

## Organisation type:

### Sole Practitioner:

- Pro's:
- easy to form
  - sole decision taker
  - simple record keeping:
    - Receipts and Payments Record
    - Bank Statements
- Cons:
- Isolated (not so much with an accountant)
  - absences thru illness costly (health important)
  - arrangements for cover
  - wholly liable for all debts/claims
  - adequacy of general insurance cover and Permanent Health
  - review where club affiliation? Covered by Club insurance?
  - protection where member? Legal advice.

### Partnership:

- Pro's
- combined resources
  - complementary skills
  - more advanced record keeping
  - a good system of reporting and internal check to avoid disputes
- Cons
- jointly liable
  - a good system of reporting and internal check to avoid disputes
    - e.g. Pre-numbering of Fee Dockets at printers
    - Explanations for missing / cancelled dockets.
    - Cross Reference to appointment scheduler
    - The partnership won't work if this is over-onerous
  - possibility of disputes/mistrust
  - adequacy of insurance cover

### Partnership Agreement:

- important device for avoidance of disputes
- profit sharing ratios / control
- discretion levels
- setting of partner's drawings
- convening of meetings (attendance of a disinterested adviser / minute taker)
- events giving rise to dissolution
- provisions for continuance of practice in the event of death

### Life Assurance Arrangements:

- on each other
- beneficiaries are next-of-kin
- no claims on business by next-of-kin

### **LIMITED COMPANY:**

- Pro's
- Limited Liability for debts of business
  - a separate legal entity that can sue and be sued in its own name
  - easily formed
  - normal to have 2 shareholders holding 1 Ordinary Share each. They will also be the directors of the company.
  - can have a single shareholder, but must always have at least 2 directors

- Con's
- Records maintained must be in accordance with the Companies Acts
  - Directors are employees of the company and the company must make PAYE/PRSI deductions each week/month from salary
  - simple Income and Expenditure Account won't suffice. Must prepare in every Calendar Year:
    - Financial Statements viz
      - Profit & Loss Account
      - Balance Sheet
      - Directors Disclosures
      - Directors Report
  - Financial Statements may be audited. Auditor obliged to give his opinion on whether or not the financial statements show a true and fair view of the profit for the year and the financial position shown by the Balance Sheet.
  - Accounts (normally a Balance Sheet) must be filed in the Companies Office (with the Auditors Report) and be available for inspection by the public (more easy now on the internet)
  - Compliance Costs re the above
  - Now even more so in the light of the CA 2001 and and CA 2003.

Consider the following in relation to companies:

- \* will bank be personally guaranteed?
- \* are all risks identified and covered by your insurance policies?
- \* is insurance cover adequate in relation to the risks involved?
- \* what will be your exposure to the Revenue (mainly PAYE/PRSI) ?
- \* is limited liability of any benefit relative to compliance costs ?
- \* Tax effective - see later.

Where more than one principle involved in the company, then matters contained in a Partnership Agreement should be contained in a Directors' Agreement.

**RECORDS:** Manual, General System, Dedicated Software.

Cash Receipts and Payments Book

Cheque Payments Book

Third Party Documentation to evidence transactions:

- copies of lease agreements
- Bank Statements
- Appointment Book

Time based vs Per Appointment

Implications of VAT on the records maintained (see later)

**MARKETING:**

(4 P's: Product Price Promotion Place)

Product / Service – demand for. Presumable known.

Pricing: Going rate

Scaled rate: Initial v follow-up

On premises v remote

Time Involvement v Fixed Fee

Place/Location:

Promotion:

Complementing Ideas - product sales (Vat)

- facilities: racket stringing

Why do businesses fail?

- poor management: cash flow management
- under capitalised
- bad marketing
- seldom due to wrong product / service

### **TAX ASPECTS:**

#### **SELF EMPLOYMENT:**

- Taxed on profits of the trade and not on drawings
- Income arrived at under accounting principles  
i.e Income Earned less Expenses Incurred
- Wholly & Exclusively Rule re deductions
- Non-deductible expenses:
  - not wholly and exclusively
  - entertainment (but promotion OK)
  - capital expenditure (cars, equipment)
  - in general, reasonable deductions.
- Motor Expenses:
  - restriction rule if car value exceeds Euro 24,000
  - capital allowance on Vehicle Cost 12½% up to limit
  - Lease payments allowable (timing difference on Capital Allowances)
  - Adjustment required for personal element
  - suggest 12.5% for 2 car household
  - suggest 20% for 1 car household
- Lease v Buy:
  - Lease payments allowable.
  - Capital Allowances 8 years vs. Lease Payments for 3 years
  - : Timing of deductions
  - : Is the income available?

- Sample Calculation:

Net Income per accounts 28500

Add Back:

Motor Expenses 20% 800

Car Lease 20% 720

Depreciation being  
/book provision  
on equipment(25%) 2000

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Adjusted Profit/Case 1 32020

Capital Allowance on  
Equipment (12½) - 1000

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Profit for tax purposes 31020

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- Professional Income is then aggregated with other income sources (including spouse's income unless election made to contrary). Personal Tax Credits and tax bands then applied.

**VALUE ADDED TAX:**

Coaching is a service.

Is coaching a taxable service - Education or Leisure.

If education - exempt from Vat.

If leisure - liable to Vat.

No evidence of Revenue having specifically ruled on this matter.

Suggested that if coaching services are provided as part of a school curriculum, then exempt from VAT.

If service is ancilliary to the running of a sports and leisure facility (e.g. a Tennis Club), then Vat.

Implications:

Rate - 23%.

If the value of coaching services in any year is likely to exceed Euro 37,500, then must register.

Time to review registration limits.

#### CONSEQUENCES OF VAT REGISTRATION:

Register with effect from a specified date.

From that date, VAT is charged on all services provided.

Proper Vat Invoice to be raised setting out the value of the service provided, the Vat Charged and the total.

Can claim "Input Credit" on any Vat suffered:

- Tennis Balls
- Tennis Equipment (bags, rackets etc)
- Commercial Vehicle Lease (not saloon cars)
- Diesel and Car Maintenance
- Telephone Bills
- Stationery

A Vat Return Form (VAT 3) is submitted every 2 months  
Jan-Feb, Mar-Apr, ..... Nov-Dec.

On the face of the form is shown:

- T1 - Vat Charged to Customers
- T2 - Vat suffered on supplies

If T1 exceeds T2, then must remit the difference  
If T2 exceeds T1, then a refund of Vat is received.

Market considerations:

- Will be 23% more expensive than unregistered coaches
- Revenue Practice has been not to pursue the sector
- Likely that the yield to Revenue would be significant.
- If Revenue did look, "draw a line" and go forward.

Practical considerations:

- Paper work: records, 6 Returns per annum, Annual Return of Trading.
- Consequences if failure to file on time - Estimates / Sheriff / Civil Bills.

**TAX ASPECTS:**

**LIMITED COMPANY:**

- Company a separate legal entity
- Profit measured using accounting principles
- see above re: deductions, lease v buy etc
- Principles/directors are employees of the company. Salary subject to Paye/Prsi computed on a normal basis and is deducted in arriving at the profit for the entity.
- Provide vehicle with own funds, then can enjoy generous round sum expense claims if travel involved.  
(self employed persons are not employees)
- P.60 to issue to directors being employees
- Company liable to Corporation Tax, if any?
- Lower corporation tax rates - 12.5%  
are they relevant to small proprietor owned companies where profit is predominantly voted out as salary?

## **TAX ASPECTS GENERAL:**

- Self employed/directors to file Income Tax Return  
by 31 Oct following year of assessment  
e.g. 2014 : by 31 Oct 2015.  
Surcharge for late submission of 10%.
- Self employed also to pay Preliminary Tax on 31 Oct  
falling in the tax year:  
e.g. 2015 on 31 Oct 2015  
Materially underpay, then interest for 12 months.
- The profits assessable in a tax year are for the 12 months  
accounting period ending therein:  
e.g. accounting year end 30 April  
2014 - Year end 30 Apr 2014  
2015 - Year end 30 Apr 2015

## **- EMPLOYEES:**

- \* With lower tax rates, doesn't pay to  
pay off the top
- \* always obtain certificate of tax credits for  
employees and operate pay  
and deductions in accordance  
with the card i.e. apply the  
Weekly Credit – Cut Off - Prsi Class  
Complete P45 PArt 3 or P.46.  
New employment - Back to Work Allowance Scheme  
- Employers Prsi Exemption
- \* push claim forms for round sum expense  
claims and file in support of any cheque  
drawn
- \* give employee a written contract. Apply a  
fair disciplinary procedure (documented)
- \* give recruitment serious consideration, easy  
to hire, more difficult to fire.
- \* must be squeaky clean if taken to Employment  
Appeals Tribunal
  - no under the table
  - verbal and written warnings

\* Holidays:

Holiday year is 1 Apr to 31 Mar  
Currently 20 days per annum = 4 working weeks  
(1.67 days per month/part month)  
Now also 10 Bank Holidays = 2 working weeks

\* Business Merger:

- "Transfer of undertaking"
- a new \ enlarged practice created
- take care re: employees not taken on
- Redundancy: must demonstrate that the  
job no longer exists should  
an unfair dismissal be claimed
- all rights to redundancy, holidays etc  
are carried over to the new practice  
i.e. employment will deemed to have  
commenced on taking up employment  
in the original practice
- "Transfer of undertaking"

**EMPLOYMENT V SELF-EMPLOYMENT:**

- Care before taking on someone on a contract basis
- used by person contracted to claim deductions  
as a self-employed person than can't  
be claimed if an employee
- no Employer's Prsi on part of contractor
- Revenue say that they will look at the circumstance and  
assess Contractor accordingly:
  - \* frequency of payment
  - \* consistency of amount paid
  - \* provision of equipment / supplies
  - \* premises work carried on
  - \* who else is billed by the person contracted
  - \* degree of autonomy / supervision
- Employer always assessable if it is determined  
that an employment exists.

## MISCELL MATTERS:

- Property & Vat: Does not really arise here.
- Pensions:  
Which pension? Get specialist advice.

### If self-employed:

- Premiums fully allowable at marginal rate  
(not tax credit like VHI)
- Deduction limited to 30% trade income
- if over 55 yrs, 40%
- important to start early
- can "top-up" by 31 Oct following  
tax year and take relief.

### Pension paid by company:

- value of tax break diminished with  
CT Rate 12.5%
- no restrictions on premium paid

- Inheritance tax:

Some pointers in relation to taking an inheritance (Rate 25%):

S.60 policies: Life policy taken out on disponent's life  
the proceeds from which are expressly used to pay inheritance  
tax. Being life only, can be cheaper than investment schemes.

Important to plan where the inheritance taken is non-cash

e.g. property, shares in an incorporated business etc

People are getting caught by inflated property values  
and CAT yields have grown exponentially over  
the last few years

Second relationships - inter-spousal transfers exempt

- "partner" can be fully liable and  
threshold only Euro 15,000  
(compared to son/daughter Euro 220,000)  
Relief for family home where cohabited for 5 years prior to death

\*\*\* IMPORTANT \*\*\*\*\*

- From the outset, appoint a tax agent / accountant.
- Make all submissions on time:
- What triggers a revenue audit?:

Consistent late submission of returns

Payment by post-dated cheques

Cross Refer to third party returns:  
e.g. HSE

Conflicts in amounts returned:  
e.g. Wages in accounts v P.35

Lifestyle v Income returned  
(criminals, black marketeers )

Wealth as measured by:

- entries on land registry
- no. of vehicles registered at same address
- share registers in public companies
- children attending private schools

Generous maintenance awarded in a divorce/separation based on income sources not previously returned.

Extend to which PPS Numbers are asked for and Database mergers.

Revenue Audit:

- 21 days notice
- have your accountant in attendance
- initial meeting: Come clean to avoid publication (should any settlement exceed €30,000)
- 100% penalty if no voluntary disclosure made
- Audit work
- Final meeting: findings  
settlement offer / raise assessments