Setting up a tax practice

A useful guide

Who is this help sheet for?

This help-sheet is relevant for all members providing tax services through their own tax practice. It is particularly relevant to members considering starting up in practice but should also provide useful information and tips for those who have been operating in practice for some time.

The main areas covered are:

1. Taking the decision
2. Initial steps to set up
3. Legal structure
4. Taxes registration
5. Preparing a business plan and budgets
6. Office premises
7. IT systems
8. Branding
9. Getting clients
10. Tax technical support
11. AML
12. Insurance

It provides guidance on sources of further information and some suggested service providers that ITI have worked with. However, members are always recommended to carry out their own research into suppliers of services for the solution which best fits their needs and their budget.

1. Taking the decision to practise on your own

Making a decision to set up your own practice may be very daunting but it should also be a really exciting and challenging time. In reaching your decision, some useful questions to ask yourself might include;

1 Are you fully committed to owning your own practice or in light of the current economic downturn is this idea a stop gap measure until something better comes along?
2 Are you comfortable with the reality of not having job security?
3 Have you sufficient resources to tie you over until income is generated by the business?
4 Will you miss the benefits of being an employee i.e. more fixed working hours, ability to take holidays when it suits and the legal benefits of being an employee?
5 Have you enough drive and ambition to deal with the unexpected and the professional and financial risks associated with owning your own practice?
6 Have you moral support from family and friends to get you through the challenges ahead?
7 Ask yourself the hard question – are you really up to the challenge?

Naturally you must have confidence in your own abilities and enjoy selling tax services to prospective clients. Inherently, you must be an entrepreneur of sorts and enjoy the challenges it offers.

2. Initial steps to set up

In exploring the possibility of starting your own business, the following initial steps may be worth considering;

1 Speak to others who have taken similar steps
2 Establish your service offering and the likely market for same – try to pin point two or three key areas rather than prepare a long list of specialisations
3 Identify the market for this service offering and the likely client base
4 Identify competitors in this space and try to distinguish your service offering from theirs
5 Decide on your charge out rates and compare these to your competitors
6 Identify your likely start up costs and the period of time before you will achieve a break even position

3. Legal structure

The choices available in deciding the legal form of your business are;

1 Operate as a sole trader
2 Set up as a partnership with another person where both partners work together and split the profit / losses according to their profit sharing ratios
3 Incorporate a limited liability company that will have a legal identity separate to its shareholders and directors.

It is possible to change the legal form of the business later on but such changes may be disruptive and expensive to implement and may also have some tax costs.

Sole Trader

There are no legal formalities involved in operating as a sole trader and you will be regarded as a self employed individual. Further, there are no public disclosure requirements in respect of the business. You will, however, be personally exposed for any losses incurred by the business.

Partnership

Where two or more self employed persons set up a partnership, it is advisable to draft a formal partnership agreement which would include details of capital to be provided by each partner, profit sharing ratios, steps to be taken on the introduction of new partners or retirement on existing partners, voting rights of the partners, an outline of how the business is to be run etc.

Each partner of the business is personally liable for the losses of the partnership even if these are caused by other partners.

Limited Liability Company

The main advantage of incorporation is that of limited liability equal to the amount subscribed for in respect of the shares. The formation of a company will require you to choose a company name, draft appropriate Memorandum and Articles of Association, file the appropriate documents with Companies Registration Office. If you are going into practice with one or more persons and you decide to incorporate, it is advisable to draft a shareholders' agreement which should cover some or all of the following matters;

1 The amount to be subscribed for shares or the level of shareholder loans
2 Directors' fees and salaries
3 Voting rights
4 Pre-emption rights in respect of shares should a shareholder decide to exit
5 Steps to be taken on the introduction of new shareholders
6 The division of responsibilities between directors

Having a limited liability company may provide some planning opportunities e.g. personal pension planning but the application of the close company surcharge to service companies may increase the effective rate of corporation tax. Remuneration will mainly be in the form of salary on which PAYE / PRSI should be operated at the time of payment. This should remove the pressure of having to put aside monies to fund preliminary tax obligations in October / November of each year.

The disadvantages of incorporation include

1. Some set up costs will be incurred
2. There are annual filing requirements with the CRO, e.g. Form B1
3. An annual audit will be necessary if turnover is greater than €7.3 million or the balance sheet is more than €3.65 million or the number of employees is greater than 50.

If you require assistance with the registration process and/or company secretarial matters, you might consider using a professional services firm or a company formation agent.

Further information as to the CRO obligations for small companies can be found at www.cro.ie.

The Institute of Chartered Secretaries and Administrators, while based in the UK, provides a wealth of information on regulatory bodies and corporate governance worldwide. http://www.icsa.org.uk

4. Taxes registration

If you employ individuals in the business or act as a director in a company, it will be necessary to register for PAYE / PRSI.

Where turnover exceeds €37,500 VAT registration is obligatory. In the context of VAT, consideration should be given to availing of the cash receipts basis of accounting. One can apply for the cash receipts basis at the time of registration by ticking the appropriate box on the taxes registration form. The cash receipts basis is available to

1. VAT registered persons whose supply of goods and services are almost exclusively made to unregistered persons or persons not entitled to a full deduction of VAT or
2. VAT registered persons whose turnover does not exceed €1 million

A Form TR1 (sole traders, partnerships) or TR2 (limited companies) must be completed to give effect to taxes registration.

5. Preparing a business plan and budgets.

If you require bank finance, every financial institution will require you to prepare a business plan outlining the nature of the business, the target market, the level of financing needed and the profit projections for years one to three. In preparing pro forma profit and loss accounts, balance sheets and cash statements, take a prudent approach and do not overstate income or understate costs - try to be as conservative as possible.

The financial data required to develop your business plan will include the following:

1. Expected annual turnover.
2. Likely costs, including start-up costs.
3. The expected cash flows arising from 1 and 2 above will generate a cash flow statement.

As cash is likely to be limited in start-up operations, credit control is key to generating timely cash flows.

If you operate initially without support staff or employees there is a ceiling to the amount of fees that you can generate. To increase these fee levels it may be necessary to hire a secretary initially. Thereafter, further growth is achieved by hiring additional staff at the appropriate levels. If and when you come to recruit staff, you need to be mindful of employment law and health and safety issues. Visit www.ibec.ie for helpful information on these and other employer support issues.

If your existing arrangement is to work from home or use a shared office at the outset, you may decide to lease an office as fee levels increase.

You should factor into your cash flow projections delays in collecting cash as strains on working capital will inhibit future growth. You should ensure that drawings/salary do not exceed available cash flow. Sole traders/partnerships should be disciplined enough to put cash aside on a monthly basis for their preliminary tax obligations. Assuming you operate initially on a VAT cash receipts basis, then once cash is received the VAT element of the fees collected should be lodged to a separate bank account.

6. Office premises

In the current economic environment where supply of office space exceeds demand, various options are open to start-ups to service their office needs. For those who do not want to work from home, companies that offer flexible office solutions via business centres for small businesses should be considered. Such business centres are flexible and can provide additional office space as the business grows. They also provide shared services and you can pay for support services and meeting rooms on a pay per usage basis.

A virtual office solution is provided by many business centres whereby you will be provided with a business address, personalised call answering, mail collection and forwarding. This service offering is competitively priced thus reducing the start-up costs for small businesses.

7. IT systems

You will have to consider the nature of the office equipment that you require and the method of funding the purchases of same. Some IT requirements to be considered include the following:

1 Computer software and the nature of the e-mail system that is required
2 Computer hardware e.g. a laptop and printer, fax, scanner
3 The ability to access e-mail remotely
4 Frequent back-up of the hard drive
5 Anti-virus software
6 Technical support to resolve IT issues

8. Branding

In developing your brand there are a number of initial steps that must be taken and these include;

Trading name

Key to your branding strategy is the trading name that you will decide to use. This may include your own name, or be a generic business name. As part of your branding strategy, you should add the Irish Taxation Institute's Registered Tax Consultant logo to your brand and sign up and register as a member firm of the Institute.

Graphic design;

This will drive your branding strategy and if successful will play an important part in your clients' distinguishing you amongst your competitors. It will also drive the look of the business and the stationery that you will use. It is important that you register your company and/or business name before designing your stationery and business cards. If you incorporate ensure that your stationery outlines the business name plus the word "Limited". Also ensure that the registered office, business address, name of directors, VAT registration number etc. are included as appropriate.

Website design and development

There are many web developers who can develop a personalised website suitable to your business needs.

Website hosting;

This can be provided by a dedicated web hosting provider who will provide storage space and technical support to host the website.

Domain registration;

If you decide to have a web site you should register a domain name. This is inexpensive and can be completed very quickly. The domain name is a label that is used to identify your specific website. Again you might the website www.whois.ie helpful. It is the Irish domain registry website listing all ".ie" registered internet names.

9. Getting clients

In growing your client base some tips to bear in mind include the following:

1 Find out what your prospective client service requirements are
2 Identify the correct person to speak to and determine if that person is the decision maker
3 Communicate why your service offering can meet your client's needs
4 If your client wants to proceed and receive advice, agree a fee in advance of commencing any work.

While you may be inclined to take on low quality and unprofitable work initially to generate fees, this will distract you and waste time that should be spent on developing and selling the services that will be profitable. You should continuously assess your client base and be prepared to reassess clients who do not generate good recoveries. Remember the 80:20 rule i.e. 80% of your income is generated by 20% of your clients. You should agree fees in advance to avoid surprises and subsequent write off's.

The ultimate goal of marketing is to advise your target customers of the existence of your business and what services you are offering. Before undertaking a marketing programme it would be helpful to consider who your target market is and what aspects of your service offering you want to create an awareness of. Whatever medium is used to advertise your business, consideration should be given to the market penetration and readership profile that is likely to be achieved.

10. Tax Technical Support

It is important that you have access to the most up to date technical support that may be provided by the Irish Taxation Institute including:

1. TaxFind
2. TaxFax
3. Institute publications
4. Attendances at conferences and training seminars – attendance at such events should also provide opportunities to network with other peers

If you were seeking to offer a unique service, offering some profile building measures might include speaking at Institute seminars or writing an article for the Irish Tax Review.

ITI members setting up themselves in practices should also ensure they are familiar with our Code of Practice guidelines which are available on the website
http://www.taxireland.ie/documents/general/CODE_OF_CONDUCT_INSIDE_final_2_Oct_06.pdf
This includes our policy on remaining technically up to date through Continuing Professional Development.

11. Anti -Money Laundering (AML)

Tax advisors have legal obligations in relation to combating money laundering. New AML legislation is due to be enacted in mid-late 2009 which will amend the current obligations on advisors and further guidance will be provided to members by ITI once this legislation is in place.

In the meantime, anyone setting up in practice needs to reacquaint themselves with current ITI guidance on the matter "ITI guide to Money Laundering 2004".

and it is an offence under the Criminal Justice Act 1994 for a person to provide advice or assistance to anyone engaged in money laundering. Certain documentation needs to be put in place to comply with money laundering requirements e.g. an engagement letter. Procedures to deal with the relevant money laundering obligations relevant to tax advisers' should be put in place e.g. client acceptance procedures.

12. Insurance

The main category of insurance under this heading is professional indemnity insurance whereby protection is available against your legal exposure for losses suffered by your clients as a result of negligent advice. Brokers will ask a number of questions in determining the cost of professional indemnity and some of these questions may include

1. The number of years experience that you have
2. The likely fees to be generated in year one
3. The percentage split of fees between tax consultancy, tax compliance and mergers, acquisitions and disposals etc.
4. Whether you will be authorised to provide investment or financial services advice
5. Whether you will subcontract work and if contractors will have their own insurance
6. What form of contract will you use with clients
7. What limits of indemnity are required and the excess that you are prepared to carry

Depending on your circumstances, other insurance cover that may be required might include

1. Employer' liability insurance,
2. Public liability insurance,
3. Property and contents insurance,
4. Keyman insurance and
5. Income protection.
6. Directors' and officers' insurance

ITI has agreed terms with one Insurance provider ERM…………
However, anyone establishing themselves in practice should check alternative suppliers for the most suitable arrangements and prices.