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PATHways

PENSION ADMINISTRATION TECHNICAL HELP

HIGHLIGHTING PENSIONS NEWS AND LEGISLATION THAT HAS PARTICULAR RELEVANCE TO WHAT WE DO IN PENSION ADMINISTRATION

The Taxation of Pensions Bill (draft)

A draft Taxation of Pensions Bill (which would take effect from 6 April 2015 upon receiving Royal Assent) has been issued for consulation, and includes the following provisions:

- **An Uncrystallised Funds Pension Lump Sum (UFPLS) -** a new type of authorised payment will be introduced for Defined Contribution (DC) arrangements. Subject to scheme rules a UFPLS can be taken by an individual without first having to designate funds for drawdown. There is no restriction on the number of UFPLSs that can be taken from the scheme.

  Where the UFPLS conditions are met, normally 25% of each payment will be tax free, with the remainder subject to income tax at the individual's marginal rate (note this is not a Pension Commencement Lump Sum (PCLS)). It has not been confirmed how pension schemes will account for this tax (e.g. deduct tax at basic rate, emergency rate or via Real Time Information (RTI)).

- **Trivial Commutation Lump Sums (TCLS)** will not be able to be paid from a DC arrangement, but subject to scheme rules an UFPLS will be able to be paid instead. TCLSs will still be able to be paid from Defined Benefit (DB) arrangements, subject to scheme rules, from age 55 (currently age 60). Commutation via the small pot rules will continue to be available for both DB and DC arrangements but from age 55 (currently age 60). There is no change to how pension benefits are valued for triviality purposes and all benefit entitlement under the scheme must continue to be extinguished by the lump sum payment.

- **Trivial commutation lump sum death benefit (TCLSDB**) limit will be increased from £18,000 to £30,000 and any guaranteed payments of annuity or scheme pension as a result of a member's death will also be able to be paid as a TCLSDB.

- **Winding up lump sum death benefits** will no longer be able to be paid, however these payments will be able to be paid as a TCLSDB from the date the Bill receives Royal Assent.

- **Recycling of PCLS rules** will be amended to apply where the value of the PCLS taken in the previous twelve months exceeds £10,000. Whilst not in the draft Bill, we would expect this limit will be extended to also apply to certain other lump sums e.g. UFPLS. This is to prevent repeated investment and crystallisation of the same funds to obtain more than 25% tax free cash from the same initial pension saving investment.

- **Increased flexibility for lifetime annuities and dependants' pensions** will allow a wider range of annuity options. Lifetime annuities will still be required to be paid at least annually and at least until the member's death, however the annual rate of annuity will be able to go down as well as up, and the maximum ten year payment guarantee following death of an annuitant will be removed.

- **Pension drawdown** – All new drawdown arrangements will be accommodated via a new drawdown facility called a Flexi-Access Drawdown Fund (FADF). Current flexible drawdown arrangements will automatically convert to FADFs and those with capped drawdown arrangements can chose to remain under those rules or convert to a FADF. Where an individual accesses funds from a FADF (e.g. through income drawdown or a short term annuity) they can still contribute to a pension, but they will be subject to the new Money Purchase Annual Allowance (MP AA) rules from that date.

- **New Money Purchase Annual Allowance (MP AA) rules** will apply when certain triggers occur. Triggers include payment of an UFPLS, funds are drawn from a FADF, a stand-alone lump sum is paid where there is no entitlement to Enhanced protection, or if more than the permitted maximum from a pre 6 April 2015 capped drawdown arrangement is taken.

  Payment types such as a PCLS, small pot lump sum commutation , receiving a scheme pension, lifetime annuity or dependant's pension would not trigger a MP AA.

  Where the MP AA rule is triggered, a member will have a £10,000 AA for DC savings from the day after the trigger event occurred. Where the £10,000 AA limit is not exceeded, the total AA (for DB and DC arrangements) will continue to be £40,000 plus any unused AA from the previous three tax years.

  Where the £10,000 AA limit is exceeded the AA charge will apply to the DC savings above the limit. The AA for the remainder of any pension savings (e.g. from a DB arrangement) will be reduced to £30,000 (known as the "Alternative Annual Allowance") plus any unused AA carried forward from the previous three tax years.

  In the first year the new MP AA rules apply, any DC pension savings made prior to the trigger date will not count towards the MP AA, but will still count towards the full AA for the tax year.

Comments on the draft Taxation of Pensions Bill should be sent by email to Pensions Policy at HMRC by 3 September 2014.

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HMRC Newsletter 64

HMRC has published its latest Pension Schemes Newsletter 64 which includes brief details of changes to the draft Taxation of Pensions Bill and an amendment included in the Finance Act 2014 to cover transitional issues following the announcement on pension flexibility in Budget 2014. Individual Protection 2014, certificates of residence for registered pension schemes, HMRC Scheme Reconciliation Service, Annual tax summaries and the Annual Allowance Charge (Amendment) Order are also included.

Individual Protection 2014

From 18 August 2014, applications can be made for Individual Protection 2014. This protection will apply from 6 April 2014 but was not available until the Finance Bill received Royal Assent on 17 July 2014.

- To be able to apply for Individual Protection individuals must have accrued pension rights of more than £1.25m as at 5 April 2014. Individual Protection 2014 gives a protected Lifetime Allowance equal to the value of the individual's pension rights on 5 April 2014 up to a maximum of £1.5 million.
- Individual Protection 2014 is not lost by making further savings but any pension savings greater than your protected Lifetime Allowance will be subject to a lifetime allowance charge. Applications must be received by HMRC no later than 5 April 2017. See the HMRC website for full details.

Abolition of contracting-out: HMRC publishes second countdown bulletin

In advance of the anticipated abolition of contracting-out for DB schemes from 6 April 2016, HMRC has published the second of its "Countdown Bulletins", which can be viewed here. The second bulletin largely covers HMRC and the Department of Work and Pensions (DWP) responses to their joint Pension Industry Conference as well as details of The Scheme Reconciliation Service.

HMRC's Scheme Reconciliation Service is intended to help pension scheme administrators and trustees reconcile their contracting-out records for non-active members with HMRC. Use of the service is not compulsory but HMRC stresses that it is the schemes' responsibility to ensure that their records are accurate.

The National Insurance Contributions and Employer Office (NIC&EO) is urging scheme trustees to submit their intention to use the service as soon as possible even if it is thought that the data will not be required until later in the two year period they have available to carry out the work.

NIC&EO has also advised that due to an IT upgrade to its HMRC systems, if expressions of interest to use the service are received after 14 September 2014 (and the scheme does not already use shared workspace) it will not be able to provide the Scheme Reconciliation data until after 5 November 2014.

HMRC has provided a response to issues raised regarding the Scheme Reconciliation Service including, when trustees can expect to receive data, the process for requesting the service, availability of spouse and address data, easements around Contribution Equivalent Payments (CEP), missing transfers, statements to individuals, and scheme cessation.

DWP's response includes what will happen to Guaranteed Minimum Pension (GMP), State scheme premiums and the possibility of buying back into the State scheme, anti-franking, GMP equalisation and GMP increases.

Settlement reached in Lehman Brothers Financial Support Direction case

A settlement agreement signed after nearly six years of investigation and legal proceedings will allow the Lehman Brothers pension scheme to pay full retirement benefits to members and avoid the scheme's entry into the Pension Protection Fund (PPF). Action taken by The Pensions Regulator and the Scheme Trustees during the Lehman Brothers Financial Support Direction (FSD) case has now resulted in companies within the Lehman Brothers group agreeing to buy out member benefits in full. As at 30 June 2014 the estimated buy-out figure was £184 million. Details of the case and the settlement are in a report by The Pensions Regulator here.

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