business investment spending will also be stronger. The export performance has been very strong in 2015 and this should continue into 2016. However, import growth will also improve, thereby limiting the impact of net trade on growth.

At this early stage, GDP growth of around 4.5% looks achievable in 2016. This is not to suggest however, that extreme risks and challenges do not exist. The opposite is the case.

Domestically, there are still many issues. Private and sovereign debt levels are still dangerously high. The banking system is still not functioning properly, particularly for the SME sector. It will be important to ensure that wages are kept under control as public sector pay rises would just add to the cost of operating a country that is still borrowing, and private sector wage increases would serve to undermine the competitiveness of the economy. Government will need to be careful. A reduction in the personal tax burden would be preferable to wage increases from an economic perspective. Housing has also become a major policy issue as manifested by a lack of social housing, a lack of private residential housing in some areas, a lack of rental properties and consequent strong growth in rents.

However, the most obvious domestic risk factor is now political, with a general election due in the first quarter of 2016. A stable government would be the optimal outcome, but achieving this will be challenging based on current opinion polls. It is also important that 'auction politics' is avoided in the run up to the plebiscite. The improving Irish economy would not be helped by political instability and irresponsible policy making.

There are also significant external risks. The Chinese economy is slowing sharply; the Euro Zone is still struggling to gather momentum (which will ensure that ECB rates remain low and Quantitative Easing will continue); low commodity prices are having a negative impact on many emerging economies, plus developed economies such as Canada and Australia; US interest rates are now rising; geo-political developments emanating from the Middle-East are very worrying; and a referendum on UK membership of the EU will probably be held over the coming months, with the risks of an exit significant. In short, the external background does give cause for concern as we move into 2016.

While the prospects for Ireland in 2016 look positive, it would be naïve and dangerous to become complacent. Over the past couple of years the economy has been given a major boost by 4 factors that are totally outside of the country's control. Oil prices have fallen by over 50%; the euro has weakened significantly against sterling and the dollar; the ECB has been pursuing a policy of historically low interest rates; and the strength of growth in the US and UK has insulated Ireland from the sluggish growth in the Euro Zone. While all of these factors look set to remain favourable in 2016, it is important that fiscal policy and all issues around competitiveness are managed as prudently as possible to ensure that the economy is as resilient as possible in the event of some external shock.

jim.m.power@gmail.com

(Averages)	2014	2015e	2016f
GDP	+5.2%	+6.8%	+4.5%
GNP	+6.9%	+5.6%	+4.0%
Consumption	+2.0%	+3.6%	+4.0%
Investment	+14.3%	+16.0%	+13.0%
Export	+12.1%	+13.0%	+10.0%
Imports	+14.7%	+12.0%	+9.5%
Inflation (HICP)	+0.3%	-0.2%	+1.0%

tax briefs

Tax Tip
If you think you may be in a tax refund, why not send in your return early and obtain your refund now!!!

EARNED INCOME TAX CREDIT

Finance Act 2015 introduced a new Earned Income Tax Credit of €550 in respect of an individual's earned income. The Earned Income Credit is available to individuals earning self-employed, trading or professional income. With regard to company directors the credit will apply to Proprietary directors as their earnings are not taken into account for the purposes of the Employee (PAYE) Tax credit.

Where an individual has earned income which qualifies for

- Employee (PAYE) tax credit and
- Earned Income Tax Credit, and

the combined value of both tax credits cannot exceed €1,650.

PAY AND FILE SUMMARY

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

INCOME TAX

Return of share options and rights for 2015	**31 March 2016**
Deadline for claiming Separate Assessment for 2016	**31 March 2016**
Filing date of 2015 return of income (self-assessed individuals)	**31 October 2016**
Pay preliminary income tax for 2016 (self-assessed individuals)	**31 October 2016**

CAPITAL GAINS TAX

Payment of Capital Gains Tax for the disposal of assets made between 1 January 2016 to 30 November 2016	**15 December 2016**

CORPORATION TAX

Filing date for Corporation Tax returns for accounting periods ending in June 2015	**21 March 2016**
Balancing payment of Corporation Tax for accounting periods ending in June 2015	**21 March 2016**

ELECTRONIC TAX CLEARANCE (eTC)

From 1 January 2016 all applicants registered for tax who require a Tax Clearance Certificate should apply through the eTC system on ROS or myAccount. The only exceptions to this are:

1. Tax Clearance Certificates required for Standards in Public Office (SIPO) purposes,
2. Non-resident applicants who have no Tax Registration Number in this State,
3. Non e-enabled applicants,
4. Non-registered voluntary bodies.

Guidelines on using the new system are available on **www.revenue.ie**

FLOOD RELIEF CONCESSIONS

Revenue is aware of the difficulties affecting many households and businesses at this time due to flooding and is conscious that the payment of certain taxes, including Local Property Tax, VAT and PAYE/PRSI may add to the distress.

To ease the burden on people and businesses impacted by flooding, Revenue has advised that:

- Property owners whose principal private residence has been flooded and who are in receipt of assistance through the Department of Social Protection Humanitarian Relief Fund can apply to have their 2016 LPT payment deferred regardless of whether they qualify for deferral under the normal criteria. Property owners should contact the LPT Helpline on 1890 200 255 to make the relevant arrangements.
- Business owners who have suffered flood damage to their premises and who are in receipt of assistance from the Government Support for Small Business Fund, via the Red Cross, should contact the Collector-General's office on 1890 20 30 70 to agree additional time to file returns and make payments or to agree suitable phased payment arrangements.

CAPITAL GAINS TAX (CGT) CLEARANCE CERTIFICATES

From 1 January 2016 CGT clearance certificates will not be required on sales of residential property where the sales proceeds do not exceed €1 million. CGT clearance certificates are not required for disposals where any gain accruing would not be subject to CGT, examples are as follows:

A. A disposal by a pension fund or arrangement carrying an exemption from CGT under section 608(2) or (2A).

B. A disposal by an investment undertaking within section 739C.

C. A disposal by a charity to which section 609(1) would be applicable.

D. A disposal by the National Asset Management Agency (NAMA) or by any other body specified in Schedule 15.

IRISH ADULTS GREATEST CONCERN

THE FACTS ABOUT SERIOUS ILLNESS AND HOW VULNERABLE WE FEEL

- Almost half of Irish adults (49%) do not believe they have enough money saved to cover unforeseen circumstances, such as injury or serious illness. That's according to the most recent Aviva Customer Attitudes Survey[1] of 1,000 adults across Ireland.
- The Ipsos MORI survey found that 80% of those in employment did no hold specified illness cover.
- Almost 23% of those with life insurance were motivated by the desire to provide for their dependants in the event of their death. Over 37% of respondents had life insurance cover.
- Of all those surveyed, 64% did not feel they had adequate protection for their dependants in the event of their death.
- Serious illness (56%) is the issue that causes the greatest concern among Irish adults. This features higher than Unexpected Expenses (45%), Unexpected events (42%) and Crime (41%) as the biggest worry for adults in Ireland and this applies across all age groups surveyed.

- Of those surveyed, over a quarter (27%) said they took out specified illness cover out of concern for their own and their family's future health.

None of us know when illness or injury might strike and prevent us from providing for our dependants. We know from our national data that one in three Irish people will be diagnosed with cancer at some stage during their lives. Life and specified illness cover are essential forms of protection for anyone with dependants because they provide a vital lump sum benefit should the worst happen.

Aviva's survey results clearly demonstrate that serious illness is the issue that causes greatest concern to Irish working adults of all ages. However, the vast majority don't have the cover in place. The covers are available so don't put off until tomorrow what you can prevent today.

[1]A sample of 1,000 adults, 18+, interviewed online, participated in the survey between 18/2/15 – 9/3/15. Research carried out by Ipsos MORI in accordance with the requirements of the international quality standard for Market Research.

REGULATION OF LOBBYING ACT 2015

The Regulation of Lobbying Act 2015 was signed into law on the 11 March 2015. The Act establishes a web-based register of lobbying, making information available to the public on the identity of those who are communicating with Government and senior civil and public servants on public policy matters.

The Act describes lobbying activities as the making of communications, either written or oral, personally (directly or indirectly) to a designated public official which are not exempted communications and which concern the initiation, development or modification of any public policy, the preparation of legislation, or the award of any grant, loan contract, licence etc. involving public funds.

The Act covers the lobbying of Ministers, TDs, Senators, MEPs, local Councillors, special advisers, and designated public officials. Each public body will have to maintain an up-to-date list of designated public officials. The Act requires those engaged in lobbying activities to register their activities on a public register maintained by the Commission for Standards in Public Office.

A registered person must make three returns per year setting out any lobbying activities. That return must include details such as:

- If lobbying was done on behalf of a client, information about the client
- To whom the lobbying was made;
- The subject matter of the communications and the results they were intended to secure;
- The name of the person with primary responsibility for carrying on the lobbying activities;
- The name of any person who is or has been a designated public official employed by, or providing services to, the registered lobbyist.

Contraventions set out in the Act include carrying on lobbying without being registered, failing to make a return, providing inaccurate or misleading information and failing to comply with or obstructing an investigation. Penalties under the Act range from a fixed payment of €200 to fines of up to €5,000 and/ or imprisonment for a maximum of two years. Directors and other officers of a company can be held personally liable for offences by that company where the offence was committed with the consent or connivance of the director/officer of the company.

IT MAY NOT ALWAYS BE CLEAR WHETHER AN ACTIVITY IS CAUGHT UNDER THE ACT AND ADVICE SHOULD ALWAYS BE SOUGHT WHERE THERE IS ANY DOUBT.

CHANGES TO THE EMPLOYMENT AND INVESTMENT INCENTIVE SCHEME ("EII")

On 14 October 2014, Minister Noonan announced changes to the EII (the new BES) that did not come into effect pending EU approval. On 13 October 2015, he announced that approval had come through and the changes became law. However, the devil is always in the detail, and those looking to raise EII funding need to be aware of that detail, summarised in FAQ format in eBrief 114/15 as issued by the Revenue.

It imperative that you talk to us as soon as possible.

In particular, as the "old" rules changed on 13 October last, any company which had received EII outline approval from Revenue prior to (but had not raised EII funding by) that date must now consider, before issuing shares, whether or not it is a qualifying company under the "new" scheme. The EU General Block Exemption Regulations ("GBER") are relevant and the eBrief explains the significance of these, particularly for companies that have raised BES/EII funding before as care needs to be taken to ensure EII relief is available.

NATIONAL MINIMUM WAGE INCREASE

The Minimum Wage has increased from € 8.65 to € 9.15 per hour for an experienced adult employee. This increase commenced from 1 January 2016.

An experienced adult employee for the purposes of the National Minimum Wages Act is an employee who has an employment of any kind in any two years who is over the age of 18.

This brings the minimum wage in line with the Low Pay Commission's recommendation to increase the National Minimum Wage by 50 cent an hour.

Should you require any assistance in reviewing your payroll to ensure you meet this requirement as an employer please do not hesitate to contact us.

IRISH BANKRUPTCY LAW – (ANOTHER) NEW ACT

While most of us were tucking into the turkey and ham on Christmas Day, President Higgins was busy signing Acts (e.g. the 2015 Finance Act) into law. With a flourish of his pen, he enacted the Bankruptcy (Amendment) Act 2015; it makes changes, which should take effect early this year, to our bankruptcy rules, broadly summarised as:

- The bankruptcy period has been cut again – this time, from three years to one year (remember, it was **12** years as recently as 2013).
- The bankrupt's home can be returned to them after three years (subject to any outstanding mortgage) unless it had to be sold to pay creditors.
- Under the new regime, penalties are increased for those hiding assets during the process. Where the courts find serious non co-operation, a bankruptcy period could extend to 15 years; currently the maximum is eight.
- In general, the processes are more streamlined.

While it might seem strange that, following such a recent overhaul (in 2013), there are yet more changes, the general view seems to be this is a pragmatic and sensible approach. A one-year bankruptcy period in the North and "mainland" UK had led to "bankruptcy tourism", which should now end and level the playing field here. Crucially, the new changes should also mean some victims of the Celtic Tiger can get on with their lives, now largely freed from an overhanging debt burden they could never repay.

BEWARE OF FX CHANGES

The Irish economy generates foreign exchange (FX) flows of approximately €200Billion every year from the import and export of goods and services in addition to financial flows. Volatility in the FX markets is an ever present challenge to financial managers who are trying to minimise the impact that movements in foreign exchange rates can have on their core business. Adopting a proactive approach to managing FX risk will ensure that unforeseen developments in the financial markets do not erode trading margins or create negative surprises that can have a detrimental impact on the company's performance. When it comes to managing FX risk it is not about beating the market or rolling the dice, it is about mitigating what is a very significant risk to your bottom line.

If we look at the EURUSD exchange rate over the last 18 months, we can see that an Irish company importing goods and paying for them in US dollars would have been doing so at a rate of €/$1.40 in May 2014. As recently as a few weeks ago, that same company would have been buying those same goods at a rate of €/$1.05, a move that represents a 25% increase in costs. Nobody knows where FX rates will be in the future but companies can take steps to manage or avoid these negative surprises or disadvantageous moves in the FX market.

Better FX rates mean that you will pay less for your foreign currency purchases or will generate more income from your foreign currency sales, these savings go straight to your bottom line.

www.moneycorp.com/ireland

TRAVEL EXPENSES FOR SOLE TRADERS

Presumably influenced by their ongoing National Contractors Project ("the Project"), which focused on individuals providing their services through their own personal service companies and has led to quite a few Revenue settlements, Revenue recently "clarified" their position regarding sole traders in eBrief 104/15 as issued by the Revenue.

The Project's focus is employees and directors of these service companies, where there is still much debate over what is a "place of work" and, in particular, whether home can ever be a place of work. One view is Revenue's approach has not kept pace with changing work practices and it seems there may be a bit to "travel" on this one yet.

That said, some specific points to note for sole traders (who are not "employees") are:

- Revenue will accept the use of civil service mileage rates for employees but not for sole traders, where they expect a reasonable method of separately identifying the personal and business elements to be used
- The general rule is expenditure must be "wholly and exclusively incurred for the purpose of the trade"; this is long-established
- Revenue's view is that, generally, travel between home and work, even if some work is done at home, always carries the purpose of getting home as it facilitates living away from work. The duality of purpose renders the expense non-deductible.
- Their view also is it is unnecessary to determine where a trade is carried on, or to establish a 'base of operations'. Travel between a home office and a main 'base of operation' will not necessarily be deductible as you must look solely to the statutory test, the main focus of which is the purpose for which the expenditure was incurred.
- They draw a distinction between "travelling in the course of a business" and "travelling to get to the place where the business is carried on".

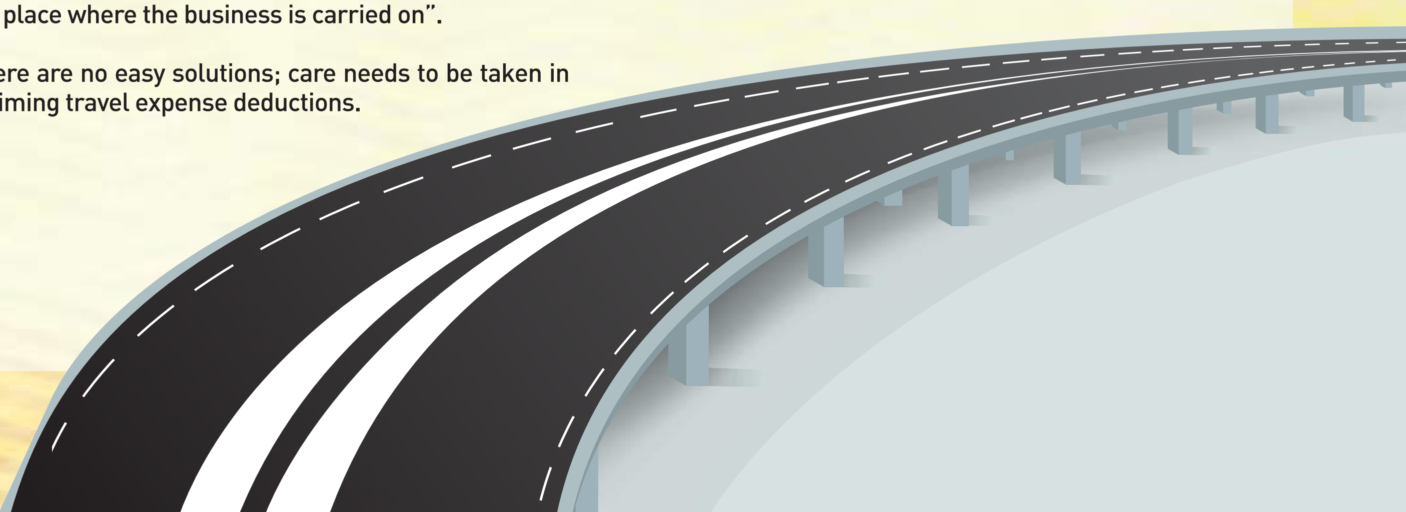
There are no easy solutions; care needs to be taken in claiming travel expense deductions.

THE COMPANIES (ACCOUNTING) BILL 2015 ("THE 2015 BILL")

New Companies Bills seem like the proverbial buses – you wait ages for one and then two come in quick succession! No sooner has the dust settled on the mammoth tome that is the 2014 Act but this one comes along. A key distinction, however, is that the 2014 Act was driven by domestic desires to update the old legislation, whereas the 2015 Bill is driven by the EU need to include the provisions of an EU Directive in domestic law.

The EU Directive consolidates and updates existing EU accounting law, into a single directive on financial statements. Some proposed changes are:

- So-called "small" companies can opt for audit exemption once their annual turnover is less than €12 million and balance sheet total below €6 million; the prior limits were €8.8m and €4.4m. Consequently, more companies should qualify for audit exemption, which is a welcome change
- Significant implications for some unlimited companies are also expected. Those currently using non-filing structures (which typically involve EU and non-EU group members) may find these structures ineffective. Currently, if set up properly, such structures not only give the ultimate beneficial owner ("UBO") of an Irish unlimited entity the protection of limited liability but also allow that Irish unlimited entity to avoid the requirement to publish financial statements. A review of any such structures is likely to be necessary to see if the original objectives are still being met.
- In fairness, it would be nigh on impossible to introduce nearly 1500 sections of new law (i.e. the 2014 Act) without some boo-boos so the 2015 Bill 2015 will make some changes accordingly.



IMPLICATION OF MARITAL BREAKDOWN

Marital breakdown is an increasing reality for many couples. There are many financial obstacles which need to be navigated when a marriage breaks down, whether they be by individuals running sole trader businesses or with a rental portfolio, or involved in companies owned by families with multiple shareholdings. The main implications of Divorce or Separation are in the following areas:

1. Capital assets
2. Income
3. Retirement assets (pensions)

Judicial Separation is available once the parties have ceased to have a normal marital relationship for at least a year before proceedings are commenced. Divorce is available once they have been living apart for four out of the previous five years. Typically, the couple would sort out their financial arrangements by way of separation whether by agreement or court order, and then, once four years have passed, they may obtain a decree of divorce on the basis of the separation, unless circumstances have changed considerably. Before granting a Decree of Judicial Separation or Divorce, the court has to be satisfied that "proper provision exists or will be made for each spouse and any dependent children". The court has regard to a number of matters in deciding the "proper provision" question. They include the following:

(a) income, earning capacity, property and other financial resources of the couple;
(b) the financial needs, obligations and responsibilities of the spouses;
(c) the standard of living enjoyed by the family;
(d) the age of each of the spouses and the length of time during which the spouses lived together;
(e) any physical or mental disability of either of the spouses;
(f) any contribution made by either of them by looking after the home or caring for the family, or by forgoing a career to look after the family;
(g) the conduct of each of the spouses, if that conduct is such that in the opinion of the court it would in all the circumstances of the case be unjust to disregard it; and
(h) the accommodation needs of either of the spouses.

The financial implications of any Divorce are vast and complicated. It is a fact of life for many people and it is essential that business owners get the correct advice, including tax advice to minimise the impact on their livelihood. The question of prenuptial agreements has been considered in Irish courts and they are not enforceable although they may be taken into account by the court in making its orders. Such agreements are commonplace in other jurisdictions and would provide certainty for people entering into marriage, especially in later life when they may have amassed greater wealth and may wish to protect assets for separate family members.

INDUSTRIAL RELATIONS (AMENDMENT) ACT 2015

The Industrial Relations (Amendment) Act 2015 ("the 2015 Act") came into effect on 1 August 2015. The 2015 Act significantly changes the existing industrial relations landscape in Ireland.

Irish employers are not obliged by law to engage in collective bargaining with workers. However, where an employer does not engage in collective bargaining, the 2015 Act establishes an improved framework for workers who seek to enhance their terms and conditions of employment. The Industrial Relations (Amendment) Acts 2001 and 2004 already provide for the investigation of trade disputes by the Labour Court where employers do not engage in collective bargaining. The 2015 Act amplifies this mechanism for workers.

The Labour Court must consider whether collective bargaining is taking place before it can investigate a particular trade dispute. An Employer must also show that the employee group with which it negotiates is truly an excepted body as defined in the 2015 Act. If an employer can demonstrate these factors the trade dispute should fall outside the scope of investigation by the Labour Court.

Once the Labour Court has determined that it has jurisdiction to investigate, given the wide definition of a trade dispute, virtually any aspect of worker terms and conditions of employment can be examined. The Labour Court may issue a recommendation and/or determination. If an employer does not comply with the determination, a trade union may apply for an order which will bind an employer to carry out its terms.

It is likely that the introduction of the 2015 Act will result in an increased level of trade disputes being referred to the Labour Court.

NEW LEGAL REQUIREMENTS FOR ONLINE SALES TO CONSUMERS

Businesses established in the EU that sell goods or services to consumers online have to implement some changes to their websites and consumer contracts to comply with new laws by 9 January 2016.

These changes have been introduced by an EU Regulation, 524/2013, on online dispute resolution for consumer disputes and enacted in Ireland under the European Union (Online Dispute Resolution for Consumer Disputes) Regulations 2015. The legislation applies to all privately owned and publicly owned traders established in the EU which sell goods and/or services to consumers online or through a website.

The EU is setting up an online dispute resolution platform, intended to facilitate resolution of consumer disputes across the EU. The EU plans that it will be accessible to consumers and traders from the 15 February 2016.

The Alternative Dispute Resolution (ADR) Directive provides for the establishment of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution to a dispute between a trader and a consumer.

The ADR Directive does not provide for disputes initiated by a trader or disputes between traders. There is no obligation on either party to participate, however if the parties choose to do so, each party to the dispute is entitled to express its point of view, to receive the arguments and evidence provided by the other party, including expert reports and is entitled to submit their comments on same. The ADR entity must issue an award in writing setting out the reasons for its findings. The award must be made available within ninety days of the receipt of the complaint.

Businesses that are selling online should familiarise themselves with the new Regulation as it may require them to make immediate changes to their websites and consumer contracts.

Benefits which Steer People to The FRANCHISE MODEL

We have all heard the pitch- an 80% success rate on business format franchises/ ability to follow a proven based model reducing risk/ in business for yourself, but not by yourself ...

But when you delve beyond such encouraging words, what positives can franchising actually bring to the person who is:

- Venturing beyond employment for the first time?
- Forced out of employment through redundancy?
- Exiting an existing +/ failed business?

Starting a business can be daunting! For some the risk, isolation, lack of experience and competition can all contribute. For others, confidence and capability are not a concern, but realising that elusive business idea and well-developed plan can be difficult.

People engage in franchise ventures for a variety of reasons, bringing with them knowledge and experience. This article explains 4 common motivations, which franchises' encounter.

- **Realisation of a Dream:** for many, self-employment has been a long standing dream. For such individuals, franchise systems tend to stimulate, motivate and inspire; allowing them to engage in self-employment but in a pragmatic, moderated way. The dream becomes a reality for these individuals and inertia a thing of the past.
- **Control:** particularly when individuals are made redundant. The franchise system allows these people to create opportunities for themselves. Starting a business and utilising the existing franchise landscape empowers people, whereby they are choosing a venture which is right for them. Followed by a comprehensive due diligence process, these individuals re-assert power over their working lives leading into franchise negotiations and ultimately control over their own franchise operation.
- **Starting Fresh:** New venture, new start, new people. Franchise development can offer a clean slate and expedite the start-up process. For some it offers diversification, where people can operate businesses in areas where they have had no previous experience. Equally it can often provide a new outlook, perspective and team dynamic , whilst facilitating autonomy for the individual.
- **Confidence:** Starting a business can bring with it reservations, it would be unusual not to have concerns. However franchise models also bring with them a degree of confidence, arising not only from a proven history but also the model itself, where one can identify with brand values, culture and ethos. It is a unique model which allows an entrepreneur to conduct due diligence on a live venture, enter knowingly into an agreement and determine clear expectations/ milestones at the outset. This coupled with a robust support structure (should issues arise) increases confidence.

The motivations dictate the search and success rests with the franchise system, franchisor and the promoter (franchisee). It is a symbiotic relationship which undoubtedly offers benefits far beyond that of an indigenous business start.

mmcgrath@limerickchamber.ie