



Irish ProShare Association

The Secretary,
Commission on Taxation
Le Pole House,
Ship Street Great,
Dublin 8

20 May 2008

Re: How best the tax system can encourage long term savings to meet the needs of retirement?

Dear Sir,

The Irish ProShare Association (IPSA) actively seeks to encourage wider employee financial participation, particularly through employer sponsored share schemes. We take the view that such schemes have an important role to play in increasing pension provision levels. Our proposal is aimed at improving the tax system to encourage long term savings to meet the needs of retirement.

Should you wish to discuss our submission or raise any questions associated with the proposal we would be happy to meet with you.

Yours faithfully



Hugh Duggan
Chairperson, IPSA

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IRISH PROSHARE ASSOCIATION (IPSA)

Submission to the Commission on Taxation

How best the tax system can encourage long term savings to meet the needs of retirement?

Introduction

The Irish Proshare Association (IPSA) actively seeks to encourage wider employee financial participation, particularly through employer sponsored share schemes. We take the view that such schemes have an important role to play in improving productivity and aligning the interest of employees and employers. We believe it is important for employees to take a long-term interest in their employer, which can be evidenced through their ability to take a shareholding in their employer or employers parent company.

Other than Employee Share Ownership Plans (ESOPs) which have limited coverage, there is no incentive given under current tax legislation to encourage long-term share participation by either employees or ex-employees. We believe that employees may be more easily encouraged to invest in employer shares rather than anonymous units in pension funds. Measures to incentivise share ownership and retention can have an important role to play in increasing pension provision levels. However, the incentive to continue to hold the investment on a long-term basis are all contained within the tax legislation applicable to pension schemes rather than the legislation governing employee share ownership schemes.

Our proposal is designed to remedy such problems and improve the tax system to encourage long term savings to meet the needs of retirement.

IPSA Membership Survey

We recently undertook a Snapshot Survey of our members and other contacts in the context of the Revenue Approved Profit Sharing Scheme ("APSS"). The APSS is the most common of the Revenue Approved Schemes.

Our findings are as follows:

- 1 Of the 84 companies surveyed 77 had pension schemes – 91%
- 2 The total number of employees covered by the survey was 130,590 of which 129,905 were employed by companies providing a pension scheme – 99%

Under an APSS all employees (subject to service criteria) must be eligible to participate in an employer sponsored share incentive scheme and must participate on "similar terms". Share participation in an APSS, and indeed other Revenue approved schemes such as the SAYE and Approved Share Option Scheme, cover the spectrum of salary bands from the lowest to the highest and all categories of job, from junior staff to executive level. Participation is not confined to the higher earners and the legislation does contain provisions prohibiting the abuse of such schemes and also limiting the financial benefit arising from same.

Special Savings Incentive Accounts (SSIA) and Pension Incentive

Finance Act 2007 provided incentives for certain SSIA holders to invest some or all of their SSIA funds into a pension product on maturity. This applied to SSIA holders with income of €50,000 or less and who did not pay income tax at the higher rate. The incentive is intended to encourage long-term saving for retirement. There is a claw back of the tax credits granted where funds are withdrawn within a year.

Proposal

The IPSA believes employees should be given the opportunity and incentive to transfer shares acquired under Revenue approved employee schemes into a Revenue approved pension scheme without attracting a tax charge. Under current legislation such a transfer would cause the employee to suffer a capital gains tax charge on the transfer of the shares. The provision of an exemption from capital gains tax on such a transfer would encourage employees to increase their provision for retirement and to retain their shares. -To assist members of the Commission on Taxation in understanding our proposal we have attached an appendix illustrating a comparative analysis of relevant provisions of Registered Retirement Savings Plans in Canada.

We would propose that post the transfer into a Revenue approved pension scheme the trustees of the pension scheme would only be required to hold those shares for a finite period of time, thereby ensuring that liquidity is safeguarded and that overtime the value of the pension fund is not wholly reliant on the performance of the shares in the employer company or parent company. Upon disposal the proceeds would be used to acquire other shares in an Irish incorporated entity, listed or unlisted. Within a period of 3 years prior to retirement, the trustees would be permitted to dispose of the shares and hold the proceeds in a secure investment such as Government bonds or cash.

We would further ask the Commission on Taxation to consider similar relief for unapproved employee share participation schemes. Due to the restrictive nature of Irish tax law it is not possible for all employees to participate in a Revenue approved share scheme. A significant number of employees participate in unapproved schemes and it is proposed that unapproved share schemes should qualify for similar relief to that sought for participants in Revenue approved schemes. Due to the nature of many employer structures (for example shares held in a private family holding company) employees cannot, despite the best efforts of their employer, participate in a Revenue approved share scheme, thereby prohibiting them from qualifying for tax favourable treatment upon the acquisition of those shares.

In addition there are many examples in the Irish economy where employees of multi-national companies are participating in unapproved share schemes as it is not possible for the Irish subsidiary to implement a stand alone plan for Ireland or alternatively receive approval from the Irish tax authorities that an addendum could be annexed to the main parent company share plan so as to ensure that the schemes operation in Ireland meets all of the qualifying conditions of the Irish legislation. To date the Revenue Commissioners have refused to approve such a scheme on the basis of specific provisions being attached to the scheme that only apply to Irish employees. This matter requires to be addressed. The amendments sought would assist in meeting the pension challenges outlined in the Green Paper, such as

- 1 Maintain income adequacy in retirement
- 2 Increase pension coverage

Specifically, we propose that existing legislation and Revenue practice be modified so as to remove obstacles to transferring and holding shares acquired under employee share schemes in a pension portfolio.

The key elements to the proposal are as follows:

1. Employees who acquire shares under an approved or unapproved share scheme would agree to place these shares or a portion of these shares into a Revenue approved pension vehicle. This could be a PRSA or an existing Revenue approved pension scheme.
2. Shares acquired under an unapproved employee share scheme should be eligible for transfer provided all tax liabilities on their acquisition had been discharged.
3. The transfer would attract no liability to capital gains tax.
4. The value at the date of transfer should, subject to the appropriate age and monetary ceiling, be tax relieved from income tax as a qualifying personal pension contribution.
5. Further capital gains and dividends on shares held in the pension scheme would be allowed to roll up tax-free.
6. The Pension Fund Manager would be able to trade the shares in the employer or parent company post a specified holding period on the condition the proceeds were reinvested in shares in Irish quoted or unquoted companies, to facilitate the holding of a more diversified portfolio
7. The Pension Fund Manager would be free to convert the value in the initial shares or replacement shares into a secure investment such as Government bonds or cash anytime commencing 3 years prior to retirement.
8. The proceeds of the pension scheme would be subject to income tax in the normal fashion on retirement.

APPENDIX

Comparative Analysis of relevant provisions of Registered Retirement Savings Plans in Canada

In general, Canada is a conservative and highly regulated jurisdiction in the area of pension schemes and provision for retirement.

A Registered Retirement Savings Plan ("RRSP") is the Canadian retirement savings vehicle which is closest in design to the Irish Personal Retirement Savings Account.

An RRSP is a retirement savings plan established and contributed to by an individual and registered with Revenue Canada. Contributions to the RRSP are tax deductible, and any income earned in the RRSP is exempt from tax for the period that the funds remain in the plan.

Individuals can transfer certain holdings, such as Canada Savings bonds, into their RRSP and can also contribute certain property to the RRSP if it is a "self-directed" RRSP.

In addition, an RRSP may invest in qualified investments, which include:

- Publicly traded shares or shares of public corporations.
- Shares of private corporations, subject to certain restrictions.
- A person who is a connected shareholder, holding more than a specified percentage of the share capital of the corporation, is not entitled to invest in shares of the corporation by means of his RRSP.

The restrictions on "self investment" by RRSPs relate solely to the holder or beneficiary of the RRSP having an existing controlling or substantial minority shareholding in the corporation whose shares are to be invested in. The restrictions do not relate to the existence of an employment relationship between the holder or beneficiary of the RRSP and the corporation whose shares are to be invested in.

In addition to the above, RRSPs are entitled to invest in bonds, debentures, notes, mortgages and other debt obligations, as well as other forms of segregated property.