

SEPTEMBER 2007 NEWSLETTER

Finance Act 2007

The Finance Bill received Royal Assent on 19th July 2007 and has therefore become the Finance Act 2007 (FA 2007). A number of its provisions are pertinent to pensions. Most are confirming previously advised intentions:

a) Alternatively Secured Pensions (ASP)

These are those pensions that are payable after age 75, when the member does not wish to purchase an annuity.

The FA 2007 changes the minimum annual pension that must be taken post age 75 to 55% of the GAD rate for a 75 year old. The maximum pension is now set at 90% of the GAD rate for a 75 year old.

If the pension drawn is less than the minimum, the shortfall is taxed at 40% (technically it is a “scheme chargeable payment”)

The bad news is that FA 2007 changes the treatment of “transfer lump sum death benefits”. Whilst previously they were tax free, now they will be treated as “unauthorised”. This is the mechanism that gives a potential 82% tax charge on the residual assets on the death of a member after age 75/ We have said before that we believe this is bad law, and as such will at some future date be changed. All logic suggests that at worst there should be a tax charge of 40% of the residual assets on death.

FA 2007 also removes the ability to include a guarantee period of up to 10 years from when the member became entitled to it.

There are consequential changes to the inheritance tax rules to ensure interaction of IHT with unauthorised payments under ASP.

In other words, there is no way at all of guaranteeing non-penal tax benefits on death after age 75 via ASP.

b) Personal Term Assurance

Any member contributions used to pay premiums to a personal term assurance policy will no longer be tax relievable. This was effective from 31st July 2007 for occupational schemes and 5th April 2007 for personal pensions.

A “personal term assurance” policy is a non-group life policy that either only pays out on the death of 1 individual, although a number of people may be covered by the policy, or pays out on the death of more than 1 connected party (usually family members).

c) Transfers without loss of Protection

The range of circumstances in which a transfer can take place without loss of Enhanced Protection from the Lifetime Allowance charge is extended to include:

- i) partial transfer to a money purchase arrangement that is not a cash arrangement
- ii) transfers from a defined benefit or cash balance arrangement to another defined benefit or cash balance arrangement, but only when it is part of a “relevant business transfer”

This is backdated to 5th April 2006.

d) Protection and Age Equality

Protection is not affected or jeopardised if changes are made to an individual’s pension arrangements in order to comply with the Employment Equality (Age) Regulations. This is also backdated to 5th April 2006.

e) Pension Commencement Lump sums (Previously known as tax free lump sums!).

The Finance Act 2004 stipulated that these had to be paid within 3 months of the due date. FA 2007 changes this from 6.4.06 to an 18 months window – starting 6 months *before* the date the member becomes entitled to the related pension and ending 12 months after that date. It is unclear if this means cash sums can be paid from age 49 ½.

f) Ill-health pensions

The Scheme Administrator has the discretion to reduce an ill-health pension without seeking medical evidence. This is effective 6th April 2006

g) Payment of lump sum death benefits

These need to be paid within 2 years. Under FA 2004 the 2 years started on date of death. FA 2007 revises this to 2 years from the date the Scheme was notified of the member’s death. But if the Scheme could “reasonably have been aware of the member’s death at an earlier date”, the 2 years start from that earlier date. This is retrospective to 6th April 2006.

h) Maximum withdrawal under unsecured pension (“maximum drawdown”)

The member can request a review more frequently than the initial 5 year period set out in FA 2004. In practice this means members can ask to have their maximum pension reviewed annually – ideal for those who want to maximise their income each year. This was effective from 6th December 2006.

i) Assignment of Annuities

If, on wind up, scheme trustees assign an annuity contract to a member, it is an authorised payment i.e. there are no tax consequences.

VAT Clarifications

HMRC have clarified a number of matters relating to VAT and pensions.

1. Option to tax land or buildings

For VAT purposes, it is the beneficial owner who is making the supply of the land or buildings. It is the beneficial owner who should opt to tax and who must account for any VAT due on the supply and claim any arising input tax. But where the beneficiaries are numerous eg in a pension scheme, the person making the supply is the trustee who holds the legal interest and receives the immediate benefit of any consideration.

2. VAT and Financial Services

The ECJ has decided that the VAT exemption should apply to asset management fees charged by investment trust companies. Further, the ECJ guidance suggests that the VAT exemption also covers the management of many other type of investment vehicles eg pension funds.

Sadly we do not believe it means our SIPP fees fall within this category, but it may mean VAT relief on a number of investment vehicles used by pension funds. IFAs should check with the fund’s managers to see if their funds/services are now VAT exempt.

IHT loopholes?

The Association of Member-Directed Pension Schemes (of which we are a member) has advised its members that various press reports on IHT “loopholes” under Scheme Pensions need to be treated with caution. HMRC will correct any “loopholes” and this is likely to be in April 2008, as it requires primary legislation. No doubt it will be retrospective!

Gilt yield for drawdown rates

The gilt yields to use for drawdown calculations are:

| | |
|----------------|-------|
| April 2007 | 4.50% |
| May 2007 | 4.75% |
| June 2007 | 4.75% |
| July 2007 | 5.25% |
| August 2007 | 5.25% |
| September 2007 | 4.75% |
| October 2007 | 4.75% |

We do not give financial advice and no comments here are intended as such. Before taking any action you should consult a qualified adviser.

September 2007

**MW Pensions Ltd
Oaklands Park
Hooton Road, Hooton
South Wirral
CH66 7NZ**

Tel: 0151 328 1777 Fax: 0151 328 0707

Website: www.mwpensions.co.uk Email: admin@mwpensions.co.uk

Authorised and Regulated by the Financial Services Authority