

WHAT RECOVERY?

IN FOCUS PARTNERSHIP WITH

ULSTER Business

Goldblatt McGuigan, in partnership with Ulster Business magazine, has embarked on an initiative to put the spotlight on the challenges and opportunities facing key sectors of the Northern Ireland economy.

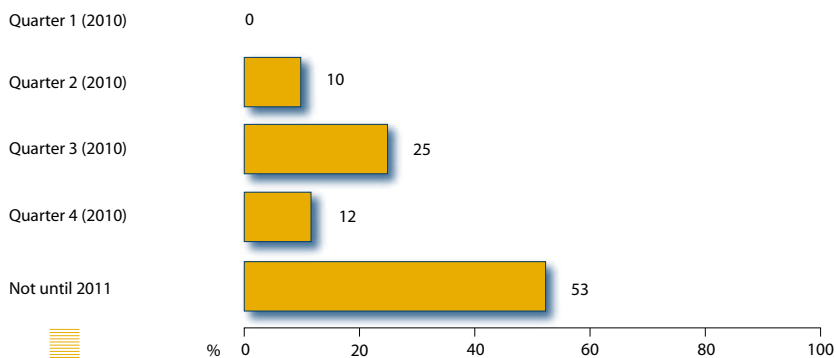
Readers of Ulster Business will know that the 'Future in Focus' series was launched with a round table debate over dinner with representatives of the food sector. The second event in the series was attended by senior representatives of the local banking sector. (See article Page 3)

Commenting on the initiative Sam Goldblatt, Managing Partner said: "In seeking to look in depth at the challenges facing the key sectors of our economy and engaging with the main players and decision makers we believe that we have come up with an initiative that will help to better inform Goldblatt McGuigan clients and the wider business community as a whole. The next sector we will be focusing on is Construction and this round table discussion will feature in the Ulster Business May edition."

David Elliott, Editor of Ulster Business, commented: "The opportunity to gather the main players in the local business banking scene doesn't happen very often and it was little surprise the event produced a great article. Public perception points to a banking community holding tightly to its purse strings, but those representatives gathered insisted they were ready and willing to lend more money. For this revelation alone the evening was a success; and the plethora of other topics covered left no stone unturned in local banking."

**GOLDBLATT
McGUIGAN**
Business Survey

When do you expect to see evidence of local economic recovery?



**GOLDBLATT
McGUIGAN**

Source: Goldblatt McGuigan Business Survey January 2010

While official statistics suggest that the UK economy has emerged from recession, the Northern Ireland business community is unconvinced and remains cautious about the impact and timing of any recovery in 2010.

That is the business mood that emerges from the findings of the latest Goldblatt McGuigan Business Survey, conducted in partnership with the Business Telegraph.

Commenting on the findings Tom Lenehan, Director, Corporate Finance said: "In stark contrast to official UK economic statistics issued in the first week of February, none of the businesses surveyed expect to see evidence of local economic recovery in the first Quarter of 2010 with the majority, 52%, not expecting the local economy to emerge from recession until 2011.

It is encouraging that 51% of businesses said that they are confident about their prospects in 2010. This level of optimism, however, is tempered by the 39% who are not confident and the worrying 5% who said they were very concerned about their prospects for the year ahead.

Lack of sales (46%), the impact of competition and discounting (32%), cash flow problems (32%) and reduced profitability (17%) are cited as the biggest challenges currently facing local businesses.

On the employment front there are some signs of optimism with 24% hoping to increase the number they employ during the year. The lag between the job market and the first reports of recovery means that 15% of businesses still expect to lay off staff during 2010. This is a worryingly high figure and for these businesses the end of recession is still not in sight.

In conclusion, while it is clear that the local business community does not consider itself out of the woods recession-wise yet, there are signs of hope on the horizon. Shoots of economic recovery are emerging and for some this will bring growth in 2010. For others, however, the prospects for the year are at best uncertain and at worst bleak. For these businesses, the recent hype about economic recovery must surely be hard very hard to believe," said Tom Lenehan.

The MAC

Work officially started in January 2010 on Northern Ireland's largest capital arts project, Goldblatt McGuigan client The MAC (the Metropolitan Arts Centre), successor to the Old Museum Arts Centre. Taking part in the groundbreaking ceremony at the St Anne's Square site were Lord Mayor Councillor Naomi Long, Minister for Social Development Margaret Ritchie, Arts Council Northern Ireland Chairman Rosemary Kelly, Minister for Culture, Arts and Leisure Nelson McCausland and The MAC Chairman Joris Minne.



Northern College Graduation

Partner Kay Collins (centre), Chairman of the Board of Governors, Northern Regional College, pictured with College Director Trevor Neilands and guest speaker Joanne Stuart, Chairman of the Institute of Directors at the College's recent Higher Education graduation.

The Northern Regional College is the Further and Higher Education College covering the Antrim, Ballymena, Ballymoney, Coleraine, Larne, Magherafelt and Newtownabbey areas.

PARTNERING UNIVERSITIES

As part of our growing reputation and expertise in the field of People and Organisations, our Management Consultancy Services Division (MCS) is working with our two local universities to deliver leadership development for executives across Ireland.

We are co-delivering Queen's University Belfast's eight week Critical Leadership Programme, comprising individual assessment, four one-day modules and coaching, and the University of Ulster Business Institute's two-

year Resilience Programme, which involves designing and delivering modules that draw on our expertise in leadership and crises, strategic alignment, business resilience and risk management and leads to the award of the MSc in Executive Leadership.

The programme at the University of Ulster will launch in Spring 2010, with QUB's due to commence in September.

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HMRC Business Payment Support Service: "Time To Pay" Arrangements

The Business Payment Support Service has been introduced, allowing businesses more time to pay their tax bill, thus easing cash flow at a time when credit is hard to come by.

If HM Revenue and Customs is satisfied that your company is unable to pay the tax on time, but is likely to be able to pay if allowed more time, then a simple phone call to the local Collectors' Office will normally be sufficient. Each case will be decided on its own merits, but for a number of cases it has been possible to negotiate Time to Pay arrangements over periods of up to twelve months, or beyond in

exceptional circumstances.

Further proof of cash flow difficulties may be required for larger or more complex cases, which will be referred to the local Debt Management Office. HMRC will take into account any current year losses available for carrying back to the prior year in agreeing a suitable timetable.

For advance arrangements, no additional surcharges will be due on payments included in the arrangement, although interest will continue to be payable.

The Banking Sector *in Focus*

At the end of November senior leaders from the Northern Ireland Banking sector, representatives of Goldblatt McGuigan and David Elliott, Editor of *Ulster Business* magazine met for dinner and a round table discussion about the issues and challenges currently facing banking here and their approach to supporting and importantly, lending, to the local business community.

Sir David Fell, Chairman, Goldblatt McGuigan, hosted the event which was attended by Michael Kidd, Head of Business Banking NI, Bank of Ireland, Kevin Kingston, General Manager, Corporate Banking and Markets, Northern Bank and Henry Elvin, Head of Business Banking NI, Ulster Bank. Unfortunately the representative of First Trust had to withdraw at the last moment due to a family bereavement. Also 'round the table' were Partners Sam Goldblatt, Jackie Smith and Michael Gibson, and Corporate Finance Director Tom Lenehan.

Commenting on the event, Sir David Fell said, "There is huge public interest in banking at present, and it was good to have the opportunity to address the issues of current concern directly with senior bankers. The occasion was all the more valuable because the three banks, which account for a high percentage of the Northern Ireland banking market, are so very different in structure. Bank of Ireland in NI is an integral part of BOI, incorporated in Dublin; Northern Bank is a wholly-owned subsidiary of Danske Bank in Denmark, while Ulster Bank is a wholly owned subsidiary of British-based RBS."

"We covered an extraordinary amount of ground over the course of a three-hour discussion. While none of the banks sought to disguise the deep malaise affecting their industry, they were keen to emphasise that the problems they had faced over the last couple of years in Northern Ireland were not brought about by the failures that had created the global banking crisis in the first place, such as exposure to sub-prime mortgages or exotic hedge funds. The local problems, they said, were the consequences of the rapid economic downturn triggered by the global banking crisis, and in particular, an over-exposure to property at a time when the local property market collapsed. This was coupled with an inability to fund their balance sheets due to the closure of

the wholesale money markets following the collapse of Lehman Brothers. They all conceded that they had had to make very significant write-downs on their lending books, particularly in their property portfolios."

"For me, the most interesting part of the discussion came when the banks sought to address current public anger at their apparent unwillingness to lend in the current straitened economic times, especially after so much tax-payers' money had been channelled into the sector. All three banks asserted that there was a significant gap between public perception and reality, and that they were all open and ready to do lending business. They admitted that they had been through difficult times, but the reality, as they saw it, was that it was not so much that they were unwilling to lend, but that there was reduced demand for lending during the recession. However, they also acknowledged that they had had to address pricing issues with regard to their loan products, and in defending the differential between the interest rates that they now had to charge and base rates, they pointed first to the high cost of government-backed sources of funding which had been put in place to address the closure of normal wholesale markets. Secondly they cited the competition for, and resulting costs of retail deposits at a time of low base rates, and thirdly highlighted the cost of increased regulation. Finally they referred to the need for addressing the apparently contradictory requirements of governments and regulators to increase their regulatory capital while at the same time expanding their lending."

"In the evening's agenda we also covered a number of other issues of continuing public interest, including the extent to which customer deposits are safe in banks and the issue of whether bank charges should apply only to customers in default or be spread across all bank customers. Also coming under scrutiny was the role of the National Assets Management Agency (NAMA) and the public outcry that has occurred about the high level of bankers' remuneration, in particular the bonus culture of banks (a phenomenon that the bankers at the dinner asserted was more of an issue with investment banks than at Northern Ireland's High Street banks)."

"Overall, the message the Northern

Ireland banks wished to convey was that they had been through difficult and significant problems, which had affected both bank performance and customer confidence, but that we were past the worst, that lessons had been learnt, and that though recovery is underway, it will be a long drawn-out process," said Sir David.

A six-page feature on the Banking Sector event was published in the December edition of *Ulster Business* magazine and is available under the News and Events section at www.goldblattmcguigan.com.

The Bankers



Michael Kidd
Head of Business Banking NI,
Bank of Ireland



Kevin Kingston
General Manager of Corporate
Banking and Markets,
Northern Bank



Henry Elvin
Head of Business Banking,
Ulster Bank

Succession to the Second Generation

Why does it so often fail?

With a high proportion of family businesses failing to survive to the second generation, succession planning is one of the biggest challenges that a family business must face. It is not a single event but a series of carefully planned steps, and it is never too soon to start preparing. Unexpected events such as death or illness often trigger succession planning, but this reactive rather than proactive approach can be disastrous for the business.

Planning for retirement and family succession is essential to identify a suitable successor in time and to maximise the value of the business to both parties.

PROBLEMS TO BE FACED

- Individuals in the succeeding generation lacking in the skills, experience and motivation needed to run the business
- A dominant owner who is unwilling to “let go” or plan for change
- Decision-making clouded by sentimentality over the business
- A fear by the succeeding generation to talk about death or retirement
- An unwillingness to foresee change and plan for it
- Assuming that the business should be passed to children, when other options may be more appropriate
- An over-reliance upon skills and knowledge of the owner, making it difficult for anyone to replace them
- Lack of consideration of when any change in leadership will take place
- Tax implications of succession
- Thinking that no plan will be required - “it will work itself out”
- Identifying retirement arrangements for the owner – will they be happy with a capital sum and pension, or do they want to remain involved in the business?

POINTS TO CONSIDER

- Does the proposed successor have

the sectoral and commercial experience to be able to run the business?

- How will potential conflicts regarding the new arrangement be dealt with?
- Can financial agreements be struck with the dissenters?
- Will the successor be able to preserve unique selling points and business relationships formed by the founder of the business?

There are seven characteristics that any successor should have:

Conscience - dealing with the family and the business in an ethical manner

Credibility - someone who has earned respect in the business

Coaching - someone who can teach and develop others

Capability - a proven leader

Commitment - someone who has shown commitment to the business and family and has committed to the future

Competence - an individual with the skills required to run the business

Communication - someone who can exchange information effectively

However, often there is no suitable successor within the family, in which case other options are available. Someone with suitable experience could run the business on the behalf of the family, or the business could be sold to a third party.

ACTIONS

- A succession plan should be developed and kept up to date.
- It should include a statement of the distribution of ownership; identity of the new leader(s); how they will be trained; the roles of others in the business during the transition; the mechanics for the purchase/sale of stakes; procedures for monitoring the process and dealing with disputes;



and a timetable for transition

- Consider the tax implications of the succession process at an early stage, in order to minimise any tax liabilities
- The business founder should plan for a source of wealth for their retirement that does not rely on the business.
- This will encourage their involvement in the business to cease at an early date and will not burden the business with financial obligations to meet retirement needs

Whatever path of succession is chosen, the process requires detailed attention for many years if failure is to be avoided. Business owners who do not do so risk alienating potential successors and will lose out to those who took the proper steps to plan for the inevitable.

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CLIENT FEATURE

LEGAL EAGLES...with a bird's eye view



Linus Murray, Partner at O'Reilly Stewart Solicitors

For a Belfast law firm, the view from O'Reilly Stewart's new offices would surely be hard to beat. Directly overlooking the High Court, the glass fronted offices in Courtside House, May Street, afford the law firm a panoramic view of Belfast's legal quarter. Not that anyone in the busy solicitors' practice, stresses Partner Linus Murray, has much time to admire the view.

O'Reilly Stewart is one of the largest legal practices in Northern Ireland and an Audit client of Goldblatt McGuigan since 2005. Employing a team of 36, the firm specialises in business acquisition, commercial property, employment and licensing law as well as high profile civil litigation cases including judicial review, construction disputes, compensation claims and medical negligence cases. Amongst its clients, the firm numbers some of Northern Ireland's best known financial institutions, companies and employers.

Established in 1936 by Joseph Donaghy, the firm was named O'Reilly Stewart in 1980, and is attributable to Garrett O'Reilly and Brian Stewart. Garrett retired in 2004 when Brian took over as

Senior Partner in a team of 6 partners. The firm moved to its new offices in March of last year having previously been based in Royal Avenue.

Linus Murray heads up O'Reilly Stewart's Commercial department, focusing on licensing, employment and commercial transactions. The department's client base spans the full spectrum of commercial and employer organisations including many well known names such as The Hastings Group, Andras House Limited, PBN Group, KPL Contracts, Bank of Ireland and the Royal Bank of Scotland.

"Commercially, the specific nature of the work we are involved in at any given time reflects the health, or otherwise, of the local economy," says Linus. "While the economic downturn of the past two years has seen a decline in the volume of our commercial property transactions and corporate acquisition work, we have been able to sustain the department's growth by expanding our work in the employment and licensing law sectors.

"The banking sector has obviously been at the centre of the global economic crisis, however we are fortunate to have

been able to continue to grow our work with leading local banks and financial institutions in advising on all aspects of security and finance. A particular niche of the firm's is the reconstitution of title, and we have implemented tailored case management systems to facilitate the reconstruction of security for a number of the major local lenders."

"We have also focused our efforts in significantly expanding our representation in the licensed trade and the schools sector, and regularly publish legal updates and run seminars for both these client sectors."

"In the schools sector, the problems surrounding post-primary transfer arrangements and the different Grammar school transfer tests that took place back in November have caused the Board of Governors and Senior Management Teams of most Northern Ireland schools considerable concern. The lack of clarity from the Department of Education has led many schools to seek legal advice and this has provided us with substantial client growth."

"Another expanding area of the practice is in sports law, providing legal advice to sports bodies and to sports personalities. As the sporting world becomes ever more commercialised, so the legal needs of those within it continue to grow more complex and diverse. Our sports law offer expertise draws upon the firm's strength in areas such as corporate governance, employment, child protection, intellectual property, corporate finance, and contractual law," says Linus.

On the litigation front, O'Reilly Stewart acts for leading insurers, pharmaceutical companies, publishers and Government bodies, as well as individuals. And the firm recently conducted two of the largest personal injury compensation claim cases ever to have been brought in Northern Ireland.

"The legal profession has not been protected from the impact of the economic downturn. The difficulties faced in the corporate sector generally and the property sector specifically, has required this firm to become much more proactive in our approach to developing new business opportunities. Our ability to sustain growth against the background of a very competitive and challenging marketplace is, I believe, an endorsement of the very highest standards in legal expertise and service that we continually strive to provide our clients," says Linus Murray.

LEADERSHIP IN TURBULENT TIMES...



... Crisis or Opportunity?

“Men wanted for Hazardous Journey. Small wages, bitter cold, long months of complete darkness, constant danger, safe return doubtful. Honour and recognition in case of success.” (Endurance Expedition Advert; London Times 1914)

Shackleton's fated 1914 Endurance expedition to the South Pole saw 28 men spend almost two years adrift in the Southern Ocean. After their ship was crushed they spent months afloat on the ice floe before crossing hazardous seas in small open boats and trudging through the inhospitable island of South Georgia to safety, facing crisis after crisis in the most challenging of conditions.

During tough times, the skills to lead and keep staff engaged and focused are in demand and worth investing in. Business leaders facing turbulent times can learn many lessons from the Endurance expedition, which may be addressed through four questions:

Identity: Who are you?

Leadership is about building relationships

based on trust, commitment and a shared vision. Leaders of resilient organisations provide a shared identity, encouraging employees to engage with their leaders, their organisation and each other. Shackleton chose his words carefully when he advertised for expedition volunteers; they could be in no doubt of what it would mean to belong to the Endurance. This shared sense of identity was a powerful unifying force during tough times.

Strategic Ends: What do you want to achieve?

Resilient organisations focus on what they are moving towards rather than what they are moving away from. Successful leaders make this vision clear by breaking down any complexity to ensure that everyone understands where they are going and why, and recognises the value of their individual contribution. A clear vision acts as the compass point that allows an organisation's leaders to navigate the whole through stormy waters.

Shackleton was consistently clear on

the strategic end for the expedition, but flexible enough to adjust tactics to match changing circumstances. When the original goal of becoming the first to cross the Antarctic became unrealistic, the aim became to escape the Southern Ocean without loss of life, and all actions contributed to achieving this. Crucially, a clearly communicated strategic end must be translated into action through well aligned tactical ways and means.

Ways and means: How will you do it?

The eventual effect of leadership decisions cannot always be accurately predicted, especially if the leader/follower connections are weak. The most resilient leaders do not waste energy searching for detailed certainty over the future. Instead, they use the clearly communicated strategic goals to allow the organisation to use the means available in the most effective ways, so focussing on the vision and maintaining the identity whilst remaining flexible enough to cope with unexpected events.

Shackleton's subordinates aligned their

tactics with the strategic goal, ensuring that the equipment and capabilities (means) at their disposal were used as efficiently as possible (ways). Having developed and selected his leaders wisely and having clearly articulated the strategic end, Shackleton allowed his men to use the means available in the most appropriate ways to achieve success. This required trust.

Connections: Why should people follow?

Followers will react (overtly and covertly) to what leaders do and moreover to what they don't do, and in a crisis they will naturally follow whoever they trust to lead them out of that crisis. A strong connection with the 'wrong' leader can be damaging and threaten success if the 'established' leaders are found wanting before, during or after a crisis. But leaders cannot be everywhere at once, so trusting followers to get on with delivering is central to success. Creating this two-way trust is a hallmark of resilient leaders and organisations. To engage their followers leaders must set a personal example in keeping with the identity and strategic end (vision) of the organisation. To do this they must be visible and communicate effectively. Without this reinforcing example to engage, followers' actions will at best be disjointed (and so ineffective) or at worst the disengaged will either disrupt or walk away.

Shackleton led by example communicating clear goals well and visibly bearing the brunt of the hardships. His behaviour embodied the identity of the expedition and was consistent with the strategic end, ways and means. In this way he built trust and fostered a willingness amongst his men to follow, even in the direst of situations.

Amazingly, 634 days after their departure all 28 men returned to safety. The lessons to be learned from Shackleton's leadership hold true for companies facing turbulence in a challenging business climate. Implementing them will help organisations to build resilience, strengthening their ability to not only pull through, but more importantly to pull ahead and gain a sustainable competitive advantage.

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Companies House Integration

As of 1 October 2009 The Companies Act 2006 is now fully implemented. One of the main consequences of the final stage of the implementation process has been the integration of Companies Registry Northern Ireland (CRNI) with Companies House in Cardiff. Companies House will, however, retain a registry function through the Belfast office where accounts and forms can still be sent for filing.

There are also several new forms that must be used to notify Companies House of changes to a company's details. These forms are available to download on the Companies House website and must be used in relation to any changes occurring on or after 1 October 2009, but not in relation to changes before that date. For example, when notifying Companies House of the appointment of a Director with effect from 29 September 2009 the old Form 296 should be used, regardless of when the form is actually filed.

Some of these forms are available for online filing. With the Companies House online service you can file a company's annual return at half the price of doing so on paper - £15 - and there is no charge for submitting other information. Forms that can be filed online are:

- Annual return
- Change of accounting reference date
- Change of directory/ secretary details
- Change of registered office address
- Allotment of shares

These forms and further information can be found at www.companieshouse.gov.uk.

A further point to bear in mind following these recent changes is that all cheques for annual return filing fees should be made payable to Companies House (this was previously DETI No.1 A/c) Accounts must be signed by Directors in black ink or they may be rejected by Companies House.

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MCS Supports Award Winning NI Water Project

Goldblatt McGuigan's Management Consultancy Team formed part of the OneAM Consortium that was recently awarded the Team of the Year Award at the prestigious Utility Industry Achievement Awards 2009, taking the title for their work on the Asset Management Model Implementation Project.

According to the judging panel, NI Water and OneAM demonstrated outstanding teamwork, fully integrating to deliver success with a "well rounded, reasonably costed and adequately

financed business plan". MCS' specific area of involvement, the new "best in class" Business Investment Cycle, was crucial in creating a firm foundation for Northern Ireland Water to build on for future delivery.

Northern Ireland Water's Programme Manager said: "This award recognises the entire team that worked to help us to prepare the business plan and build our systems and capacity for the preparation of future business plans, achieving a great deal in a relatively short period of time."



TAX BLOW FOR HIGHER EARNERS

Higher earners are faced with a double tax hit following the 2009 Budget. Not only will the rate of income tax increase to 50%, but relief for pension contributions made will also be severely restricted.

From 6 April 2010, those with taxable incomes over £150,000 will be charged at the new 50% rate. Relief for personal pension contributions will be restricted to the basic rate (currently 20%) with effect from 6 April 2011. Complex measures have also been introduced to prevent the 'abnormal' acceleration of pension contributions before the new rules come into play.

For those with income in excess of £100,000, the withdrawal of personal allowances from 6 April 2010 will lead to a very punitive rate of 60% for income falling between £100,000 and £113,000. If you are caught in this bracket, measures can be taken to mitigate the effects of the increase, for example, by increasing your pension contributions or making Gift Aid donations to charity.

So what measures that can be taken to mitigate the effects of the new rules ?

- Maximise capital allowances claims at 100% on the first £50,000 of expenditure
- Make efficient use of trading losses
- Make effective use of tax free savings – ISA limit increase to £10,200
- Where one spouse is a high earner and the other is not, consider transfer of income producing assets to husband/wife
- Consider the most appropriate vehicle for investment and for trading activities utilising corporate vehicles and availing of the Small Companies tax rate (SCR) of currently 21% for profits up to £300,000 and up to a full rate of 28% for profits thereafter
- Accelerating the payment of bonuses and dividends before 6 April 2010 will



bring more income into charge at the current rate of 40%

- Change of sole traders' and partnerships' accounting dates, to accelerate the amount of income chargeable to tax at 40%
- Gift Aid contributions
- EIS and VCT schemes continue to provide income tax relief at 20% for investment in qualifying companies
- Continue to make regular contributions to take advantage of the special annual contribution limit before higher rate relief is withdrawn for those with higher income in April 2011
- Delay extraction of profits from your company (the 50% rate may not be around forever!) and also potentially taxed as a gain at 10% or 18% (CGT current rates) if you are considering a sale or cessation of business

In summary, plan ahead. Now is the time to consider in detail your sources of income. For specific advice in relation to your particular circumstances or business structure, contact our Tax Department.

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BUDGETS AT A GLANCE

UK Pre-Budget 2009

The Small Companies' Rate of tax remains at 21%

The standard rate of VAT returned to 17.5% from 1 January 2010 (from 15%)

Both employer and employee National Insurance Contributions (NICs) will increase by 1% from 6 April 2011, making a total increase of 2%

The inheritance tax (IHT) Nil rate band has been frozen at £325,000

The Stamp Duty threshold for residential properties has been reinstated at £125,000 from 1 January 2010

The conditions for SMEs to obtain Research & Development Tax Relief have been relaxed from 9 December 2009

There will be no Benefit in Kind for electric cars provided to staff from April 2010 for five years

There has been a further restriction on tax relief for pension contributions made by higher earners, commencing now at incomes above £130,000 with effect from 9 December 2009

The Capital Gains Tax (CGT) rate remains at 18% (at least for the present time)

ROI Budget 2010

The 12.5% rate for company trading profits has been retained

Standard VAT rate has been reduced to 21% from 1 January 2010 (from 21.5%)

Accelerated capital allowances for energy efficiency equipment are to be expanded

Corporation tax holiday for new start-ups has been extended to companies commencing to trade in 2010

Increase in the restrictions on tax reliefs for individuals earning over €250,000

Irish domicile levy of €200,000 per annum has been introduced from 1 January 2010, applicable to significant high earning individuals with Irish located capital of at least €5m

A car scrappage scheme has been introduced from 1 January 2010, but will apply for one year only

CLIENTS IN THE NEWS



Colin Turkington, 2009 British Touring Car Champion

Congratulations to **Colin Turkington**, son of Trevor Turkington of **Turkington Holdings** in Portadown, who was crowned 2009 British Touring Car Champion, becoming the first man from Northern Ireland to hold the title. Colin won in front of a crowd of 30,000 at Brands Hatch to take his 13th podium of the season, and also lifted the Championship's Independents Trophy as part of Team RAC. Colin continued his successful 2009 season, seeing out the year by winning the BMW Sports Trophy for the second time.

Herbel Restaurants has expanded its number of KFC outlets with the acquisition of five restaurants in North Devon and Somerset. Though one of the UK's largest operators of KFC franchises, Herbel's newest outlets are its first in England and add to an extensive portfolio covering NI and the Republic of Ireland as well as Scotland and the Isle of Man.

Hughes Insurance has recruited 22 new staff to its Newtownards headquarters. The new intake follows the firm's intake of 40 employees in March 2009 and will support Hughes' continued expansion,

allowing for increased opening hours and an improved online service. Hughes employs over 200 people in Northern Ireland and has plans for further expansion in 2010.

Knockmoyle Nursing Home Group, owned by Managing Director Bridie Kiernan O'Donnell, has established Hillcrest Nursing Home in Omagh, a new facility with 52 bedrooms to cater for the needs of the elderly requiring nursing care. A new EMI unit is also in operation at Hillcrest for residents in need of specialist care. **Limetree Residential Home** in the Dundonald area of Greater Belfast, run by Mrs Sandra Nixon, has also received significant investment, with an extension including 17 additional bedrooms.

Core Systems, a client of Hanna Thompson in Lisburn, has been successful in securing a grant from Invest NI for

a two-year R&D project. Core produces identity management solutions for high security facilities, and the grant will fund the development of a new product suite that will allow prison inmates to utilise technology, using biometric techniques to manage access to information. The project forms part of Core's wider plan to enter the US marketplace, and has also enabled the company to employ additional staff to assist with the venture.

Hanna Thompson client **Wilson's Auctions** has been awarded a three-year contract worth £4.5m to sell cherished registrations on behalf of the Driver & Vehicle Agency in Northern Ireland through public auctions, sealed bid tender sales and an online sales facility. Wilson's also plans to invest £2m in the expansion of its UK-based operation in 2010, creating over 20 new jobs and doubling the size of two sites in England and Wales.

Finally, congratulations to Goldblatt McGuigan's PR consultancy **Inform Communications**, whose Managing Director Linda Beers and her team recently celebrated 25 years in business.



Peter Johnston, Group Operations Director, and Ian Wilson, Managing Director of Wilson's Auctions celebrate the firm being awarded a contract by the Driver and Vehicle Agency NI

ESTATE PLANNING AND INHERITANCE TAX

Inheritance Tax is generally a tax that arises on the death of an individual (though exceptionally on occasions there is a lifetime charge), and is assessed on the value of the estate of the deceased. If you are a UK domicile you are subject to UK Inheritance Tax on the whole of your worldwide assets in your estate on death. The assets held by an individual can be of various types and are treated in different ways for Inheritance Tax purposes. Assets can include cash deposits, investment property, residence, business property and assets, and agricultural property and assets.

Every individual regardless of age has an allowance for Inheritance Tax purposes, known as a 'Nil Rate Band'. This means that on death the first £325,000 (2009/10 rate) of an estate is Inheritance Tax-free. The rate of Inheritance Tax payable on death is 40% and where a lifetime Inheritance Tax charge arises the rate is 20%.

In addition, you can give away any amount to any individual you wish but you then must live for seven years for it to be deemed to be completely outside your estate and thus not liable for Inheritance Tax on death. There is a sliding scale of Inheritance Tax that applies if you die within the seven years.

A number of factors impact on the issue of the Inheritance Tax liability due on death and in which jurisdiction it is payable, including:

- The value of assets you own outright at death or any part interest in an asset
- Any right you may have to income under any settlement/trust yourself
- The cumulative total of gifts made by you in the seven years before death
- Any gifts which you have made in which you have reserved a benefit
- The situ of any particular asset
- The availability of exemptions, reliefs or unused or-deceased spouse nil rate band

Assets situ in another jurisdiction outside the UK are liable to the Inheritance Tax rules of that particular country. Where Inheritance Tax is payable on an asset in another jurisdiction, tax relief may be

available against any UK Inheritance Tax due.

Gifts During Lifetime

Gifts can be made by you during your lifetime, some of which can prove effective in reducing your estate for Inheritance Tax purposes immediately, and some of which require you to survive for seven years. These include the following:

- You can give away £3,000 every year (with provision for two years to be given in one if prior year unused)
- You can gift £250 to any number of other people providing none of them have received some or all of the £3,000
- You can gift any amount from your income to other people providing it is regular and does not affect your standard of living; it should be documented as such
- There is no tax payable on gifts between spouses (restrictions apply if spouse is not UK domicile)
- Gifts to charities are exempt from Inheritance Tax
- Gifts in anticipation of marriage within certain limits for family members can be free from Inheritance Tax
- Most gifts made more than seven years before death will escape Inheritance Tax

Some lifetime gifts are treated as chargeable transfers, i.e. subject to the lifetime 20% Inheritance Tax charge, but most are ignored providing you survive for seven years after the gift (during the seven year period these gifts are known as PETs (Potentially Exempt Transfers))

The scope of the Potentially Exempt Transfers (PET) regime was dramatically cut down by the Treasury in the Budget 2006, restricting the possibility for a PET to be made into a Trust. However, in broad terms, a gift to an individual which you survive for seven years is Inheritance Tax exempt whatever the amount.

It is vitally important to ensure that if it is intended to make a transfer effective



for Inheritance Tax purposes, you retain no benefit in relation to the asset. If a benefit is retained, the asset will not leave your estate for Inheritance Tax purposes until such time as the benefit ceases.

It is fundamental to the gifting and transfer of any asset for nil consideration that you survive seven years. Should it be agreed that certain transfers of assets be made, a number of structures may be established for this purpose if an outright gift is not to be made. These include for example Trusts, Partnerships and Family Limited Partnerships.

The use of Trusts has now become extremely restricted and most transfers to a Trust in excess of the Nil Rate Band, currently £325,000 in a seven year period cumulative, shall be subject to a lifetime 20% Inheritance Tax charge, with exceptions for exclusively Charitable Trusts and a qualifying Trust for a Disabled Person. Apart from these Trusts not only is there an Inheritance Tax charge to be considered on the transfer of any property to a Trust, there are also in general terms two additional charges: the ten year anniversary charge and an exit charge.

Exemptions and Reliefs

As referred to above, the Inheritance Tax liability due on death is subject to the availability of exemptions and reliefs. In addition to an outright exemption for gifts to a spouse (but only if the spouse is UK domiciled) and to charities, the principle reliefs available are 'Business Property Relief' and 'Agricultural Property Relief'. BPR and APR as they are known are extremely generous, potentially removing up to 100% of the value of the eligible property from your estate for the purposes of calculating the Inheritance

Tax liability.

Business Property Relief applies to property which is a business or an interest in a business, sole trader or interest in a trading partnership; and can apply to shares in a trading company, and assets owned by you and used in your trading companies.

There are a several conditions to be satisfied in order to qualify for Business Property Relief, including a minimum period of ownership and the type of the business (the business must not be an investment or a land-dealing business, i.e. generally speaking the relief is only given to trading businesses); complications arise where the business is mixed comprising a number of different elements or includes assets such as surplus cash.

Agricultural Property Relief is available for agricultural property. There are ownership and occupation tests and land let in conacre is subject to significant issues currently as to whether it qualifies for APR and/or BPR, following a recent local case which went as far as the Court of Appeal, with no leave to appeal to the House of Lords. This was conacre-let land which had significant development value on death, and Inheritance Tax was

only relieved at the lower agricultural value.

Capital Gains Tax Considerations/ Stamp Duty/ VAT

Capital Gains Tax Considerations arise as a matter of principle on the sale of any asset held by an individual but also on the transfer even for nil consideration as a gift or to a connected party of an individual. Importantly, Capital Gains Tax does not arise on the death of an individual, in fact on death the market value of the assets held by the individual will become the base cost of the asset in the hands of the beneficiary immediately following the death, for the purposes of any future Capital Gains Tax transaction by a beneficiary.

Stamp Duty/Stamp Duty Land Tax and VAT are all other taxes that must be taken into account when considering making any gifts or transferring any assets.

Lifetime Inheritance Tax planning in conjunction with Will Planning is vital to ensure mitigation of this potentially costly tax; with opportunities for post-death planning also available.

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Research and Development Tax Relief Important Changes for SMEs

An announcement made in the Pre-Budget Report makes it easier for Northern Ireland companies to claim 175% relief on their qualifying research and development costs. SME's will no longer have to own the intellectual property arising from the R&D in order to claim relief.

Conacre land update

Inheritance Tax Relief denied

Conacre is defined as the letting of agricultural lands under a licence for less than one year. The decision in the McClean case, which was taken to the Court of Appeal, was upheld in HMRC's favour and confirmed that conacre lettings in this case were considered as an investment business. This means that where Conacre land has a value over and above its agricultural value because of development potential, the extra value may not now be covered by Inheritance Tax Business Property Relief (BPR). The development value of the land may be subject to Inheritance Tax on the death of the owner.

Stephen Timms MP, Financial Secretary to the Treasury, has confirmed in a recent letter to the Northern Ireland Executive that conacre land will continue to qualify for Inheritance Tax Agricultural Property Relief (APR), provided the land was owned by the deceased for a continuous period of seven years prior to death and was occupied by someone (such as a Conacre tenant) for agricultural purposes during that time.

The application of the McClean case generally to BPR on Conacre lands is being considered further by the Treasury. This has been an undoubtedly significant area of concern for some farmers and agricultural landowners, and whilst the Treasury's response has clarified the APR position, there remain some areas to be resolved. Conacre agreements and record keeping should be addressed and further advice sought on any potential IHT implications if you hold Conacre land.

For further information, please contact: *Correna Coburn: coburnc@goldmac.com*

CROSS-BORDER TRADING

For Northern Ireland businesses seeking to expand, often the first step is to enter the Republic of Ireland (ROI) market, a move that is continuing despite the economic downturn, with exchange rates helping to boost such activities.

Having established that there is a relevant market in ROI, a business may decide to trade with ROI, supplying goods or services from its NI operation. So long as the business does not create a “permanent establishment” in ROI, it is not subject to ROI corporation or income tax on any trading profits.

However, the taxes that warrant particular attention are VAT, PAYE and RCT:

VAT

The relevant jurisdiction for VAT, for example UK or ROI, depends upon where the supply is considered to be made, i.e. the ‘place of supply’.

VAT - GOODS

A supply of goods from a business’ NI premises is subject to UK VAT. However, if the customer can provide a valid ROI VAT number and certain other conditions are satisfied, the goods may pass across the border to the ROI customer free of UK VAT. If an NI business makes mail-order/internet type sales delivered to the ROI, it may have to register for VAT in ROI.

VAT - SERVICES

Significant changes to rules for VAT on services in the UK and ROI were implemented from 1 January 2010. Registration for VAT in ROI may be required even if a business is servicing

the supply from NI, with rates for VAT in ROI ranging from 0% to 21%.

PAYE/RCT

Further tax registrations may be required, depending on the nature of the business, including registrations for Pay As You Earn (PAYE) where staff are employed to carry out duties in ROI. However, registration may be required even if the business does not engage any ROI-based employees.

Relevant Contracts Tax (RCT) is particularly relevant to businesses in the construction industry in ROI and is much more comprehensive than the UK Construction Industry Scheme. It is strictly enforced by the Revenue Commissioners through both fixed and tax-geared penalties. There is also an interaction with the application of ROI VAT that is not replicated in UK VAT law.

TAX CLEARANCE CERTIFICATE

A Tax Clearance Certificate from the ROI Revenue Authorities may also be required, particularly if the business is seeking contracts with public bodies, or if it is providing professional services.

PERMANENT ESTABLISHMENT

It is vitally important from a tax perspective to be certain of whether or not your business has created a “permanent establishment” (PE) in ROI.

ROI corporation tax is chargeable on companies which are ‘tax resident’ in ROI, either by incorporation in the Republic or under the UK/Ireland Double Tax Treaty’s ‘central management and control test’. If a company has a fixed place of business in ROI or has



an employee or agent in ROI who has authority to conclude contracts on behalf of the business, this will also trigger an ROI corporation tax liability, or ROI income tax for unincorporated businesses. Particular care should be taken with construction or installation projects which may create an unexpected tax liability, as the site may be deemed to be a PE.

ROI continues its generous 12.5% corporation tax rate on company trading profits, with a rate of 25% applicable to capital gains and passive income. There is also a ‘corporation tax holiday’ for certain start-up companies.

The amount of bureaucracy to be complied with in the context of cross-border trading may initially appear daunting, with increasing demands on businesses adding to the pressure of operating in a tough financial climate. However all necessary requirements must be met if costly penalties are to be avoided.

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DOCTOR, DOCTOR!

Following on from the recent extension to the Offshore “amnesty”, a new disclosure mechanism for doctors, dentists and other medical professionals has been announced. HM Revenue & Customs’ Tax Health Plan (THP) offers an opportunity for all medical professionals with undisclosed liabilities to come forward and settle their affairs at a reduced penalty rate. The proposed rate of 10% compares favourably with the higher rates of penalties of up to 100%. Notice of intention to disclose undeclared liabilities under the new scheme must be made before 31 March 2010.

Out and About



Lord's Taverners Charity Christmas Lunch

The Lord's Taverners annual charity Christmas lunch was held at Belfast's Europa Hotel on 16th December and was attended by TV personality Chris Tarrant, National President of the Lord's Taverners.

The event was attended by 540 guests, who helped to raise a very impressive total of more than £20,000 for the Lord's Taverner's charities in Northern Ireland, which will go towards provide young people, particularly those with special needs, with opportunities to participate in sport and recreation.

Pictured at the Lord's Taverners charity Christmas lunch are Chris Tarrant, National President, Lord's Taverners and Sam Goldblatt, Chairman, Lord's Taverners Northern Ireland

Tag Rugby Success

Congratulations to our tag rugby team, the Goldblatt Goats, who are now the proud holders of the Bud Light Tag 09 Trophy which takes pride of place in our reception area.

Defeating rivals the City Taggers in the final match, the Goldblatt McGuigan team finished with an impressive 12-7 score, sealing their victory in what was only their second tag rugby season.

Team Captain David Wood, Occupation Psychologist within the Management Consultancy department, said, "This was a great result and a game in which we gave our best all round performance and displayed good defense against a quick physical team. We're very proud to have taken home the trophy and look forward to defending our title next season."

Making up the winning side were: David Wood (Captain) (Management Consulting) DonnaMarie McGinley (Audit), Paul Black (Forensic), Grace McGeown (Small Business), Paula McAlorum (Small Business), Gemma Molloy (Management Consulting), Geoff Scott (Portadown Audit), Ash Gillespie (Portadown Audit), Lucy McKeown (Management Consulting) and Stephanie McAlinden (Internal Audit, Risk and Governance).



VAT Update

From 1 January 2010

UK

Time limits for correcting errors

The time limit for correcting VAT errors has been increased from 3 years to 4 years, subject to transitional rules restricting the earliest commencement date of the 4 year period to 1 April 2006.

Cross-border VAT changes to place of supply of services

There have been major changes to the VAT rules for determining the place of supply of services. These rules are EU wide therefore it is important for businesses established in the UK and in any other EU country to give due consideration to cross-border supplies made and received.

Changes to the 8th directive refund process

New rules and a simplified electronic procedure for the submission and processing of EU VAT refund claims have been introduced. Claims are now all made to HM Revenue & Customs and are no longer required to be made to the EU

country where the VAT was incurred.

Intrastat threshold changes

The exemption threshold for submission of Intrastat Returns has increased to £600,000 for EU purchases and decreased to £250,000 for EU sales.

Flat rate scheme

The flat rate scheme percentages have been amended to reflect the change in standard VAT rate.

Fuel scale charge

The appropriate VAT fraction (7/47) must be applied to the gross fuel scale charge following the change in standard VAT rate.

Online submission of VAT returns

All newly VAT registered businesses and existing VAT registered businesses with a turnover of £100,000 or more must submit their VAT Returns online and pay VAT electronically. From 1st April 2010.

ROI

Cross-border VAT changes to place of supply of services

Similar new rules to UK rules regarding place of supply and cross-border-related matters.

Changes to Cross-border supplies of land-related services to ROI customers

Certain providers of land-related services are no longer required or permitted to be registered for VAT in the ROI; where relevant, the ROI customer shall be required to account for ROI VAT thereon under the reverse charge mechanism.

Introduction of a new second-hand margin scheme for vehicles

A new ROI VAT margin scheme for second-hand vehicles has been introduced. The previous margin scheme no longer applies. Under the new margin scheme car dealers can account for ROI VAT on the profit from the sale of a second-hand vehicle rather than the sales price, but no input VAT is recoverable on the cost of the vehicle.

SOLICITORS AND BARRISTERS - ONE TO WATCH!

On 29 January 2010 the Department of Health began a 12 week consultation on the charging arrangements for residential social care in England. (see http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_111525)

It would appear that the thrust of the consultation process is to effectively require claimants who have received awards for care and whose monies have been placed in a trust arrangement with either the Office of Care and Protection or in a Personal Injury Trust, to pay for their own residential social care.

Currently, awards held within these trusts are fully disregarded in assessing means tested care. This results in local authorities paying for residential care,

whilst the original care award remains in the trust and is never spent for its intended purpose.

Notwithstanding that the process is only at consultation (and indeed is outside the Northern Ireland jurisdiction) there may still be merit at this stage in considering how settlement awards are structured. Potentially, global lump sum settlements not specifically confirming an award for care could still continue to avail of the disregard currently afforded by trust arrangements whilst settlements specifically delineating the care claim would be caught by any new rules.

Other issues to consider:

- How "compromise" settlements will be treated

- The impact upon periodical payments
- Future care rates - is it now wrong to apply any discount to future care rates, and should full commercial rates always be used?
- How will local authorities actually assess the "future care" element of any global lump sum settlement?
- How will local authorities treat the "spendthrift" claimant who has expended an award for care on other matters?

We believe the current consultation represents a significant step change in governmental thinking, and expect similar measures proposing change to the relevant provisions in Northern Ireland in due course. One to watch!!

The Employer's Pension Timebomb

Draft regulations to deliver workplace pension reforms were recently unveiled by the Government in the National Employment Savings Trust [or "NEST"] Order 2010.

The proposals are intended to help employees save for their retirement but carry additional costs for the employer!

Background

As a result of the new reforms the Department for Work and Pensions estimates that across the UK there will be 5 to 9 million people newly participating or saving more in workplace pensions.

The key workplace pension reforms include:

A responsibility upon employers to automatically enrol employees aged over 22 into a qualifying workplace pension scheme;

An employee contribution of 4% on qualifying earnings between £5,035 and £33,540, a minimum employer contribution of 3% and 1% from the Government in the form of tax relief;

Employees earning below the primary threshold may apply to join their employer's pension scheme but employers are not obligated to provide a contribution;

Employees may opt out of saving but retain the opportunity to review that decision;

The phasing-in of employer and employee contributions over "transitional periods" commencing

in October 2012 for large employers and 2014 for medium and SME's. See box below.

Auto-enrolment is expected to be fully introduced in October 2017; and

A requirement for employers to register how they will meet their new duties.

From either 2012 or 2014 workers aged over 22 earning more than £5,035 will be either automatically enrolled into their employer's workplace defined contribution pension scheme or entered into the new Governmental National Employment Savings Trust (or "NEST").

To assist both employer and employees to adjust to their obligations, under the reforms there will be a phased introduction of employee and employer pension contributions over prescribed transitional periods as a percentage of qualifying earnings commencing in 2012 (large employers) or 2014 (medium/small/micro employers). See table below for details.

The Forensic Accounting Aspect: A New Head of Claim in Personal and Criminal Injury Cases

With a direct impact on our personal injury and criminal injury litigation cases, a new pension loss arises in cases of employed litigants earning a relatively modest wage.

Pension Claim

In light of the above we will calculate pension losses in line with our understanding of the Court's approach to the calculation involving defined contribution schemes, namely:

Employee Contribution Rates (inc. tax relief)				
Transitional Period 1	1%	to	Transitional Period 2	3%
			to	Transitional Period 3 [October 2017 & thereafter]
				5%
Employer Contribution Rates				
Transitional Period 1	1%	to	Transitional Period 2	2%
			to	Transitional Period 3 [October 2017 & thereafter]
				3%

No deduction of employee pension contribution within the future loss of earnings calculation (i.e. treat as personal



spend) but reflect and separately claim the tax saving; and claim the loss of employer pension contribution separately allowing for fund growth within the multiplier in respect of future losses.

3rd Party Care Claim

In relevant cases, the legislation will also have an impact on future care costs as the cost of employed carer pension contributions require to be built into these cases.

This point already appears to have been recognised by the Courts in the case of XXX -and- A Strategic Health Authority [2008] EWHC 2727 QB. In this case a claim to include these employer pension contributions as part of the future carers' employee package was made and allowed.

In the Northern Ireland context Goldblatt McGuigan had extensive involvement in a case where additional employer pension contributions were reflected as an add-on to the conventional future annual cost of employed care written into a Court-approved Periodical Payment Order.

On a separate note, nursing care consultants often recommend that family-initiated care provided to injured parties in the past should be replaced by professional third party carers in the future. Whilst still a moot point, it may be the case that future agency care rates will additionally increase as agencies seek to offset and recoup increased administration and pension costs directly from customers.

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Out and About

Golf Day

The second annual Goldblatt McGuigan Golf Day, held in September at The Royal Belfast Golf Club, Craigavad, was a great success and an enjoyable day out for everyone who took part. Congratulations to overall winner Clifford Sterritt of Autokleen Ltd, who took home the trophy, as well as the other winners from the day: Billy Newell of Oaktree Marketing Ltd (2nd); Barney Goan of McKibbin Commercial (3rd); Colm Murphy of The Golf Spot (Best Gross); Janet Williamson of O'Reilly Stewart Solicitors (Best Ladies); Peter Minnis of Todd Architects (Best Back 9) and Michael McCord of Tughans Solicitors (Best Front 9).



Michael McGuicken, Elliott Duffy Garrett; Janet Williamson, O'Reilly Stewart Solicitors; Sara Armstrong, A&L Goodbody; Mark Gillespie, BPS



Steven Goldblatt, Leaf Consultancy; Brendan Austin, Morson Projects; Colm Murphy, The Golf Spot; Michael McCord, Tughans Solicitors.



Overall winner Clifford Sterritt of Autokleen



Academy Victory in Junior Cricket Cup

Academy triumphed in the final of the Goldblatt McGuigan-sponsored NCU Junior Cricket Cup, beating Waringstown II by 5 wickets. The final score was Waringstown II 156 (49.5 overs, J Stokes 39): Academy 157-5 (48.0 overs, M Shields 50).

Pictured with the Goldblatt McGuigan Junior Cup are Academy players (L-R) Kelso, Greenlees, Shields and Thompson. Academy have won the Junior Cup three times, with these four players on all three winning teams.