Sackers 50 FIFTY YEARS OF PARTNERSHIP

Budget 2016

Alert | 16 March 2016

Introduction

As promised, the Chancellor of the Exchequer did not announce any changes to pensions tax relief in his 2016 Budget. While the headline is the new "Lifetime ISA", there are a few new measures for pension schemes to grapple with.

Key points

- From April 2017, it will be possible for those between the ages of 18 and 40 to open a "Lifetime ISA account".
- Aiming to give individuals the ability to view all their retirement savings in one place, the Government will "ensure the industry designs, funds and launches" a "Pensions Dashboard" by 2019.
- The Government will consult on introducing a "Pensions Advice Allowance" to allow people under the age of 55 to withdraw up to £500 tax free from their DC pension to redeem against the cost of financial advice.
- The first of a package of measures to "ensure those who have used disguised remuneration tax avoidance schemes pay their fair share of tax and National Insurance contributions ("NICs")" will be included in the Finance Bill 2016 ("the FB16").
- The FB16 will also introduce a number of minor changes to the pensions tax rules, with the aim of ensuring that they operate as intended following the introduction of pension flexibility in 2015.
- While the Government may yet limit the range of benefits which can attract income tax and NICs advantages when they are provided as part of salary sacrifice schemes it currently intends to allow pension savings, childcare and health-related benefits such as Cycle to Work to continue to benefit from the reliefs such arrangements provide.

Lifetime ISA

This new savings vehicle is intended to "help young people to save flexibly for the long-term throughout their lives".

From April 2017, people aged between 18 and 40 will be able to open a Lifetime ISA and contribute up to £4,000 in each tax year. At the end of the tax year the Government will provide a 25% bonus on these contributions. Savers will be able to make Lifetime ISA contributions and receive the bonus up to the age of 50. Contributions to the Lifetime ISA will sit within the overall £20,000 ISA limit for the tax year 2017/18 (up from £15,240 for the tax year 2016/17).

Subject to certain conditions, individuals will be able to use their tax-free funds, including the Government bonus, to purchase their first home or, from age 60 (or on diagnosis of terminal ill-health), will be able to withdraw all the savings tax-free. It will be possible to withdraw money before age 60, but doing so will result in the loss of the Government bonus (and any interest or growth on this) and the imposition of a 5% charge.

The Government intends to explore whether:

- savers should be able to access contributions and the Government bonus for other specific life events
- it should be possible to borrow funds from the Lifetime ISA without incurring a charge, if the funds are fully repaid. For example, some US retirement plans allow 50% to be borrowed, up to a maximum of $50,000.

The final details of the Lifetime ISA will be published later in the year.

Financial advice

On 14 March 2016, the Financial Advice Market Review ("FAMR") published its final report (see 7days for details).

The Government has committed to "implementing all of the recommendations for which it is responsible". It intends to:

- consult on introducing a "single, clear definition of financial advice" with the aim of removing regulatory uncertainty and ensuring that firms can offer consumers the help they need
- increase the existing £150 income tax and NIC relief for employer-arranged pension advice to £500
- consult on introducing a "Pensions Advice Allowance" to allow individuals under the age of 55 to withdraw up to £500 tax free from their DC pension to redeem against the cost of financial advice.

The Government also announced an intention to "restructure the delivery of public financial guidance to make it more effective".

Disguised remuneration

In the 2015 Autumn Statement the Government announced that it intended to "take action against those who have used or continue to use disguised remuneration schemes and who have not yet paid their fair share of tax".

What is disguised remuneration?

Before 2011, disguised remuneration schemes had many guises. They generally involved the employer paying a contribution to a third party (often an Employee Benefit Trust ("EBT")), instead of paying remuneration directly to the employee. The third party would then usually provide the money to the employee in the form of loans. These loans were often interest free and on such terms that they would never be repaid in the employees' lifetime. Alternatively, the money was invested by the third party, on behalf of the employee, to be provided to them at a later date. Users and promoters of the schemes believed they did not attract income tax or NICs. However, HMRC was firmly of the view that they did not achieve this.

Provisions in the Finance Act 2011 were intended to put beyond doubt that these schemes are not effective. However, new schemes continue to be created which aim to avoid the 2011 legislation. In particular, the Government notes an increase in the number of schemes which use an Employer Financed Retirement Benefit Scheme ("EFRBS") as the third party, rather than an EBT.

New measures

The Government intends to introduce a package of measures to tackle the continued promotion of disguised remuneration schemes. The FB16 will include provisions aimed at preventing schemes which seek to exploit a particular weakness in the current legislation. Further legislation will follow in future Finance Bills, following a technical consultation in summer 2016.

If new disguised remuneration schemes are created following any of these changes, the Government will consider making the legislation retrospective to 25 November 2015 (the date of the Autumn Statement).

Pensions tax rules

Measures will be introduced in the FB16 which are intended to:

- remove the requirement that a serious ill-health lump sum can only be paid from an arrangement that has never been accessed
- make serious ill-health lump sums taxable at an individual's marginal rate (rather than at 45%) when paid in respect of individuals aged 75 or over
- enable dependants with drawdown or flexi-access drawdown pension funds who would currently have to use all of this fund before age 23 or pay 45% tax charges of up to 70% on any lump sum payment to continue to access their funds as they wish after their 23rd birthday
- remove unnecessary legislation relating to charity lump sum death benefits
- enable money purchase pensions in payment to be paid as a trivial commutation lump sum, where total pension savings would be under £30,000
- enable the full amount of a dependant's benefits to be paid as an authorised payment where there are insufficient funds in a cash balance arrangement to fund the promised benefit when the member dies and the scheme must provide a top-up.

In addition, as previously announced (see our Alert), provisions in the FB16 will:

- reduce the LTA from £1.25 million to £1 million and introduce transitional protections for those with pension rights already at or around the £1 million mark

- simplify the test that takes place when a dependant's scheme pension is payable
- ensure that a charge to inheritance tax will not arise when a pension scheme member designates funds for drawdown but does not draw all of the funds before death
- align the pensions tax rules on bridging pensions with DWP legislation.

Next steps

The FB16 is due to be published on 24 March 2016.

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