Sackers extra

30 May 2011

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SO7

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
FSA: Financial Services Authority
HMRC: HM Revenue & Customs
HMT: HM Treasury
NEST: National Employment Savings Trust
PPF: Pension Protection Fund
TPR: The Pensions Regulator

DEPARTMENT FOR WORK AND PENSIONS

Default options for DC automatic enrolment schemes

Employers will be under a duty (to be phased in from October 2012), to enrol employees automatically into a qualifying workplace pension scheme. Because this process is automatic, it will not be possible to require employees to make an active investment choice when they are enrolled. Qualifying schemes used for this purpose will therefore need to have a default option in place.

Between 13 December 2010 and 7 March 2011, the DWP consulted on draft guidance on default options for DC auto-enrolment schemes (to which Sackers responded).

The Government's formal response was published on 24 May 2011, alongside the finalised guidance.

Having considered the responses to its consultation, the DWP has taken steps to:

- tighten the scope and focus of the document and clarify the target audience;
- expand on how compliance with the guidance will be monitored;
- amend the sections on communications and risk management;
- signpost readers to alternate useful information.

Contracting-out: Amending regulations

We reported in 7 Days on 23 May 2011 that Occupational Pension Schemes (Contracting-out) Regulations 2011 had been laid before Parliament. These regulations incorporate into legislation essential information currently contained in the Board for Actuarial Standards Guidance Note 28 (GN28), concerning the adequacy of benefits for contracting-out purposes.

The provisions of the draft regulations had originally been included in a consultation on the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations. However, due to the number of detailed and technical comments received, the amendments were withdrawn and dealt with in a separate set of regulations. The DWP has now published its response to the subsequent consultation.

The regulations are due to come into force on 1 October 2011.

EUROPEAN UNION

AIFM Directive: European Council adopts EU rules for alternative investment fund managers

On 27 May 2011, the Council of the EU adopted a Directive that will introduce harmonised rules for entities engaged in the management of alternative investment funds, such as hedge funds and private equity firms, the Alternative Investment Fund Managers Directive (AIFM Directive). The text of the Directive had previously been agreed by the European Parliament.

The Directive is aimed at:

- establishing common requirements for the authorisation and supervision of alternative investment fund managers (AIFM) in order to provide a coherent approach to the related risks and their impact on investors and markets in the EU; and
- allowing AIFM to provide services and market EU funds throughout the EU single market, subject to compliance with strict requirements.

Once the Directive has been published in the Official Journal of the EU, it will come into force 20 days after publication. Member States will have two years from that date to transpose the Directive's provisions into national law.

EU Council Press Release

FINANCIAL SERVICES AUTHORITY

Policy Statement on Pension Reforms

The FSA has published a Policy Statement (PS11/8) which reports on the main issues arising from its consultation on amendments to its Conduct of Business Sourcebook: "Pension reform - Conduct of business changes". The changes are being made in the light of the Government's workplace pension reforms and the duty of automatic enrolment, which will start to apply from October 2012.

The consultation considered changes which are aimed at providing appropriate protection for consumers who are automatically enrolled into Group Personal Pensions (GPPs) (the FSA's rules do not apply to occupational pension schemes) and seek to minimise areas of misalignment between FSA and DWP requirements.

The Policy Statement also includes final rules, which will come into effect from 1 October 2012.

A summary of the FSA's Policy Statement PS11/8 is also available.

HM REVENUE & CUSTOMS

Employer Asset-backed Pension Contributions: A Government consultation

On 24 May 2011, HMRC and HM Treasury jointly published a consultation on changing the tax rules relating to employer asset-backed contributions to DB registered pension schemes (originally announced in the 2011 Budget): Employer Asset-backed Pension Contributions.

It is proposed that the changes will limit the unintended tax relief that can arise from the way in which some contributions are structured. The Government's main aim is to ensure that the amount of tax relief given to employers accurately reflects the value of the contributions received by pension schemes, while preserving flexibility for both employers and schemes to use such arrangements to manage pension deficits.

The consultation closes on 16 August 2011.

Sackers will be issuing an Alert on the Government's proposals and will respond to the consultation.

Restriction of pensions tax relief and age 75 changes: Draft regulations

HM Revenue & Customs have published for comment draft regulations which are required to ensure that recent changes to legislation work as intended. The draft regulations relate to the reduced Annual Allowance (AA) and Lifetime Allowance (LTA), as well as the changes to remove the effective requirement to annuitise by age 75 ("the age 75 changes").

The changes to be effected by these regulations include:

Annual Allowance regulations

- AA information regulations: set out the requirements on scheme administrators and employers to ensure members have access to the information they need to calculate and report any AA charge. These regulations have already been the subject of an HMRC consultation in 2011 and this updated version has been amended to take on board a number of the comments received.

- Notice of Joint Liability of the AA Charge regulations: set out the requirements that a member must meet in electing to notify the scheme pays the AA charge, in return for a reduction in their benefits.

- Modification of Scheme Rules regulations: provide a statutory override of existing pension scheme rules to allow schemes to pay a member's AA charge on their behalf.

- Accounting and Assessing regulations: relate to changes to the Accounting for Tax form to enable scheme administrators to report and pay any AA charges they become jointly liable for.

Lifetime Allowance regulations

- LTA Transitional Protection regulations: set out the requirements for an individual to apply for the new fixed protection from the reduced LTA.

- LTA information regulations: set out the requirements for members and scheme administrators when a member with fixed protection takes their benefits.

- Authorised Payments regulations: a minor consequential amendment to existing regulations as a result of the change in the LTA.

- Protected Lump Sum transitional order: another minor consequential amendment to existing regulations as a result of the change in the LTA and the age 75 changes.

Age 75 regulations

In addition to the regulations published for comment on 31 March 2011, a number of other consequential amendments to existing regulations are required:

- Provision of information regulations: contain various changes to the existing reporting requirements in light of the age 75 changes.
- Authorised Payments regulations: remove regulations, or parts of regulations, which applied different rules to payments to persons under and over the age of 75.
- Authorised Surplus Payments regulations: remove references to alternatively secured pensions.
- Insurance Company Liable as Scheme Administrator regulations: make a minor change, replacing a reference to unsecured pension with drawdown pension.
- Meaning of PCLS regulations: contain a minor change amending a reference to the Finance Act 2004.

The consultation on these draft regulations closes on 24 June 2011.

Overseas pensions received by UK residents

On 24 May 2011, HMRC published draft anti-avoidance legislation which is designed to allow certain foreign pensions paid to UK residents to be taxed in the UK. The legislation was first announced on 6 April 2011, when the Government stated its intention to close a tax loophole.

Legislation will be introduced in the Finance Bill, which is currently before Parliament, to prevent individuals from taking advantage of a tax loophole that the Government believes would have emerged had it not taken action. The legislation will provide that, notwithstanding the terms of a double taxation arrangement with another territory, a payment of a pension or other similar remuneration may be taxed in the United Kingdom where:

- the payment arises outside the UK;
- it is received by a UK resident individual;
- the pension savings in respect of which the pension or other similar remuneration is paid have been transferred to a pension scheme in the other territory; and
- the main purpose or one of the main purposes of any party connected with the transfer was to take advantage of the double taxation arrangement in respect of that payment by means of that transfer.

In the event that tax is paid in the other jurisdiction, appropriate credit will be available against the UK tax chargeable.

The legislation is intended to have effect in relation to payments of pensions or other similar remuneration made on or after 6 April 2011.

Consultation on the draft regulations closes on 1 June 2011.

Written Ministerial Statement

Tax Information and Impact Note

HM TREASURY

Consultation on the removal of tax reliefs

As part of the Government's work to simplify the UK tax system, HM Treasury launched a consultation on 27 May 2011 on the abolition of 36 tax reliefs.

The consultation comes in the wake of a review by the independent Office for Tax Simplification, which led to an announcement by the Chancellor in the 2011 Budget of the Government's intention to abolish 43 tax reliefs. Of the reliefs identified for abolition, seven reliefs had expired and could be abolished immediately. A further 36 are to be abolished following a transitional period.

Among the reliefs targeted for abolition are:

- *Life insurance premiums paid by employers under employer financed retirement benefit schemes (EFRBS):*

  This relief extends the life assurance premium relief scheme abolished in 1984 to individuals whose employers made payments into an EFRBS. It provides income tax relief of 12.5% on a maximum premium payment of £100 paid by an employer into an EFRBS to provide an employee (or their spouse, widow(er), children or dependants) with death or retirement benefits. The relief only applies to payments made under a policy issued on or before 13 March 1984, where payments are being made in respect of an individual employed before that date who continues to be employed by the same company.

  HMT states that it is unlikely that many, if any, individuals are still eligible for this relief, which is limited to £12.50 per person per year. It therefore considers that the relief is effectively obsolete and should be abolished.

- *Compensation for mis-sold pensions:*

  This relief from both income tax and capital gains tax (CGT) was introduced in 1996 on compensation payments made in connection with pensions which were mis-sold between 1988 and 1994. HMT notes that this relief is no longer required once all relevant compensation payments have been made.

  The Government's current proposal is to introduce legislation in the Finance Bill 2012 to abolish these reliefs after a suitable period for outstanding cases to be settled and compensation paid. The consultation period will be used to determine the appropriate length of the transitional arrangements, although it is currently envisaged that this will last 5 years or more.

The consultation closes on 31 August 2011.

PENSION PROTECTION FUND

PPF Bulletin No.8: May 2011

Subjects covered in the PPF's latest bulletin include:

- the PPF's new levy framework, which will take effect from 2012/13;
- the 2011 Strategic Plan, which sets out the PPF's priorities and objectives for the next three years; and
- updates to the PPF's valuation assumptions which have been revised to reflect pricing in the bulk annuity market.