



NEW TAX RELIEF RULES FOR REGISTERED PENSION SCHEMES

A BRIEF UPDATE ON RECENT LEGISLATIVE CHANGES

It seems a long time ago when Alistair Darling first announced in his 2009 budget that pension tax relief was to be restricted.

The new Government announced in June that it would consult on an alternative approach to restricting pension relief, involving reform of existing allowances.

On 14th October 2010 the Treasury announced a number of changes within the pension tax regime. These have been carefully designed to mitigate the impact on the middle income/middle contributing group through a series of measures:

HEADLINES

- From April 2011 the annual allowance will be reduced from £255,000 to £50,000. It looks likely to remain at this level until the end of 2015/16 at which point any increases will be in the form of indexation.
- Tax relief will be available at an individual's marginal rate.
- The factor used for valuing annual benefit growth in defined benefit schemes has been set at 16, previously 10.
- The Lifetime Allowance is to be reduced from £1.8m to £1.5m, probably from April 2012.
- Individuals will be allowed to offset contributions exceeding the annual allowance against unused allowance from the previous three years based on an assumed annual allowance of £50,000 for the 2008/09, 2009/10 and 2010/11 tax years.
- For those individuals who see a significant increase in their pension rights in a specific year, the Government will consult on options that enable them to pay the tax charge out of their pension, rather than current income.
- Pension Input Periods are to remain, however transitional rules will apply to pension savings made on or after 14th October for individuals with a PIP ending in 2011/2012. These transitional rules will not affect anyone who has annual pension savings of less than £50,000.

OTHER DEVELOPMENTS

- Under defined benefit schemes, deferred members will be excluded from the regime and revaluation of previous years' benefits will not contribute to the annual allowance test for active members.
- Additional disclosure requirements will be placed on scheme administrators where members exceed the annual allowance. Employers will also have to provide information on employees' pay and benefits within a fixed timescale. For the first year of operation, schemes and employers will have an extra year to comply with these new requirements.
- From April 2012, the trivial commutation limit will be de-linked from the lifetime allowance, remaining at its current level of £18,000.

CONSIDERATIONS

There have been no changes to the anti-forestalling measures that apply until April 2011, therefore any contributions made by 'high earners' will remain subject to either the existing special annual allowance limit or their current protected pension input amount.

A window of opportunity remains open where certain individuals can still fund up to £255,000 with a pension contribution, providing their input period is closed by 5th April 2011. That said individuals affected by the anti-forestalling measures will still be restricted on the extent of tax relief available during this period. In practice the input period used by many scheme administrators runs in line with tax years, making this approach relatively straightforward.

Individuals who elected for primary and/or enhanced protection should continue to receive this protection.

Where individuals in defined benefit schemes are tipped over the £50,000 limit by a promotional salary increase, they will be able to carry forward their unused annual allowance from the previous three years to reduce any tax charge (possibly to nil).

HM Treasury also announced that it will bring forward legislation to ensure that employee benefit trusts (EBT's) and funded employer-financed retirement benefit schemes (EFURBS) are no more attractive than other forms of remuneration. Therefore employers who run or are looking to operate such schemes may now need to consider alternative options.

COMMENTARY

The £50,000 annual allowance is good news, given HMRC Treasury were considering a limit in the region of £30,000 to £45,000. In addition, the valuation factor of 16 on defined benefit schemes is at the bottom of the range originally under discussion, meaning fewer individuals can expect to be caught by the charge.

High Earners whose tax privileged pension savings have been restricted by the special annual allowance will, from April 2011 be able to fund at a rate of £50,000 and obtain tax relief of up to 50%.

The introduction of the flexible 'carry forward' facility of unused relief means individuals can potentially make a one off contribution of up to £200,000 from 6th April 2011.

The reduction in the Lifetime Allowance has been introduced to discourage any further pension savings for individuals close to or above original limit. It is hoped that the Government design a simple protection regime to ensure that individuals with pension pots in excess of £1.5m has any excess protected from any tax charge (though we can expect this to be capped at £1.8m). Similarly individuals who planned for their pension to grow to a level of £1.8m but no more, between now and the point of retirement receive some form of growth related protection.

A more comprehensive update will be provided when further confirmation of the legislative changes is released.

CONTACTS

For more information on this or other legislative changes, please contact Lucas Fettes & Partners on **0845 357 8910** or by email at **employeebenefits@lucasfettes.co.uk**

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