

## Tax Simplification - the sprint finish

With A-Day now just over a month away, is your scheme ready for the big push down the home straight? Have you made scheme changes or are you relying on the transitional tax provisions to take you through A-Day (6 April 2006) and beyond? Here we take a look at some of the key points to bear in mind as you approach the A-Day finishing line.

### Transitional Modification Regulations

Effect during the transitional period

- Two sets of tax “Transitional Regulations” were laid before Parliament on 17 February 2006<sup>1</sup> which are designed to preserve the “status quo” as regards:
  - Revenue limits on benefits;
  - Revenue limits on contributions;
  - the 1989 earnings cap.
- However, this leeway will only last until 5 April 2011 at the latest.

### Transitional Regulations

Unauthorised payments

Tax deductions

- The Transitional Regulations also convert a requirement in scheme rules to make an unauthorised payment<sup>2</sup> (for example, paying a child’s pension beyond age 23) into a trustee discretion.
- Where trustees exercise this discretion, there is a tax exemption in favour of the scheme (although not the recipient) in respect of the members’ benefits accrued up to A-Day.
- Trustees can also deduct the lifetime allowance (LTA) charge (where a member’s benefits exceed the LTA) from a member’s benefits without making rule changes.
- But check scheme rules because there are other tax charges which trustees may wish to deduct from members’ benefits.

### Transitional Regulations

Any downsides?

- Contributions cannot be paid nor benefits provided in excess of current Revenue limits.
- Amending rules to adopt any of the new flexibilities which tax simplification affords looks likely to disqualify a scheme from relying on the Transitional Regulations.
- Examples of benefits which may pose a problem are:
  - providing a 25% tax-free cash lump sum on retirement;
  - increasing death in service cover beyond current Revenue limits;
  - allowing member contributions in excess of the current 15% limit.

<sup>1</sup> The Registered Pension Schemes (Modification of the Rules of Existing Schemes) Regulations 2006 and The Registered Pension Schemes (Unauthorised Payments by Existing Schemes) Regulations 2006

<sup>2</sup> Essentially, one which does not fit within either the new pension or death benefit rules

## Transitional Regulations

Useful for...

- Trustees and employers who have not yet decided which (if any) of the new tax simplification flexibilities they wish to adopt (or who have already decided not to incorporate any) can justifiably wait until after A-Day to make scheme changes.
- But bear in mind the effect of paying benefits which are technically unauthorised under the new regime (see the second box above).

## Administration questions

Some essentials before A-Day

- Have you discussed with your scheme administrators whether their systems are set for A-Day?
- Are they aware of any changes you have made to scheme benefit structure to take account of tax simplification?
- If you are relying on the Transitional Regulations, have your administrators kept track of this and can their updated systems cope?

## Annual Allowance

Nominating "pension input periods"

- This period is used to assess annual increases in the value of members' benefits for testing against the annual allowance.
- Trustees should consider nominating a "pension input period"<sup>3</sup>, which need not be the same as a tax year and can fit in with a scheme year.
- But beware, in DC schemes members can also nominate the pension input period and, where nominations are made by both the trustees and a member, the legislation gives priority to the first past the post.

## And finally...

A word on communication

- If changes are made to scheme rules in anticipation of A-Day, booklets will need to be updated and members informed.
- Also, a general communication to members regarding the introduction of tax simplification and the effect on their scheme may help to avoid possible A-Day confusion.

<sup>3</sup> Otherwise, there is a default position under the legislation which will apply

This edition of Sackers Extra News is part of a series focusing specifically on Pensions Reform to keep you abreast of the key issues throughout this period of change.

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