Sackers extra

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SO7

Abbreviations commonly used in 7 Days

BAS: Board for Actuarial Standards
DB: Defined benefit
DC: Defined contribution
HMRC: HM Revenue & Customs
NAPF: National Association of Pension Funds
OECD: Organisation for Economic Co-operation and Development
ONS: Office for National Statistics
PPF: Pension Protection Fund
TPR: The Pensions Regulator

LEGISLATION

Special Annual Allowance

The Finance Act 2009 brought into force new tax relief restrictions on pension savings for high earners, which were first announced in the Budget on 22 April 2009.

From 2011, individuals with an annual income of £150,000 or more will face a reduction in their tax relievable pension contributions. Relief will be tapered away, so that for those earning over £180,000 it will be worth 20% (equivalent to basic rate tax). There will be an income floor on the tax relief restriction, so that it only applies where the individual's income (excluding employer pension contributions) is £130,000 or more

Transitional measures took effect from 22 April 2009 to prevent affected individuals from taking advantage of available tax relief in the interim by making significant additional pension savings (known as the anti-forestalling provisions) under schedule 35 to the Finance Act 2009. These provisions introduced an income tax charge - the Special Annual Allowance (SAA) - to be applied on contributions and benefits accrued in excess of the SAA of £20,000 (or up to £30,000 in certain circumstances).

Further guidance on the SAA can be found in Chapter 15 of HMRC's Registered Pension Schemes Manual.

The Special Annual Allowance Charge (Protected Pension Input Amounts) Order 2010

This Order amends Schedule 35 to ensure that contributions made by an individual who changes provider for one of the reasons outlined in the Order, and who carries forward exactly the same pension arrangements, continues to be protected from this charge. Among the conditions set out in the Order are that:

- the benefits have been accruing to or in respect of the individual under the arrangement since before 22 April 2009; and
- there is no material change in the rules of the pension scheme.

Further information can be found in the Explanatory Memorandum which accompanies the Order.

The Order will come into force on 19 March 2010.

For more information on the new tax relief restrictions, see our Alerts dated: 23 April 2009, 24 July 2009 and 11 December 2009.

Special Annual Allowance - draft clauses

In addition, HMRC has published draft clauses which are designed to implement proposed amendments to the Finance Act 2009 to reflect changes to the SAA which were announced in the December pre-Budget Report (for more information see our Alert dated 11 December 2009).

The consultation on the draft clauses closes on 12 March 2010.

The Pensions Act 2004 (Commencement No. 14) Order 2010

This Order brings into force provisions in the Pensions Act 2004 (the Act) on 25 February 2010, for the purpose of conferring power to make regulations, and on 6 April 2010 for all other purposes.

The provisions brought into force concern the operation of the Fraud Compensation Fund, a statutory fund established under the Act. In particular, the provisions deal with the making of transfer payments from the Fraud Compensation Fund into the PPF.

The Social Security (Maximum Additional Pension) Regulations 2010

These Regulations prescribe the cap on the total amount of Additional State Pension which a pensioner can receive when they are entitled to both their own Additional State Pension and an inherited Additional State Pension following the death of their late spouse or civil partner.

The Upper Accrual Point (UAP) is used in the calculation of the cap for tax years from 2009/10 onwards. (For more information on the introduction of the UAP, see our Alert dated 10 March 2009.)

The Regulations will come into force on 6 April 2010.

Further information can be found in the Explanatory Memorandum which accompanies the Regulations.

The Pensions Regulator (Contribution Notices) (Sum Specified following Transfer) Regulations 2010

Under the Pensions Act 2004, TPR has the power to issue a “contribution notice”, by which an employer or connected/associated person will be required to pay money into a scheme where there has been an act, or deliberate failure to act, to avoid or reduce a debt that would otherwise have fallen due from a company to a pension scheme.

The Pensions Act 2008 extended these powers in the light of TPR’s experience and changes in the pensions marketplace. These changes included amendments to address the unforeseen effect of the legislation whereby an employer could avoid a contribution notice by transferring members out of the scheme.

Draft regulations have been published today (1 March 2010) which set out how TPR will calculate the amount of a contribution notice where:

- the grounds for issuing a contribution notice have been met; and

- a transfer of two or more members has occurred to an occupational DC pension scheme.

The regulations are required because the existing statutory method for calculating the amount in a contribution notice is based on the DB funding rules and the relevant deficit in a DB scheme. These rules do not apply to DC schemes.

Further information can be found in the Explanatory Memorandum which accompanies the draft regulations.

The Pensions Act 2008 (Commencement No. 6) Order 2010

A further draft Order published today will bring into force paragraphs 4 and 5 of Schedule 10 to the Pensions Act 2008. Those paragraphs insert section 181A into the Pensions Act 2004, which will enable regulations to be made to provide for interest to be charged in the case of late payment of a pension protection levy.

BOARD FOR ACTUARIAL STANDARDS

Pensions standard exposure draft published

In June 2009, the BAS consulted on proposals for a Specific Technical Actuarial Standard on pensions (for more information see 7 Days dated 29 June 2009) and on 25 February 2010, the BAS published an Exposure Draft of the new pensions standard.

The standard is designed to ensure that pension trustees can rely on the information supplied by their advisers, and to understand their limitations. It places the onus on actuarial advisers to check their data, use reasonable assumptions and explain the uncertainty around any figures. The information supplied will have to be understandable to users, and – in the case of the final report – to pension scheme members.

Commenting on the draft standard, Jim Sutcliffe, Chairman of the BAS, said that: "*Recent volatility of investment returns, together with the increase in life expectancy, poses challenges to trustees and others involved in running pension schemes. They need accurate, high quality, clearly presented actuarial information to understand the risks they face and the implications of their decisions. The pensions standard will set a new benchmark in ensuring that users receive the actuarial information they need to make the best decisions.*"

The consultation closes on 21 May 2010.

FRC Press Release

NATIONAL ASSOCIATION OF PENSION FUNDS

A Budget for Pensions?

The NAPF has called on the Chancellor to deliver a "Budget for Pensions" and support good quality pensions by increasing the supply of long-dated and index-linked gilts and abandoning their complex and costly proposals on the tax treatment of pensions contributions.

The NAPF believes that its alternative approach to pensions taxation is simpler and fairer. Under NAPF proposals, the annual allowance for tax favourable pension contributions

would be reduced from the current limit of £245,000 to a range between £45,000 and £60,000. The NAPF notes that "this would work with the grain of existing pensions tax policy and allow government to raise much-needed additional tax revenues. But crucially the NAPF's solution would eliminate some of the arbitrary and unfair tax consequences of the Government's proposals."

NAPF Press Release

OFFICE FOR NATIONAL STATISTICS

ONS Pension Trends Chapter 9: Pension scheme funding and investment

The ONS has updated Chapter 9 of its Pension Trends Report. Chapter 9 relates to funded pension schemes and looks at how these schemes make enough money to fulfil their obligations of paying out benefits to pensioners and their dependants.

Among the updated statistics set out in the report are:

- the aggregate funding position of schemes in the PPF's 7800 index (funded, mostly private sector, DB schemes) moved from a surplus of £129.7 billion in June 2007 to a deficit of £242 billion in March 2009. In January 2010 there was a deficit of £51.9 billion;
- total contributions to self-administered pension funds fell in 2007 and 2008, mainly because of reductions in employers' special contributions;
- stock market growth helped to raise the value of self-administered pension funds' assets from £620.4 billion in 2002 to £1,092.7 billion in 2007. The value of these assets fell to £927.7 billion in 2008 as stock markets fell at the start of the 2008/09 recession; and
- in 2008, 59% of investment by self-administered pension funds was in corporate securities, 56% of which was UK.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

2009 Survey of Investment Regulation of Pension Funds

The OECD has published a report which describes the main quantitative investment regulations applied to pension funds in OECD and selected non OECD countries as at December 2009.

The information collected concerns all forms of quantitative portfolio restrictions (minima and maxima) applied to autonomous pension funds in OECD countries at different legal levels (by legislation, regulation, industry norms, etc).

PENSIONS INSTITUTE

Longevity indices and pension fund risk

The Pensions Institute has published a discussion paper by P.J. Sweeting which considers the increasing importance of pension fund longevity risk.

The author notes that longevity indices would allow the creation of liquid derivatives that could be used to hedge this risk, but also that there are a number of criteria that such indices would need to fulfil to provide an optimal solution and a number of forms that the derivatives could take. The paper discusses these features, as well as the characteristics of some existing longevity indices.

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