Sackers extra

27 February 2012

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Abbreviations commonly used in 7 Days

Alert/News: Sackers Extra publications (available from the client area of our website or from your usual contact)
DB: Defined benefit
DC: Defined contribution
DWP: Department for Work and Pensions
ECJ: European Court of Justice
GMP: Guaranteed Minimum Pension
HMRC: HM Revenue & Customs
NEST: National Employment Savings Trust
PPF: Pension Protection Fund
TPR: The Pensions Regulator

HM REVENUE & CUSTOMS

Employer asset-backed pension contributions: Further restrictions announced

At the 2011 Budget, the Government announced that it would consult on changing the tax rules around asset-backed pension contributions made by employers to registered pension schemes (ABCs). In the consultation which followed, the Government sought views on proposals to limit tax relief to reflect the value of the assets received by the pension scheme.

Provisions are to be introduced in the Finance Bill 2012 (to amend the Finance Act 2004) which are designed to ensure that the value of tax relief given to employers accurately reflects - but does not exceed - the amount of the payments received by schemes under ABC arrangements. However, the Government remains keen to preserve as much flexibility as possible for employers to continue using ABCs to manage pension deficits.

Draft legislation was published alongside the Chancellor's Autumn Statement on 29 November 2011, which was designed to ensure that no excessive tax relief arises in respect of new ABC arrangements set up on or after that date. Transitional provisions will apply to existing ABCs that have already received tax relief to ensure that the correct amount of tax relief is given by the end of an arrangement.

The Government has now announced that it will introduce further ABC legislation in the Finance Bill 2012 (effective from 22 February 2012 – the date of the announcement). The main difference between the February 2012 and November 2011 provisions is that the February legislation introduces new conditions that must be met in order for an arrangement to qualify for upfront relief. The new conditions include:

- the pension contribution promised upfront under the arrangement must be due to be paid to the pension scheme and is not intended to be held in a subsidiary structure;
- from the outset, regular payments due to the pension scheme under the arrangement must reduce the financial liability to nil by the earlier of the completion day or 25 years; and
- the payments must be of equal amounts due at intervals of no more than one year and must be received by the pension scheme to form part of the sums held for the purposes of the pension scheme.

HMRC notes that the new conditions are designed to "deliver the policy objective and the intended effects of the November legislation".

A revised Tax Information and Impact Note has also been published.

Fixed protection: HMRC reminder

Ahead of the reduction in the Lifetime Allowance (LTA) to £1.5 million from the tax year 2012/13 (from £1.8 million currently), HMRC has published a reminder about "fixed protection" for pension savings.

Pension savers affected by the new LTA may apply for fixed protection, which allows individuals to retain an overall allowance of £1.8 million when the standard LTA falls to £1.5 million from 6 April 2012. However, those opting for fixed protection will be subject to a number of restrictions on pension savings going forward.

HMRC has already published more detailed guidance on fixed protection, including a special edition newsletter.

For more information, please see our Alert: "Fixed Protection – the deadline approaches" dated 27 February 2012.

NEST: Authorised payments

HMRC has published draft regulations which seek to remove tax charges that might otherwise apply if NEST were to invest 20% or more of its sums and assets in the shares of its sponsoring employers on or after 6 April 2012.

Generally, where an occupational pension scheme buys shares in a sponsoring employer to be held for the purposes of the scheme this will be an authorised payment for tax purposes. However, this is subject to an exception if the market value of the shares held by the scheme in all of its sponsoring employers represents 20% or more of the total value of the sums and assets held for the purposes of the scheme. In such cases, the payment made to buy the shares will be an unauthorised payment.

As it would be impracticable for NEST to track the movements in the market values of shares in unconnected sponsoring employers, the regulations will remove the exception described above in relation to NEST.

HMRC has also published a draft Tax Information and Impact Note which accompanies the draft regulations.

The consultation closes on 14 March 2012.

PENSION PROTECTION FUND

New questionnaire for schemes entering the PPF assessment period

The PPF has today (27 February 2012), introduced a new ‘Scheme Questionnaire’ as a tool for gathering information from schemes when they enter the PPF assessment period.

The questionnaire is designed to help the PPF gather all relevant scheme information from trustees and administrators at the start of the assessment process. It will include the scheme information supplied on the last scheme return submitted to TPR. Schemes will then be asked to update that information, if necessary, and supply any missing information.

The PPF hopes that using the questionnaire will allow it and its partners to take evidence based decisions at a much earlier stage in the journey of the scheme which is transitioning to the PPF.

PPF Press Release

THE PENSIONS REGULATOR

Warning against early release pension offers

TPR, HMRC and the Financial Services Authority have issued a joint statement warning consumers about pension offers that claim to be able to provide loans or to release tax-free cash from their pensions before age 55.

The statement explains that early access schemes usually work by transferring some of the member's pension fund into highly risky or opaque investment structures, frequently based overseas, with no guarantee that members will get their money back if something goes wrong. The statement also notes that an increase in such schemes has recently been detected, with known transferred funds amounting to nearly £200m by the end of 2011.

Changes to the Trustee Toolkit

TPR is making a number of changes to the Trustee Toolkit, which will go live from 14 March 2012.

TPR notes that the updates to its Toolkit include:

- an easier way of working through the learning which helps to identify relevant tutorials;
- clearer information on progress and the modules completed;
- new scheme categories to tailor learning to the appropriate scheme type and size;
- downloadable resources, including a new study planner, to enable trustees to study offline;

For those who are currently working their way through the Toolkit, progress to date will be carried over. Trustees logging in to the Toolkit after 14 March 2012 will need to confirm their profile and set up a security question.

The Toolkit will be unavailable from 12pm on 13 March 2012 until the new site goes live from 14 March 2012.