

FMB Chartered
Accountants

Longboat, 56 Sir John Rogersons Quay, Dublin 2.

Phone: +353-1-645 2002

Fax: +353-1-645 2049

WEB: www.fmb.ie

in this issue...

tax briefs [page 3](#) • sarp return • time to board the cloud • dropbox [page 4](#)
business briefs [page 5](#) • raising cash [page 6](#)
legal briefs [page 7](#) • civil partnerships [page 8](#)

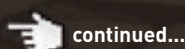
HELPING YOU MANAGE YOUR CASH FLOW

Managing working capital is always a significant business challenge. The invoice collection cycle can put pressure on your cash flow and can ultimately impact your business' ability to grow.

Invoice Discounting, or Invoice Finance as it is also known, can help maximise the cash flow embedded in your business by giving you immediate access to cash as soon as you raise invoices to your customers. Typically 80% of your gross invoice value is made available to you upon notifying the Invoice Discounting provider. Unlike factoring, Invoice Discounting is a totally confidential facility, giving you the freedom and financial flexibility to manage and grow your business.

“a financial **Balancing** act”

continued...



As your business grows so too do your trade debts. Invoice Discounting can fund this business growth - the larger your debtors' ledger becomes the more finance can be made available to you.

Easy to use facility...

Previously Invoice Discounting might have been thought of as an administratively burdensome form of finance. However, the admin and paperwork associated with Invoice Discounting has reduced considerably in recent years, with facilities now being managed online.

You simply invoice your customers for goods sold or services provided as usual (the Invoice Discounting provider does not contact your customer base and all credit control remains with you).

You then notify your financier of the level of invoices raised in any given day, week, month, or as often as you like, via a secure website.

You can request advance payments against these invoices, up to an agreed percentage of your sales invoices (called a "prepayment rate"), again via the website.

It is a very flexible form of finance as it ensures you retain control of your business. You choose when and how much you drawdown, controlling the availability and cost of your facility. You also retain full control of your debtor collections process. The Invoice Discounting facility is repaid as your debtors settle payment of their invoices, at which point the remaining 20% of the invoice value (assuming an 80% initial advance against the invoice) is then also made available to you.

An Invoice Discounting facility can also provide you with detailed information on your customer credit ratings, your overall debt collection process, and how quickly you collect debtor cash.

Is Invoice Discounting suitable for you?

Typically if you answer yes to the below questions your business is likely to be suitable for an Invoice Discounting facility.

- Do you sell business to business?
- Do you sell on credit?
- Do you raise invoices after your products have been delivered or services fully performed?
- Do you have an ongoing trade debtors' ledger of €250,000 or more?

Security is in-built to the facility

Nowadays it can be increasingly difficult to obtain bank finance if you do not have sufficient tangible security to pledge to the bank. Invoice Discounting can provide a solution to this problem as the security is built into the product. The Invoice Discounting lender will 'buy' your trade debts and as such the primary form of security is the lender's ownership of your trade debts. This can be an excellent way of funding your business if you do not have any other form of tangible security available.

Invoice Discounting – a growing phenomenon

Invoice Discounting is quickly becoming a very prominent form of cash-flow lending. Historically Irish businesses have used Invoice Discounting to fund their enterprises to a far lesser extent than their counterparts in the UK or Europe. This is beginning to change as Invoice Discounting has become a more convenient, flexible and competitively priced form of finance, which is growing within the SME and Corporate markets.

To learn more about Invoice Discounting you can look up the ABFA website -www.abfa.org.uk. The Asset Based Finance Association (ABFA) is a UK based trade association representing 41 different providers of Invoice Finance across the UK and Ireland. You can also look up www.aib.ie/invoice-finance.

Maeve Cotter
Business Development Manager
AIB Commercial Finance Limited

NEW INVOICING RULES



Changes to the existing VAT invoicing rules will come into effect from 1 January 2013 with a view to simplifying and harmonising rules with regard to e-invoicing. The changes are set out as follows:

- An accountable person may choose to issue an invoice or other document in paper or, subject to certain conditions in electronic format.
- The issue of invoices or other documents in electronic format is subject to the following conditions:
 - There is prior agreement between the issuer and the recipient in relation to the issue and acceptance of invoices or documents in electronic format
 - The electronic system must be able to reproduce in paper or electronic format any electronic record or message required to be produced, retained or stored
 - The electronic system must be able to maintain electronic records in a manner that allows their retrieval by reference to the name, date or the unique identification number.
- The issuer and recipient of an invoice or other document have an obligation to ensure the authenticity of origin, the integrity of content and a reliable audit trail.
- An accountable person who makes multiple supplies during the same calendar month to the same customer can opt to issue a summary invoice.
- An accountable person issuing an invoice in relation to the auction scheme must endorse that invoice 'margin scheme-auction goods'
- With regard to margin scheme goods, invoices must be endorsed 'margin scheme-works of art', 'margin scheme- collectors items and antiques' or 'margin scheme second-hand goods' as appropriate.

RCT REMINDERS

Principal Contractors are reminded that when the eRCT system was launched in January 2012 a conversion process was undertaken whereby Revenue populated the system with ongoing contracts which were given a system end date of 25 December 2012. If any of these contracts are still ongoing, Principal Contractors will need to extend the contract date to reflect this. The contract value may also need to be increased where appropriate.

Subcontractors are reminded that any RCT credit remaining in 2012 cannot be refunded until such time as the Income Tax or Corporation Tax return pertaining to the relevant basis period has been filed with Revenue. RCT credits are first set against all other outstanding tax liabilities. Any remaining RCT credits will then be automatically refunded.

eREPAYMENT FACILITY

Effective from 26th November 2012 repayments of taxes will be processed electronically to customer nominated bank accounts. Taxpayers can input details of bank accounts used for the receipt of repayments in ROS using the new Payment Details facility on the 'My Services' screen. Once input, bank account details can be amended or deleted as necessary.

Revenue has advised that priority will now be given to e-Repayment as the preferred method for all repayment claims. To that end if you are awaiting a repayment it is advisable to set up your bank account today and fast track your cash repayment.

PAY AND FILE SUMMARY

The following is a summary of upcoming pay and file dates:

PAYE	
P35 for the year ended 31 December 2012	15 February 2013
Relevant Payments Tax	
RCT35 for the year ended 31 December 2012	15 February 2013
Capital Gains Tax	
Payment of Capital Gains Tax for the disposal of assets made during the month ended 31 December 2012	31 January 2013
Corporation Tax	
Filing date for Corporation Tax returns for accounting periods ending in May 2012	21 February 2013
Payment of Corporation Tax balance for accounting periods ending in May 2012	21 February 2013

SARP Return

A SARP return must be made by an employer of employees who availed of relief under the Special Assignee Relief Programme (SARP) during the year ended 31 December 2012 on or before 15 February 2013.

Under the SARP program 30% of basic salary (to a maximum of €127,500) is excluded from the charge to Income Tax for employees who take up full time employment in Ireland. Qualifying employees must have been a full time employee with a Company incorporated and resident in a Treaty State for the 12 months prior to arriving within the State. The individual must also be resident in Ireland to qualify for the relief. The relief does not apply to Universal Social Charge or PRSI. An Employer will also be able to bear the cost of certain items for a relevant employee on a tax free basis to include the cost of a return trip for the employee and family to an overseas country to which they are connected plus primary and or post primary school fees up to €5,000 per annum per child where the school is approved by the Minister of Education.

The SARP return is available on the Revenue website and requests:

- details of the Employer and Employee registration numbers
- employee name
- amount of income, profits or gains in respect of which no tax was deducted
- costs associated with an annual return trip to the country of residence or nationality for self and/or family
- costs of school fees for children paid to an approved school in the state
- increase in number of employees as a result of the operation of the relief or number of employees retained by the company as a result of the operation of the relief

Time to Board the Cloud

SME's are getting a unique chance to grow and expand their business with cloud computing, an emerging computing technology using the internet and central remote servers to maintain data and applications. Software as a service (SaaS) is giving business the flexibility to pick and choose applications – from basic email to whole disk encryption – without requiring an extensive IT department, and the option to roll out more services as and when they are needed. With the services being hosted offsite there is no need for additional hardware investment, and maintenance fees are low to non-existent.

In a cloud computing system, there's a significant workload shift. Local computers no longer have to do all the heavy lifting when it comes to running applications. The network of computers that make up the cloud handles them instead. Hardware and software demands on the user's side decrease. The only thing the user's computer needs to be able to run is the cloud computing system's interface software, which can be as simple as a Web browser, and the cloud's network takes care of the rest.

There's a good possibility that you have already used some form of cloud computing. If you have an e-mail account with a Web-based e-mail service like Hotmail, Yahoo! Mail or Gmail, then you've had some experience with cloud computing. Instead of running an e-mail program on your computer, you log in to a Web e-mail account remotely. The software and storage for your account doesn't exist on your computer – it's on the service's computer cloud.



Dropbox

Dropbox is a free program that allows users to easily synchronise personal files between computers. It works on all operating systems and requires an Internet connection.

Dropbox is a file hosting service that offers cloud storage, file synchronisation and client software. In brief, it allows users to create a special folder on each of their computers which it then synchronises so that it appears to be the same folder (with the same content) regardless of the computer it is viewed on. Files placed in this folder are also accessible through a web site and mobile phone applications.

A free Dropbox account includes 2 gigabytes of storage. This can be upgraded to 50 or 100 gigabytes for \$9.99 or \$19.99 per month, respectively, at October 2009 pricing.

ENTERPRISE 'START' PROGRAMME 2013



For those considering entrepreneurship as a career option, an EnterpriseSTART workshop can help you to understand and evaluate the entrepreneurship process and what it involves.

Each workshop is targeted at individuals with a business idea that has the potential to be scaled up significantly within three years and be export driven.

Participants will have the opportunity for one-to-one consultation with Enterprise Ireland staff regarding individual needs. The workshops are practical, interactive and thought provoking.

Participants will be provided with comprehensive information to understand the business development process including the key success factors and potential pitfalls as well as an outline of financial supports available from Enterprise Ireland and the County & City Enterprise Boards.

A full list of forthcoming EnterpriseSTART workshops by region is available at the Enterprise Ireland

www.EnterpriseIreland.ie

SMALL FIRMS AFRAID TO PENALISE LATE PAYING CUSTOMERS

More than half of all small and medium sized enterprises (SMEs) are afraid to penalise customers out of fear of losing business.

Meanwhile, ministers in the UK are to seriously tackle companies that won't pay their bills on time.

In Ireland, most SME's fear large customers are too big to take on over payment delays.

"Getting paid on time is a never-ending problem for most small businesses. Late payment causes serious cash flow problems; requires firms to extend overdraft facilities or engage in additional borrowing and consumes a great deal of management time" according to Patricia Callan of the SFA.

A recent survey has found that 68% of companies experience late payments on their credit terms. The average time it takes for bills to be settled is 62 days.

Fewer than one in four includes late payment charges in credit contracts, the survey found.

MORTGAGE REFUSAL RATES '60% TO 80%'

Demand for mortgages in the third quarter of the year was relatively consistent, though the level of refusals is still high according to the latest survey by the Professional Insurance Brokers Association.

The survey found that 41% of brokers say refusal rates are between 60% and 80% of applications, down 14% from the third quarter of 2011.



IRISH TRADE MISSION TO CANADA GAINS €8 MILLION IN EXPORT CONTRACTS.

Key business contracts and five new Irish - Canadian partnerships have been formed during a trade mission to Canada.

Ireland Minister for Jobs, Enterprise and Innovation, Richard Bruton TD, led a three day mission trade in Toronto, Ontario.

Thirty Irish businesses travelled to Canada with the minister on the trip, which aimed to cement links and open new doors for increased export business.

Exports to Canada by Enterprise Ireland clients rose by 19% to €224 million in 2011 and it is hoped exports for 2012 will rise a further 20%.



BOI CLAIMS €3.5BN LOAN TARGET FOR SMALL BUSINESS SURPASSED.

Bank of Ireland says it has hit its lending target for small business, and will exceed its government mandated objective for this year.

In a statement, the bank said it had topped the target to increase lending by €3.5bn in 2012.

This is a pointed response to some claims that lending statistics from a number of lenders have become unreliable because old loans restructured or re-issued have been counted as new loans in an effort to hit lending targets.

Bank of Ireland insists that there is no such ambiguity in its figures, saying the figures for new business lending include only new loans.

NAMA'S DEFERRED CONSIDERATION SCHEME

The National Asset Management Agency ("NAMA") has recently introduced a new pilot scheme in an attempt to stimulate the housing market, and protect purchasers from declining property prices.

This scheme is available only to those purchasing properties as owner-occupiers, and therefore is not available to investors. In the first phase, approximately 115 properties in 12 developments in Dublin, Meath and Cork will benefit from the scheme. Bank of Ireland, AIB and Permanent TSB will offer purchasers 90% finance. On completion, the purchaser draws down 70% of the agreed total consideration and a further 10% is provided from the purchaser's own resources. The payment of the remaining 20% of the agreed total consideration is deferred for 5 years, and, if required, will constitute a further drawdown of the purchaser's facility.

If the market value of the Property decreases up to a maximum of 20% by the fifth anniversary of the purchase of the Property, the purchaser will not be required to pay over the Deferred Sum. Where the market value of the Property decreases by a proportion of 20%, only a portion thereof is payable.

If, at the end of the 5 year period, the value of the property is equal to or greater than the agreed total consideration, the full amount of the Deferred Sum is payable by the purchaser and is drawn down from the purchaser's lending institution.

While this scheme benefits only a small portion of purchasers, NAMA has indicated that the list of participating lenders and the list of participating properties may be extended in the future.

BASICS OF A CONTRACT

Contracts are legally binding agreements that are enforceable in a court of law. It is important to remember that not all agreements between two parties are legally enforceable contracts. There are certain requirements necessary for a contract to exist, such as an offer, acceptance and consideration. An oral contract can be enforceable; however, the obvious problem is proof. There are some contracts (i.e. transaction involving land) which must be in writing to be enforceable.

An offer must be made to another party and be held open until one of five things has happened:

- the offer is accepted;
- the offer is withdrawn;
- the offer is rejected;
- a counteroffer is made, which terminates the original offer; or
- the time limit for acceptance of the offer has expired.

Some terms in a contract must be specifically defined because they identify the basic obligations of the contract. These things can include price, quantity or description. An acceptance is when the other person acknowledges the offer and, subsequently, accepts the offer. The acceptance of the offer must comply with the terms outlined in the offer. Consideration is the bargaining process that defines the benefits of both parties. Consideration is generally in the form of monetary exchanges, property or services.

Other requirements of a contract include competence and consent. Competence refers to the legal capacity of the parties to make a contract. This, in general, means that all parties involved in the contract are of sound mind and at least 18 years of age. Consent in a contract means that all parties involved in the contract agree to the contract's terms. It does not mean that you have to know what is said in the contract.

BANKRUPTCY/PERSONAL INSOLVENCY

The Personal Insolvency Bill 2012 (the Bill) completed its passage through the Dáil and Seanad recently.

The Bill demonstrates a progressive move forward in the area of Bankruptcy/Personal Insolvency in Ireland. It is hoped the Bill will aid those in difficulty and allow for debt arrangements to be prepared and processed quickly and cost effectively.

The Bill will make a number of amendments to the Bankruptcy Act 1998 which will see the period of bankruptcy substantially reduced to three years. It was initially envisaged the Bill would not involve the judiciary however the current proposal is to appoint 8 new Circuit Court judges specifically to administer the procedures provided for in the Bill. The Bill will create 3 new insolvency processes/arrangements which are summarized as follows:

1) Debt Relief Notice (DRN)

- €60 or less net income per week
- €20,000 or less debt
- Exit at earlier of payment of 50% of debts or three years after entering process
- Debtor entitled to a reasonable standard of living (not specifically defined)
- Only one such relief notice can be obtained in lifetime

2) Debt Settlement Arrangement (DSA)

- Arrangement formulated by a Licenced Personal Insolvency Practitioner (PIP)
- 70 day protection period to formulate arrangement (additional 40 days may be available)
- Max 5 year period but option to increase to 6 (no minimum period)
- Creditors meet and vote to approve scheme
- No secured debt included

3) Personal Insolvency Arrangement (PIA)

- Protection period and PIP appointment as per DSA above
- PIP to prepare scheme with a view to keeping debtor in their family home
- Max 6 year period but option to increase to 7 (no minimum period)
- Creditors meet and vote to approve scheme
- Secured debt included but limited to €3m unless written consent obtained from



Civil Partnerships

The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (Act) was signed into law on 19 July 2011. The purpose of the legislation is to extend to registered civil partners the same tax treatment as is currently provided to married couples under the Tax Acts. It was anticipated that the Act would extend a similar tax treatment to cohabitants however the rights of cohabitants with regard to tax legislation have not been significantly increased in this Act.



Civil Partnership

A civil partnership is defined as a same sex relationship similar to a marriage where both parties have entered into a legal agreement under the Act. The Civil Partnership is required to register with the relevant Registrar in order to qualify for favourable tax treatment. Following the registration of the Civil Partnership, civil partners must notify their local Revenue office of the date of registration.

Thereafter the civil partners will be entitled to broadly the same tax treatment as is currently in place for married couples. To that end they will be entitled to the 'married tax band' and credits for Income Tax purposes. They will be entitled to transfer assets to each other without triggering Capital Gains Tax and Stamp Duty. Likewise any gift or inheritances made between civil partners will be exempt from Capital Acquisitions Tax.

In the year of registration, both partners will continue to be taxed on a single assessment basis. In subsequent years, the civil partners can elect for joint assessment, separate assessment or separate treatment as appropriate. Where a civil partnership is legally dissolved, Revenue will record the dissolution and each party will be treated as individuals for tax purposes from the date of dissolution.

Cohabitants

A qualifying cohabitant is defined as a person who has lived with another for 2 years or more in the case where they have one or more dependant children and 5 years or more in any other case. As noted above, the Act does not extend the tax treatment of married couples to cohabitants. However under the legislation, a qualifying cohabitant will have the right to seek redress from the courts similar to married couples. For example where a relationship has ended and a qualifying cohabitant can demonstrate that he/she was financial dependant on the other cohabitant the court may order:

- That property be transferred from one party to another
- That maintenance be paid
- That a pension adjustment order be granted
- That a cohabitant be provided for from the estate of a deceased cohabitant

Those wishing to avoid the effects of the new Act will need to enter into a cohabitants' agreement.

