

# enlighten

Issue 1 • 2006

## In this issue...

Financial Assets page 2  
Tax Briefs page 3 • Business Briefs page 5  
Property Incentive Schemes page 6

## To save or not to save? that is the question!

**Did you know that 1,170,208 people took out SSIA accounts before the April 2002 deadline, which is significantly more than the total number of people in employment who have pensions?**

Ireland has one of the worst rates of pension cover in the developed world, with fewer than half of Irish workers in employment having a pension plan.

Whatever you do with your SSIA lump sum, the hope of the Department of Finance and the pension industry is that you will continue to set aside your €12.70 to €254 per month and put it into your pension. If SSIA investors do this it will be mainly because they have become used to the "savings habit".

Because of the excitement around SSIA's, many people have not noticed that investing in a pension could give you an even better return. The "Government contribution" in the form of relief on PAYE income tax and PRSI can be almost twice as good as what was available under the SSIA scheme.

If you are on the top tax rate, there can be 42% tax and 6% PRSI relief on pension investment so a €1,000 investment in a pension plan only costs you €520 after the Government reliefs.

### Making Lump Sum Payments

Many SSIA investors won't invest their lump sum pay out into a pension but there are two categories of people who should strongly consider it from a tax liability point of view. These are

1. The self-employed
2. Employees or directors who are already in a company pension scheme but who have scope for making additional voluntary contributions (AVCs).

If you have an outstanding tax liability in your annual tax return, and have funds available for making a payment into your pension fund, the tax relief on this payment can be offset against your tax liability, provided it is paid on or before the return filing date. This option has been available to the self-employed for some time, but has recently been extended to employees in company schemes.

While there are no limits to how much you can put into a pension fund, there are however limits as to how much of that can qualify for tax relief, depending on your age. There is also an earnings limit.



mk>brazil

O'Connell Court,  
64 O'Connell Street,  
Waterford.

T. 051 872 039  
F. 051 874 504  
E. mkbadmin@mkbrazil.com

5 Mary Street,  
New Ross  
Co. Wexford.

T. 051 421 495  
F. 051 425 003  
E. tonybrazil@mkbrazil.com

# Financial Assets

## The Unsung Hero of 2005

It has been remarked recently that had God wanted Irish investors to invest in financial or other asset classes, he would not have invented property! Real Estate has been a hugely attractive asset class for many years and shrewd Irish and other international investors have experienced huge success as a result of well considered property investments. The purpose of this article is not to suggest that property investment has reached its peak and that the time has come to divert investment monies to other more attractive asset classes instead. The intention is simply to illustrate the returns that have been achieved quietly by other asset classes like financial assets in 2005, without the same fanfare or level of media discussion.

It may be surprising for some readers that the stockmarkets of many of the worlds developed nations enjoyed strong investment performance in 2005. The table (figure 1) details the returns achieved. With the exception of the US, developed nations have exhibited above long term average returns. This investment performance has been achieved on the back of a stable and strengthening macroeconomic environment, a largely stable interest rate & inflation environment and strong corporate earnings & profitability.

(figure 1)

Developed Country	Stockmarket Return
UK (FTSE 100)	+14.90%
Germany (DAX)	+25.79%
France (CAC 40)	+23.11%
Ireland (ISEQ)	+17.06%
Europe (Euro Stoxx 50)	+28.18%
US (S&P 500)	+4.57%
Japan (Nikkei 225)	+33.97%

2005

Source: www.ft.com 16 December 2005  
All returns in local currency.

(figure 2)

Developed Country	Stockmarket Return
India	+15.3%
Singapore	+10.3%
South Korea	+22.1%
Argentina	+11.7%
Colombia	+59.6%
Mexico	+13.0%
Egypt	+68.5%
Israel	+10.4%
South Africa	+22.0%
Czech Republic	+27.0%
Hungary	+42.6%
Russia	+44.4%

2005

Source: The Economist 27 August 2005  
All returns in local currency.

For more adventurous investors prepared to consider the stockmarkets of the emerging economies, investment returns were even more rewarding in 2005 as described in the table (figure 2) below. There is no doubt that investing in the developing world involves considerably more investment risk but this risk versus reward trade-off was adequately rewarded in 2005.

But how have Irish financial assets performed? The table (figure 3) describes the share price increase of some of the popular Irish company shares bought and sold by local stockbrokers for Irish investors. Again it can be seen that without great fanfare, many Irish share prices have appreciated considerably in 2005.

(figure 3)

Company Name	Share Price Increase
AIB	+16.6%
Anglo Irish Bank	+36.1%
C&C	+80.4%
CRH	+22.3%
Eircom	+11.6%
FBD Holdings	+90.1%
Fyffes	+17.1%
Jurys Doyle Hotel Group	+54.6%
Kingspan	+50.4%
McInerney	+52.3%
Ryanair	+47.6%
Dragon Oil	+138.5%

2005

Source: Goodbody Stockbrokers/The Sunday Business Post 18 December 2005.

Furthermore, the dividend yields of many Irish and international shares have improved considerably over the past 24 months as companies return surplus cash to shareholders.

Without widespread coverage, recognition or celebration, 2005 was a strong year in terms of investment returns from financial assets. In recent times it has become accepted that financial assets like equities & bonds and other asset classes like commodities & currencies do not hold the same position of trust or carry the same allure as property in the psyche of Irish investors. It should be noted however, that building a well diversified portfolio of multi-asset classes will ultimately assist investors in managing investment risk efficiently and in achieving consistent long term investment returns.



## Tax Clearance Certificates

The sale of property and personal homes in Ireland in excess of €500,000 is subject to withholding tax of 15% unless the vendor can produce a Tax Clearance Certificate. Prior to this, a non-resident vendor could only obtain a clearance certificate if the capital gains tax (CGT) payable on the asset in question was paid.

However Revenue have now stated that if the vendor does not have sufficient funds to pay the liability in advance of the sale, Revenue will accept a written undertaking from the vendor's solicitor to discharge the liability from the sale proceeds of the transaction concerned. This has a cash flow advantage for the vendor as he no longer needs to claim a subsequent CGT refund from Revenue.

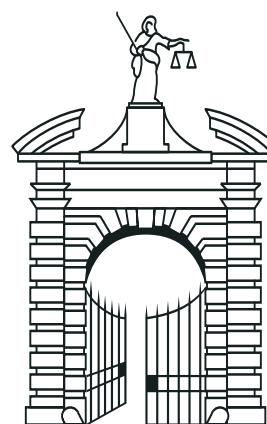
## Revenue to target Construction Industry Sector in 2006

Revenue has stated that 25% of the available Revenue auditors will be assigned to examine the construction/property development sector in 2006. This is part of Revenue's new approach to selecting individuals and corporates for audit, whereby they target particular industry sectors at a time.

## Revenue 2TextU

A PAYE text messaging service is now available. Certain PAYE forms can be requested through text and certain PAYE credits can be claimed (i.e. Credit for Service charges paid through tag or annual payment method, Credit for trade union subscriptions paid and age tax credit).

- Form12-PAYE Tax Return
- Med1 –Claim form for medical expenses
- P50 –Claim form for repayment of tax if recently unemployed
- Rent1 – Claim form for rent relief



# Revenue

## Subsistence Rates Explained

### Domestic Subsistence Rates effective from 1 July 2005

CLASS OF ALLOWANCES	NIGHT ALLOWANCES			DAY ALLOWANCES	
	Normal Rate (payable for absences up to 14 nights)	Reduced Rate (payable for each of the next 14 nights)	Detention Rate (payable for each of the next 28 nights)*	10 hours or more	5 hours but less than 10 hours
<b>A – RATE</b> (Salaries of €50,698 or greater)	€138.41	€127.60	€69.19*	€40.01	€16.32
<b>B – RATE</b> (Other Salaries)	€127.49	€109.04	€63.77*	€40.01	€16.32

\*As can be seen, the current Civil Service Subsistence Rate drops to €69.19 / €63.77 on the 29th night. To prevent avoidance of this drop, the Department of Finance state that breaks for two or less nights will not break the continuity of an absence - ie when a person returns after the break they are still deemed to be on the 29th night and thereby only qualify for the reduced detention rate (ie) €69.19 / €63.77

# Protecting your IT Systems against Cyber-Criminals



Internet attacks by cyber criminals are on the increase and are getting more sophisticated. Even

legitimate businesses are using the fear of virus infection to trick web users into buying protection software; deceiving them into believing that their PCs are infected.

There are several commonly recognised terms for what is now termed 'badware' - spyware, malware, and deceptive adware. Badware is malicious software that tracks your moves online and feeds that information back to shady marketing groups so that they can ambush you with targeted ads. What's particularly tricky about badware is that you may not know that you downloaded it. Some badware manufacturers bundle it with other programs without disclosing that it's part of the package.

Others put their programs on your PC when you visit certain websites or play online games.

Unfortunately, incessant pop-up ads aren't the only possible side-effect. Sometimes peoples' computers slow down or even crash. Sometimes peoples' personal information is abused, and there have been reported cases of identity theft. What's even more frustrating is that these programs are hidden in your computer, making it difficult to identify and remove them.

In late December 2005, Microsoft Windows came under an attack from a virus that was downloaded through its attachment to images on sites, in particular porn sites.

Web users were tricked into downloading fake anti-spyware software called SpywareAxe by ads that mimicked Microsoft Windows system messages. Microsoft had a remedy called a "patch" ready within a week.

Web users' PCs that had their Windows system set to receive updates automatically (via Control Panel settings), ensured that they had Microsoft's up to date protections on their computers.

## How to protect your computer

Besides ensuring that staff have not uncontrolled access to suspect sites, a company should have a policy on who is authorised to make software downloads. Treat messages such as: Your computer is infected – with extreme caution. Only click "X" to close.

Microsoft offers free software to protect against spyware ([www.microsoft.com/spyware](http://www.microsoft.com/spyware)). It alerts users to suspect software that is trying to install on your system. You can scan and clean your system by accessing a diagnostic tool on [www.microsoft.com/security/default.mspx](http://www.microsoft.com/security/default.mspx).

Lavasoft's Adaware software - [www.lavasoftusa.com/software/adaware/](http://www.lavasoftusa.com/software/adaware/) - is a good tool for cleaning your PC. Download is free and there's a low annual charge for real-time protection.

## Microsoft recommends that you:

- Install an Internet firewall.
- Regularly download software security updates.
- Use up-to-date antivirus and anti-spyware software from a trusted source.
- Be cautious of attachments and pop-up ads.

## Not everyone is into marketing

If you listen to business gurus you'll notice that most of them are marketing people. After all, they're only gurus because they've self promoted themselves to that status. But not everyone is into marketing. Nor does everyone see unlimited growth as the path for their business. In that case, what else can a management adviser offer?

Well, actually they can point out that profit is made up of the difference between income and expenses. So, if income generation isn't your focus right now it might be appropriate to look at some of your costs.

In many businesses it's easy to take it for granted that 'we've always

bought that from X so let's carry on with them'. The maxim 'if it ain't broke don't fix it' has merit, but in this case if it's the price that is broke how do you know unless you've checked it out?

**Some obvious areas can produce quick rewards. Mobile telephone services are one. Even O2 is willing to advise whether you're on the right tariff. You only have to ask, and all mobile operators will do much the same. The savings by changing can be quite dramatic. Gas and electricity supplies are another area where it's often possible to get a quick saving, as is often the case with internet services.**

**Then things get a bit more complex - is it safe to assume that your stationery supplier is really that competitive, just because they were five years ago? It could be worthwhile looking at some of the items that you buy regularly and doing a price check with other suppliers. You might be surprised what you find.**

The point is simple. It's easy to pay too much if you assume your long standing supplier is the best. They might, literally, be banking on your loyalty.

## VHI cuts cost of travel insurance

VHI Healthcare have developed an annual travel insurance product to cater for the needs of companies with employees that travel on business. Group Business Travel from VHI Healthcare takes account of the overseas medical cover your employees already have under their VHI Healthcare hospital plan, ensuring the same emergency medical cover isn't paid for twice. Every trip undertaken by an employee on a VHI hospital plan is discounted by 40%. Your company does not have to have a VHI healthcare hospital group scheme to set up a Group Business Travel plan - non VHI members are also covered! The company simply provides information on how many

business trips are undertaken each year, the average duration of trips and what percentage of the trips are taken by personnel who are VHI members. VHI then provides a quote and travel contact cards for employees with all the details they need, should they require assistance while on a business trip.



## Get Your .eu Internet Domain Today!

Individuals and companies established in the EU can now register their ".eu" internet domain names. The new ".eu" domain will not replace existing national domain names such as ".ie" for Ireland and ".es" for Spain, but rather complement them by giving users the option of having a pan-European Internet identity. Companies operating in the EU single market will find it extremely useful as up to now they either based their internet presence in one country or created web sites in each EU country according to their necessities. This new ".eu" domain means they can operate under one internet identity and obey one set of rules. Applications need to be made through registrars who have been formally accredited by the .eu Registry, such as IE Internet.com Ltd., Dublin. For more information contact [www.eurid.eu](http://www.eurid.eu)

## Vivas may buy subscribers if Bupa quits health market.

The chief executive of health insurer Vivas has said that his company would consider buying Bupa's subscriber base if the British firm withdrew from the Irish market. Oliver Tattan said that he would look at acquiring Bupa's 440,000s strong subscriber base after Bupa's announcement that it would "unequivocally" leave the Irish market if risk equalisation was introduced. Vivas, which was launched in October 2004, is the smallest player in Ireland's health insurance market. It would be come liable for risk equalisation after three years in business. The privately owned health insurer has received funding from AIB and Dermot Desmonds investment vehicle.



## Disabled online

Many of the 8% of the population who suffer some form of disability have been excluded from internet use by lack of access. New web design company Ilikecake aims to change that, by specialising in providing fully accessible websites that cater for those with visual, motor, or cognitive impairments. The company delivers everything from startup sites to full e-commerce solutions, which behave like any other site but with built-in accessibility features.

## Cheaper calls from Home to Mobile with Vodafone

Vodafone has cut its mobile 'termination' rates in off peak hours by 23%. Customers who call a Vodafone mobile from a fixed line in off peak hours should see a significant reduction in their call charges to Vodafone mobile users by their fixed line supplier. Vodafone says it has cut termination rates by 50% overall since January 2001.



## Eircom VOIP

Eircom has introduced an internet phone service (VoIP-Voice over Internet Protocol) for business customers in a deal with networking giant Cisco, as part of a development programme worth €10 million over five years. The deal will see Cisco's technology integrate VoIP calls into the existing public telephone network, controlled by Eircom. Calls over the internet are free while calls to the national network are cheaper than the existing system. The telecommunications company says the big advantages will be costs savings and the convergence of voice and data communications into a single network. Eircom intends to introduce a residential service in time, which will give Eircom broadband customers the opportunity to take advantage of innovative VoIP services.

# Property Incentive Schemes

## Termination of Certain Tax Relief's and Transitional Measures

Property incentive schemes have been dying a slow death for the past number of years with various amendments to termination dates being announced to facilitate property developers with partly completed projects. Budget 2006 announced further amendments to the schemes to allow people who have already made commitments to investing in property schemes a smooth transition.

We have listed below the various incentive schemes impacted by these measures and outline the transitional measures that will apply where expenditure has been incurred

The following property-based tax incentive schemes are to be discontinued:

- Urban Renewal Scheme,
- Town Renewal Scheme,
- Holiday cottages
- Multi-Storey car parks (outside Dublin and Cork)
- Sports injury clinics
- Rental refurbishment scheme
- Rural Renewal Scheme,
- Hotels (7 year allowances)
- Student accommodation
- Third level educational buildings
- Park and ride facilities



Transitional arrangements will apply as follows:

- Full relief will be available up to end-December 2006: all expenditure incurred will qualify for tax relief;
- 75% of the normal relief will apply to expenditure incurred in the period January to end-December 2007;
- 50% of the normal relief will apply to expenditure incurred in the period January to end-July 2008;

No relief for expenditure incurred after 31 July 2008 under the schemes will qualify for relief. It is also necessary that at least 15% of qualifying construction costs (not including site costs) be incurred by end-December 2006.

Other existing scheme conditions, as outlined below must also be complied with.

- **Urban Renewal scheme and multi storey car parks:**  
15% of expenditure by 30 June 2003 and 30 September 2003 respectively
- **Third level Education Buildings:**  
A ministerial certificate must be in place by December 2004
- **All other schemes (except sports injury clinics and the general rental refurbishment scheme):**  
Full planning permission by end December 2004.

## Extension of Certain Other Reliefs

- Capital Allowances for Private Hospitals – extension of list of qualifying services
- Introduction of Capital Allowances for Private Psychiatric Hospitals
- Tax relief for Park-and-Ride Facilities and the Living-Over-the-Shop Scheme – New Provisions for more focussed relief have been announced with details to follow.
- Tax Relief for Investment in Childcare Facilities, Private Hospitals and Private Nursing Homes to be continued

However, despite the extension of the relief's in certain cases and the transitional measures discussed above, any investment in property incentives will be negatively impacted by a new measure which is being introduced with effect from 1 January 2007, and which will limit the use of tax breaks by those with high incomes. It is based on restricting the amount of specified relief's including property based tax incentives (a list to be provided in the Finance Bill) which a person can use to reduce their tax bill in any one year to the greater of €250,000 or 50% of the person's income. Any relief derived in a particular year and not fully utilised may be carried forward. This effectively ensures a minimum effective rate of 20% tax.



## Squatting is about to become expensive!

*The Land and Conveying Bill, 2005* provides that applicants asserting that they have acquired squatter's rights over another's property (generally 12 years continuous occupation of another's land without force, secrecy or permission) will, in future, have to make application to the Courts seeking an order that they have obtained a statutory title to the land. Previously, one could simply make application to the Land Registry. Furthermore, the Court has jurisdiction to award compensation to the aggrieved former landowner.

## Garda Siochana Act, 2005:

The Act provides for the establishment of the Garda Siochana Ombudsman Commission which replaces the existing Garda Siochana Complaints Board. The Commission will henceforth investigate complaints made against members of the Garda Siochana. In addition, the Commission is charged with examining procedures, practices and policies of the Garda Siochana which might give rise to complaint. The objective of the Commission is to introduce greater accountability and transparency into the existing system. The Act became law on the 10th of July, 2005.

## Adoptive Leave Provisions Commenced - December 2005

The Adoptive Leave Act 2005 implements recommendations of the Working Group on the Review and Improvement of the Maternity Protection Legislation. The Act increases the duration of adoptive leave to 16 weeks and permits employees to split the period of adoptive leave or terminate it in certain circumstances. Additional (unpaid) adoptive leave will count for any employment rights associated with the employment (except remuneration and superannuation benefits) such as annual leave and seniority.

The Minister for Justice Equality and Law Reform has published an Order commencing all provisions of the Act (other than Section 9 and 10) with effect from 28 November 2005. The sections not yet commenced deal with the splitting of the period of adoptive leave and the postponement of adoptive leave.

## The Safety Health and Welfare at Work Act, 2005

The Act was signed into law in September 2005 just in time for Christmas as amongst other matters it contains provisions for the testing of employees for intoxicants!



# EMPLOYMENT LAW

## What's your company disciplinary policy?

ICTS (UK) Limited v A Worker. The Labour Court. 19 October 2005.

The worker commenced employment with the company in March 2005 as a security agent. The company provides security services at Dublin Airport mainly for US registered airlines.

Employees of the company are required to undergo health and safety training and are given a manual setting out the parameters of their duties. On the 23 June 2005 the worker was on duty inspecting the cabin of an aircraft when she heard a violent knocking at the back door. There being nobody else present, the worker opened the door where she found a number of cleaners. A few days later the worker was requested to attend a meeting with management. She was asked about the incident and management referred her to the manual which prohibited the opening of aircraft doors and the touching of aircraft controls. The worker was subsequently dismissed.

## Proper Disciplinary Procedures

The worker stated in evidence that she did not realise the danger involved in opening the door. She did not act deliberately. She had forgotten the contents of the manual, which was never explained fully to her. The worker argued that proper disciplinary procedures were not followed by the company. She was not told that she could have representation at the meeting with management.

The company stated that the worker had received full and adequate training. She was furnished with the manual and did not seek clarification in relation to any element of it. The worker was warned of the dangers of opening aircraft doors which could have fatal consequences. In relation to fair procedures, the worker was afforded the opportunity of appealing the decision to dismiss her to higher authority but chose not to do so.

The Labour Court held that the worker was aware of the dangers involved. The danger had been brought to her attention during her induction/training period. Therefore the Labour Court did not recommend the worker's reinstatement with the company. However, the Labour Court was not happy with the manner in which the worker was dismissed summarily. She had not committed any deliberate act of wrongdoing. The worker should have been allowed representation at the meeting with management. Accordingly, the Labour Court awarded the worker compensation in sum of €2,000 and recommended to the company that it review its disciplinary procedures to make them fairer and more transparent.

## Unfair Dismissal

Lisa Roe (Benetton) v A Worker. The Labour Court. 17 November 2005.

The worker commenced employment with the company in January 2004 as a part-time general shop assistant working 24 hours per week. The owner of the shop was rarely present and the worker did not get on with the assistant manager who constantly found fault with her. The worker, whilst on 2 weeks leave, was let go without reason.

The worker stated in evidence that she was overworked and given too much responsibility. She felt bullied by the assistant manager. She was hurt at the manner in which she was let go.

## No Choice

The company stated that the worker did well initially but became rude to customers and was the subject of customer complaint. She spoke poorly of the assistant manager and this affected morale in the shop. The company had no choice but to summarily dismiss her.

The Labour Court held that the manner in which the worker's employment was terminated fell far short of the objective standards of fairness to be expected of a reasonable employer. The worker was deemed unfairly dismissed. She was awarded €6,000 in compensation.

