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AUTUMN 2016

Current Pensions Issues

VAT on pension costs: Deadline extended

HM Revenue & Customs (HMRC) has further delayed new guidelines setting out changes to how VAT on Defined Benefit (DB) pension scheme costs is reclaimed.

HMRC has been consulting with the pensions industry on the changes required to comply with a ruling in the Court of Justice of the European Union (CJEU) relating to the Dutch Company, PPG (see Current Pensions Issues: Autumn/Winter 2015).

The changes were initially due to be implemented by August 2014, but technical and regulatory requirements have already delayed them twice and now HMRC has extended the transitional deadline again – this time to 31 December 2017. HMRC will "consider the need for a further extension if necessary" later next year.

In order to comply with the PPG ruling, HMRC has noted employers should be able to continue to reclaim VAT if certain structural changes are made - for example:

- Allowing the trustees (as "unincorporated individuals" or as a trustee company) to join the employer's VAT grouping;
- The employer sub-contracting the role of running the pension scheme to VAT-registered trustees. The trustees may then directly invoice the company for services provided and costs incurred (on which VAT would then be charged which the employer may reclaim) – known as an "onward supply" route / "back-to-back" arrangement; or
- Establishing tripartite contracts between the employer, trustees and service provider. This appears to then satisfy the requirement in the PPG ruling that the employer must be a recipient of - and pay for - the services contracted.

However, practical issues remain unresolved – including the potential for additional corporation tax liabilities to arise when entering into tripartite contracts, and that certain statutory roles are by law a trustee appointment (ie potentially creating difficulties if roles such as the scheme actuary or scheme auditor are contracted via a tripartite agreement with the employer).

Next stages

HMRC will consider the matter further and issue revised guidance in due course. Some companies and trustees have already started implementing solutions based on early drafts of HMRC's guidance.

HMRC has warned that adopting these new structures too early "could have wider implications … in respect of regulatory requirements and Corporation Tax deductions" (see above). Employers and trustee boards who have already begun to restructure adviser contracts or corporate set-ups should therefore consider whether to put their plans on hold.

BLOG
VAT on pension costs - part 4: inscrutable force meets immovable deadline

READ MORE >

PPF: long-service cap

Pension Protection Fund (PPF) compensation is based on 90% of a member's accrued pension where they are below the qualifying scheme's normal pension age when it enters assessment.

This compensation is also then subject to an upper limit known as the PPF Compensation Cap (2016/17: £33,678 pa at age 65).

The Pensions Act 2014 included provisions to increase this cap for longer-serving members at 3% for every year of pensionable service in the scheme above 20 years (subject to a new maximum of twice the standard Compensation Cap) – see Current Pensions Issues: Summer 2013.

However, the legislation has not yet been brought into force, as the relevant changes to secondary legislation have not been made.

The Department for Work and Pensions (DWP) is now consulting on the draft Pension Protection Fund (Modification) (Amendment) Regulations 2017 which will ensure that the long service cap will operate as intended in all circumstances.

The regulations confirm, amongst other things, that:

- Increased compensation will not be backdated. Revised payments to qualifying members of schemes already in the PPF will start when the regulations come into force (expected to be April 2017).
- No further 'pension commencement lump sums' will be paid even if a higher lump sum would have been paid had the higher cap applied when the member retired.
- Any schemes winding up outside of the PPF before the new regulations come into force should allocate assets as if the long service cap was not in place.

The consultation closes on 9 November 2016.

DC schemes update

HM Treasury: Using DC funds to pay for retirement advice

HM Treasury has been consulting on the introduction of a new Pensions Advice Allowance for defined contribution (DC) pension arrangements. The new allowance would permit individuals approaching retirement age to withdraw up to £500 from their DC pension pots to pay for 'holistic' financial advice on all of their retirement products.

The advice allowance will:

- be redeemable only against fully regulated advice (including automated advice models)
- exclude 'guidance only' services (e.g. those that stop short of a personal recommendation)
- be available 'before the age of 55' so individuals can plan for retirement 'well in advance'.
- be exempt from tax: the allowance is intended to be in addition to the increased (£500) tax exemption for employer-arranged pensions advice announced in the 2016 Budget – ie individuals may have access to £1,000 worth of advice in total before being taxed.

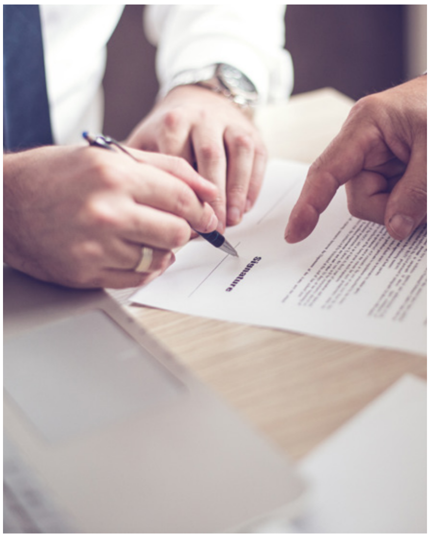
TPR: warning to DC trustees

Trustees of DC schemes have been warned by The Pensions Regulator (TPR) to make sure they comply with new disclosure laws or risk a fine.

TPR has ordered a professional trustee firm to pay three £2,000 fines for failing to meet the new statutory requirement to prepare an annual governance statement signed by the chair of trustees in relation to three schemes. £2,000 is the maximum fine TPR can enforce and in this case it was imposed because the scheme had a professional trustee in place and there were no mitigating factors.

DC scheme trustees are also being pre-warned of changes to the information required in their annual scheme returns. In particular, they will be required to confirm that they have appointed a chair of trustees and issued an appropriate governance statement to members.

If trustees are aware of any breaches of these new disclosure laws, they should ensure that they notify TPR via the scheme return.



HMRC: pensions tax issues

Registering for LTA protections

HMRC statistics show that, between the launch of their new online service in July and mid-September 2016, there were 17,453 individual applications for protection from changes to the Lifetime Allowance (LTA). Of these, 617 were for Individual Protection 2014 (IP14), 4,867 for Individual Protection 2016 (IP16) and 11,969 for Fixed Protection 2016 (FP16).

HMRC are developing a service (to be available by the end of 2016) that will enable pension scheme administrators to check the protection status of scheme members.

AA calculator

HMRC has launched an updated annual allowance (AA) calculator to help pension scheme members work out how much of the allowance they have used in any tax year and whether to declare an AA tax charge on their next Self-Assessment tax return.

The calculator reflects the transitional AA rules for 2015/16 (when all Pension Input Periods (PIP) were forcibly aligned – see Current Pensions Issues: Summer 2015).

However, HMRC are known to be looking at further adjustments to the calculator to enable users to work out 'carry-forward' (i.e. unused allowances) from tax years before 2015/16 – something which the calculator does not do presently.

Open DB schemes: 'Scheme Pays' and the AA taper

Before 5 April 2016, members whose 'Pension Input Amount' exceeded the AA of £40,000 and AA tax charge exceeded £2,000 could require the scheme to pay the AA charge on their behalf. A corresponding deduction would then apply to the member's prospective scheme benefits – a process known as 'Scheme Pays'.

From 6 April 2016, members with 'relevant earnings' above £150,000 will be subject to a tapered AA (reducing by £1 for every £2 of income) as low as £10,000 for those with relevant earnings in excess of £210,000 (see Current Pensions Issues – Summer 2015).

Whilst many had expected the provisions for Scheme Pays to continue as before – i.e. a member with an AA charge in excess of £2,000 can require the pension scheme to pay the tax on their behalf – HMRC's Newsletter 78 confirms that, in fact, Scheme Pays only automatically applies where the Pension Input Amount exceeds the standard AA (£40,000).

DB schemes with active members who may be affected by the tapered AA should therefore consider - with their advisers - whether to offer them a Scheme Pays facility in relation to the *whole* charge even though they are not legally obliged to do so. Otherwise affected members will need to pay part of the AA charge themselves – which could be as much as £13,500* in any tax year.

** 45% x (£40,000-£10,000) = £13,500*

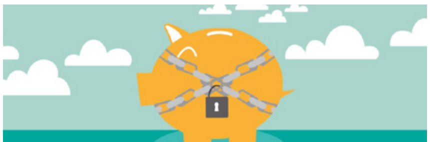
Secondary annuity market

HM Treasury has announced that it will not be proceeding with plans to introduce a secondary annuity market, first announced in the 2015 Budget (see Current Pensions Issues: Spring 2015)

The government believes that only 5% of people with an annuity policy would take advantage of the reforms, adding that they "cannot guarantee consumers will get good value for money in a market that is likely to be small and limited."

The Treasury noted that the development of a secondary annuity market was halted because "creating the conditions to allow a competitive market to emerge could not be balanced with sufficient consumer protections".

Our blog post considers in more detail the reasons why the Government was right to cancel its plans… and why there might be disappointment from some quarters.



BLOG

Five reasons why the Government was right to abandon the secondary annuity market

READ MORE >

News in brief

LISA: the details

HM Treasury has published a technical note setting out the final design of Lifetime Individual Savings Accounts ('Lifetime ISA' or 'LISA'), which are due to be made available from April 2017.

Individuals aged between 18 and 40 may start a LISA and can then contribute up to £4,000 in each tax year up to the age of 50. At the end of each tax year, the government will add a 25% bonus to contributions. Contributions to the LISA will count towards the overall annual ISA limit (£20,000 for the 2017/18 tax year).

The technical note also covers how, when and why LISA savings may be withdrawn – and the charges which may apply – as well as the rules for transferring existing ISA savings.

TPR: DCT scheme

TPR has intervened after a DB scheme, the DCT Civil Engineering Staff Pension Fund, was mistakenly converted to DC. The use of TPR's powers to void the rule change will mean that certain members of the scheme should now qualify for PPF compensation.

TPAS, MAS and Pension Wise merger

The government has announced plans for a single advice body to replace the functions of the Money Advice Service (MAS), The Pensions Advisory Service (TPAS) and Pension Wise. Plans to replace these with two organisations were announced in the 2016 Budget – however, following industry feedback, the three organisations will now be merged into one.

Autumn Statement: date confirmed

The Chancellor of the Exchequer, Philip Hammond, has announced that his first Autumn Statement to parliament will be on 23 November 2016.

DC pension funds in bankruptcy cases

The Court of Appeal has ruled on the bankruptcy case of Horton v Henry that a bankrupt person cannot be compelled to draw down funds from their DC pension arrangement in order to make those funds available to their creditors.

PPF: 2017/18 Levy

The PPF has published its consultation document for the 2017/18 levy, the final year of the current triennium. The levy calculation methodology remains largely unaltered from 2016/17 and the expected levy to be collected will remain unchanged at £615 million.

ONS: Occupational Pension Schemes survey 2015

The Office for National Statistics (ONS) has published the results of the Occupational Pension Schemes survey 2015. Total membership of occupational pension schemes was 33.5 million in 2015, an increase of 10% over 2014 and the highest recorded to date.

Bernard Matthews pension scheme

Frank Field MP, Chair of the House of Commons Work and Pensions Committee, has written to TPR regarding the Bernard Matthews pension scheme, which is set to transfer into the PPF following a 'pre-pack' administration.

TPR's response sets out how, when and why TPR has interacted with the scheme's trustees in recent years. Frank Field commented that "the current regulatory regime is vulnerable to companies seeking to shed pension promises at the expense of pensioners" and has promised that the Select Committee "will quickly make proposals to the government on how to prevent this happening".

Coming up in 2016/17

2016
NOV

The beginning of the end for RPI?

The UK Statistics Authority (UKSA) published an independent review of UK consumer price statistics in January 2015, which recommended that the government and regulators should consider ending the use of RPI as soon as practically possible. The UKSA then consulted on whether the ONS should identify a main measure of inflation to replace the RPI and was due to publish its formal response in the first half of 2016. However, this was pushed back and we now expect to hear the UKSA's response by the end of 2016.

2016
DEC

PPF: next triennium levy structure

The PPF has indicated that it intends to make changes to the PPF levy rules as part of its three-yearly review. The proposed amendments, which will be implemented for the 2018/19 levy year, are expected to be published in an initial consultation by early 2017.

2017/18 PPF levy

The PPF is consulting on its proposals for calculating the 2017/18 PPF levy (see above). Final rules are due to be published shortly before Christmas.

2017
JAN

Incentive exercises code of good practice / winding-up lump sums

The Code of Good Practice on Incentive Exercises was launched in June 2012. Winding-up Lump Sums (WULS) are not covered by the Code at present, even though there is potential for them to be used in Incentive Exercises. The Incentive Exercises Monitoring Board has therefore been consulting with the industry and is due to share its conclusion at the end of 2016.

2017
FEB

DWP: Bulk transfer of contracted-out rights (DB schemes)

Contracting-out on a salary-related basis ended in April 2016. Under current legislation, it is not possible to bulk transfer previously contracted out rights to a new scheme, without member consent. The DWP are aware that this could cause significant difficulties for bulk transfer cases and so are due to consult in early 2017.

2017
MAR

Pensions dashboard

The government has set a deadline of 2019 for the pensions industry to design, fund and launch a pensions dashboard, a digital interface where people can view all of their DC retirement savings in one place. A prototype is expected to be ready by March 2017.

2017
APR

Capping early exit fees on trust-based DC schemes

In an attempt to make it easier for individuals to access 'pension freedoms', the government is introducing a cap on early exit fees charged by trust-based occupational schemes. The cap, which is due to be implemented from April 2017, will prevent pension providers from differentiating between the charges applied after normal retirement age and those applied from age 55.

2017
MAY

John Cridland's review of state pension age

John Cridland is conducting a review of how state pension age should change in future. His initial report has been submitted to the Secretary of State - the final outcome of the review is expected to be published in May next year.

2017
SUMMER +

GMP equalisation

The DWP has for some time been set to consult on how formerly contracted-out schemes should equalise Guaranteed Minimum Pensions (GMPs) (see Current Pensions Issues – Spring 2013). More recently, the Lloyds Trade Union has brought a class action lawsuit against Lloyds Banking Group on behalf of female members of its pension scheme alleging discrimination in connection with unequal GMPs.

Whilst the UK's referendum vote this Summer raised the question as to whether the requirement to equalise GMPs will in fact still apply post 'Brexit', the Lloyds case is expected to bring the matter of GMP equalisation to the fore during the coming year, with the DWP and TPR expected to respond according to the outcome of the case.

Barnett Waddingham
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As one of the UK's largest independent providers of actuarial, administration and consultancy services, Barnett Waddingham offers:

- Advice relating to DC pension schemes – trust, master trust and contract
- Scheme Actuary and associated services to DB pension schemes – in the Public and Private Sectors
- Accounting for UK and international companies
- Consultancy and administration services to companies on all wellbeing policies
- Consultancy to the Higher Education sector, across a top-tier client list spanning the UK
- Business insights through practical, risk-based solutions
- Administration services including pensioner payroll, preparation of annual accounts, secretarial services and administration consultancy
- Investment strategy reviews and advice on investment managers
- Employer support regarding insurance arrangements (group life insurance and PHI)
- Employer support in relation to pension arrangements for senior executives
- Guidance for senior executives regarding retirement options
- Analysis and modelling of mortality and longevity risk for insurance companies, reinsurance companies, investment banks and pension schemes.

Barnett Waddingham is also a leader in the provision of self-invested personal pensions, small self-administered pension schemes and other retirement arrangements.

Forthcoming events

Pensions update

London, 6 December 2016 REGISTER >

During our Glasgow seminar we will review pension developments in 2016 and look at what's to come for investment, IRM and DC schemes.

Following the seminar, we will be kicking-off the festive season by inviting delegates to join us for a drinks reception with festive bites.

Trustee Training

London, 9 March 2017 REGISTER >
Leeds, 8 June 2017 REGISTER >
London, 14 September 2017 REGISTER >

Barnett Waddingham's interactive one day courses are designed to give new DB scheme trustees a thorough grounding in pensions matters and the confidence to complete TPR's trustee toolkit.

Investment Conference

Birmingham, 12 January 2017 REGISTER >
London, 26 January 2017 REGISTER >

The dates and locations of our 2017 Investment Conferences have been confirmed. These conferences – at the Belfry in Birmingham (12 January 2017) and Etc Venues, Bishopsgate in London (26 January 2017) - will give delegates the opportunity to hear from industry experts and stay informed in an ever-evolving industry.

We are delighted to be welcoming Alastair Campbell as our keynote speaker, who will be looking at how the world of politics has affected our investment decisions.

Further information

You may also find the following Barnett Waddingham blog posts, briefing notes and research interesting:

Blogs

- Bank of England changes outlook on Super Thursday
- Understanding risk: our summer project with the University of Liverpool
- Review: PPF propose changes to the levy rules
- HMRC announce end to new Scheme Reconciliation Service requests
- Slower start for bulk annuities in 2016

Briefings and research

- Benefacts: News on pensions and business risks in the Charities and Not-for-Profit sector
- Buy-outs and buy-ins - Autumn 2016
- Current Issues in Pensions Financial Reporting - 30 September 2016
- Specialist advice for senior ALMO staff

Webinars

Barnett Waddingham hosts a number of online seminars throughout the year. Recordings of previous webinars (including one on the impact of the pensions flexibilities on DB schemes) are available on our BrightTalk channel, along with details of upcoming live events.

VIEW OUR WEBINARS >

This newsletter is intended as a summary of recent pensions-related events. Whilst we have taken care to ensure all information is correct at the time of going to press, the content of this newsletter should not be relied on as advice to act, or refrain from acting, in relation to any of the subjects contained herein. Before taking any such action (or deciding not to act) you should seek appropriate professional advice.

Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail. Alternatively contact us via the following:

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