

### What is a Deed of Covenant?

A Deed of Covenant is a legally binding written agreement made by an individual to pay an agreed amount to another individual, without receiving any benefit in return. To be legally effective, it must be properly drawn up, signed, witnessed, sealed and delivered to the individual receiving the payments. Any amount can be paid under a Deed but only covenants in favour of **certain individuals** qualify for tax relief.

The person who makes the payment is called a **covenantor**. The person who receives the payment is called a **covanteee** or beneficiary.

### What should the duration of the Covenant be to qualify for tax relief?

A deed must be **capable of exceeding a period of 6 years** to qualify for tax relief. It is therefore recommended that the period provided be for a minimum of 7 years.

### To whom can a Deed of Covenant be paid?

The following covenants in favour of certain individuals, qualify for tax relief:

#### Covenants to Minors

- ◆ Unrestricted tax relief can be claimed on covenants in favour of permanently incapacitated minors except on covenants from parents to their own minor incapacitated children. A minor is an individual under 18 years of age and unmarried.

#### Covenants to Adults

- ◆ Unrestricted tax relief can be claimed on covenants in favour of permanently incapacitated adults.
- ◆ Tax relief can be claimed on covenants in favour of adults aged 65 or over but is subject to a 5% restriction.
- i.e. The amount of tax relief available on one or more covenants cannot exceed 5% of the covenantor's total income (Total Income = Gross Income less certain deductions such as expenses, capital allowances etc.)

### How can I make a Deed of Covenant?

Simply complete the Form attached to this leaflet. Alternatively, you can consult your professional adviser.

#### Remember:

- ◆ You should enter into the Deed before you make any payments. Make sure all payments are capable of being made before the Deed ends.
- ◆ Payments made before the Deed is taken out or after it ends cannot be treated as payments under the terms of the Deed
- ◆ A Deed can only be effective from a current date - so you cannot backdate a Deed
- ◆ A Deed to an individual must be capable of lasting more than 6 years
- ◆ Payments under the Deed must be paid on the date(s) stated and for the amount(s) specified. Payments cannot be altered during the period of the Deed.
- ◆ Payments under a Deed must be made without **any benefit** being received from the covenantee in return, either directly or indirectly
- ◆ The covenantee must have a PPS Number. If they do not hold one, they can obtain one by contacting their local Department of Social and Family Affairs Office.

### What must a Covenantor do when making a payment under a Deed of Covenant?

The covenantor must deduct tax at the **standard rate** from the gross payment and account for it to Revenue. Information Leaflet IT 1 'Tax Credits, Reliefs and Rates' will give the current rates of tax.

Individuals paying tax under PAYE can account for the tax deducted by having their certificates of tax credits and standard rate cut-off point amended.

Persons taxed under Self Assessment should account for it in their annual assessment.

The covenantor must also give details of the payment and tax deducted on a Form R185 to the covenantee each time a payment is made.

Form R185 is available from any Regional Revenue Office or from the Revenue Forms and Leaflets Service at LoCall 1890 306 706.

### What tax savings arise under a Deed of Covenant?

The exact tax saving depends on the amount of tax paid by the covenantor and on the amount of the covenantee's income, if any.

- ◆ If the Covenantor is liable to tax at the higher rate he/she will receive tax relief at the difference between the standard rate and the higher rate
- ◆ There is no tax benefit to a covenantor who pays tax at the standard rate only
- ◆ A covenantee whose total income (including the income received under the deed of covenant) is less than the exemption limit qualifies for a refund of the standard rate of tax deducted by the covenantor.

## DEED OF COVENANT FORM FOR INDIVIDUALS

To be completed by the covenantor (individual making the payment)

### DETAILS OF COVENANTOR:

I  (name of individual making covenant)

Of  (address of individual making covenant)

hereby agree to pay  (full name of covenantee - individual receiving the payment)

Of  (address of covenantee)

the sum of  (gross) on  (stated date or dates in each year)