

SPEECH TO IRISH PROFIT SHARING ASSOCIATION ANNUAL DINNER 21 APRIL 2005

I would like to thank the Irish Profit Sharing Association and your Chairman Jim Ryan for your kind invitation to speak to you tonight.

I intend to be brief and to touch on some issues that I hope will be close to your hearts.

IPSA – Key objective

A key objective of the Irish Profit Sharing Association is to:

- **ENCOURAGE A SUPPORTIVE TAX AND
LEGISLATIVE ENVIRONMENT**

The Irish Taxation Institute would fully support this objective.

What would we expect from a supportive tax environment?

1. An effective consultative process
2. Clear and certain legislation

3. Consistent and efficient administration
4. The Entire process underpinned by, if not a pro-business mentality, at least an approach that does not mitigate against business growth and Ireland Inc's international competitiveness

Legislative process

So how are we doing against that benchmark?

Well a recent example which Jim has discussed is the Finance Act 2005 measures relating to the taxation of share options.

Sadly there was no effective consultative process prior to the introduction of this measure. The veils of secrecy that surrounds most finance bill preparations would make the recent conclave of cardinals' envious. This may be understandable in respect of legislation designed to protect the tax base – it is completely inexplicable in relation to legislation such as that dealing with share options.

A layperson who read the explanatory memorandum accompanying the measure would be forgiven for thinking it was a positive development. In fact, as you know, it is potentially a most unhelpful measure that could harm the efforts of multi-nationals hoping to encourage foreign executives to work here.

Because of the extremely short window between the introduction of a finance bill and its enactment representatives of the Irish Profit Sharing Association together with other bodies such as the ITI had only 2 working weeks to make representations – happily these representations led to an amendment to the measure which delays the triggering of the section at the discretion of the Minister. While welcome, the question has to be asked – is this a satisfactory way to manage a legislative process? Does the very short time-table for the annual finance bill process, as highlighted by the share options example, explain why we have such horrendously complex tax legislation dealing with employee financial involvement from

share incentives through to the taxation of employee benefits.

But not only is it horrendously complex it also, largely, places all the risks (and these are considerable) on the employer.

Some tax realities

It is difficult to have a balanced debate on any aspect of taxation in the current climate – but this should not prevent us from trying! Sadly there are those who appear to want to deliberately confuse the public's mind about the nature of the tax obligations placed on the business community and wealth creators.

Lets remind ourselves of some basic truths:-

Firstly: The Collector General, while he has huge management responsibility, is probably the most inappropriately named official in the public service – he collects virtually nothing but he receives an awful lot – in fact 85% of what he annually receives is collected by the business community

Secondly: As far as business is concerned, tax is a cost – it is not a moral issue – business taxpayers like all other taxpayers are perfectly entitled to legally minimise the tax cost of business transactions

Thirdly: Our taxation system is a public private partnership – while the state is entitled to expect business and other taxpayers to voluntarily meet their obligations under self-assessment the taxpayer is entitled to expect their rights to be defended; to be treated justly and equally; and to be supported by the tax administration.

Public Sector Service

In one of his first speeches following his appointment as Minister for Finance, Minister Cowen stated:

“The drive for excellence and quality service delivery in the public service must be at least equal to the leading service providers in the business sector”.

In the opinion of many tax professionals the public sector still has some distance to travel in terms of service delivery. However, the demands being made on the private sector have become extremely onerous. There is evidence to suggest that some in the public sector believe that the private sector will accept and be in a position to devote the necessary resources to accommodate each new regulatory imposition –this is a potentially dangerous view, which, as we have seen recently, can lead to extreme demands on the private sector to effectively do the State’s work in the taxation area.

Co-operative Compliance

As many in this room are aware, Revenue have over the past two years sought to establish direct and detailed lines of communication with our largest corporates. I understand that Revenue are in discussions with a number of these corporate with a view to signing them up to written agreements on compliance.

This is a most interesting development and I would strongly encourage the decision makers in these corporates to tease out the implications of such an arrangement both internally and with your opposite numbers in other corporates. I would also assume that Revenue will continue to respect the corporate's entitlement to minimise the tax cost of business transactions.

Tax Incentives

I would like to conclude by making some brief comments on the topical issue of tax incentives and tax planning. The Irish Taxation Institute has consistently pointed out that the Celtic Tiger is not a native to these shores – he is here because he likes the habitat but he will leave if other habitats appear more attractive. Historically, Ireland's Inc's progressive taxation and regulatory frameworks were hugely important in enticing and retaining the tiger. However fault lines are appearing in both these key areas. It is disturbing to increasingly hear about inward investment possibilities that have decided against Ireland and gone elsewhere in the EU because of recent regulatory

impositions and proposed impositions. In the area of tax policy, those who should know better are creating dangerous confusion regarding the benefit of tax incentives. A recent Sunday newspaper headline screamed about named fat-cat corporates dodging their tax bills through clever accountancy. You had to read through to the last paragraph to realise that this “clever accountancy” was nothing more than claiming capital allowances on the plant, equipment and buildings employed by the corporates in their businesses.

The Taoiseach recently re-asserted that the creation of wealth was central to our economic policy. Tax incentives encourage wealth creators to invest their wealth in our own economy leading to job creation and tax-generating activities. Is it not extraordinary that some commentators are now pilloring these who availed of tax incentives introduced by governments of all political hues.? A central point is ignored by these commentators – for every €42 saved in tax through use of incentives, €100 has been invested in our economy. I am sure

many of you remember what it was like to walk through what is now the IFSC area or Smithfield plaza before tax incentives transformed these areas. The Irish Taxation Institute hopes that decisions taken later this year on the future role of tax incentives are made on the basis of not only the cost of tax incentives but the benefits they have brought to our economy

Many thanks for your attention ladies and gentleman – I would like to wish the Irish Profit Sharing Association and its members every success for the future.