

## THE 2006 BUDGET

### The Budget

We had the Budget last week, and it confirmed that the proposed fundamental changes to Pensions legislation will come into force from 6<sup>th</sup> April 2006. Let's first summarise what these are, as we tend to forget just how radical these changes are!

1. Up to £215,000 can be paid in for each member, irrespective of their earnings – but will need to be justified to the local Inspector of Taxes if it is to get tax relief.
2. Everyone can accumulate up to £1.5M tax free for pension purposes.
3. The £215,000 and £1.5M limits will increase each year, until at least 2010 (and they can never go down).
4. 25% of the fund can be taken tax free on "retirement".
5. The "age 75 annuity" rule goes – there is never any need to ever buy an annuity again.
6. People can still continue working whilst drawing benefits i.e. will not have to give up their directorships etc.
7. Contributions and benefits can be "in specie".
8. Direct investment in commercial property is allowed, either solely or via syndication
9. OFEX investments will be allowed in SIPP's.
10. The Family SIPP will still be allowed, though not entirely tax free (see later).
11. No actuarial valuations will be required for SSASs.
12. Long term Pensions savings will be under much simpler and clearer rules.
13. The general public is well aware of the need to save more for their retirement so will be more keen to take out SIPP's etc

This gives rise to a number of opportunities for IFA's, which are set out later in this newsletter. But first, let's look at what was clarified in the Budget, and subsequently

### The Family SIPP

The Family SIPP is a reality post 6.4.06. On death before age 75, the situation will be as now except that some HMRC "discretions" will be

included as legislation in the Finance Act 2006. In particular, it will mean that payments to a spouse, civil partner or financial dependant will not give rise to any IHT charge (though of course those lump sum death benefits that currently give rise to a 35% tax charge eg on death after commencing drawdown, will still attract that tax charge – there will though be no additional IHT charge if those payments are made to a spouse etc).

On death after 75, for anyone who is in ASP, the residual funds on death (and there are guaranteed to be such funds, as the maximum income is 70% of what they would get if they were 75) will be potentially subject to IHT.

If the funds are used to provide income via ASP to the surviving spouse, civil partner or financial dependant, there will be no initial IHT. On their subsequent death (or the termination of the benefit payment), the residual funds will be treated as if they were part of the original member's Estate and be subject to IHT.

If the funds are transferred to any other body (other than a charity), they will be subject to a possible IHT charge. So payments to say an employer or non-financially dependant family members will be subject to an IHT charge. The proposal is that these residual funds will be included in the deceased member's Estate for IHT purposes. So it would appear that if the total of the member's Estate plus the residual funds is less than the IHT threshold, no IHT would be payable.

If any of the residual funds are at any time given to a charity nominated by the Member, those funds will be exempt from IHT.

There are obviously lots of details to be worked out, not least the logistics and the liaison that will be necessary between the Scheme Administrator (on whom the IHT charge will be levied in respect of the residual funds), the trustees and the Estate. And what happens if the Estate is within the IHT threshold but the residual funds take it

over the threshold – who is liable for what tax? And what if the assets of the Scheme are illiquid eg property? No doubt the detail will be set out in the draft Finance Bill.

#### **Action re the Family SIPP?**

We still think Family SIPPs are very relevant. For the "wealthy" clients, the alternatives from age 75 would appear to be:

- a) buy an annuity and effectively give the remaining capital on their death to the insurance company, or
- b) pass the residual fund on death to a nominated charity, or
- c) do nothing and have the residual funds on death passed to the Duchy of Cornwall, or
- d) set up Family SIPPs and know that at least 60% of the residual fund will be passed on to family members.

And there will be a batch of people whose Estate (including the residual pension fund) will be below or only just above the IHT threshold, and for them a Family SIPP will mean they can pass most or all of their residual fund on to other family members.

One area not covered is – what happens if a member dies before age 75, not having started to draw benefits and has no spouse, civil partner or

financial dependants: can 100% of their fund be passed on to other Family SIPPs eg for non-financially dependant children? That will no doubt be covered in the Finance Bill.

#### **Recycling of tax free lump sums**

There is a slight relaxation, in that recycling will be allowed up to a maximum of 30% of the tax free lump sum taken – the original HMRC proposal was for a 20% limit. It is reconfirmed that recycling of up to £15,000 will be allowed even if that is more than the 30% figure.

#### **Unquoted shares**

There had been speculation that the ability of SIPPs to invest in unquoted shares would be restricted, perhaps to the extent of not allowing them to hold shares in companies "connected" with the member. But the budget was silent on this and so it looks as though unlimited unquoted share holdings will be allowed within SIPPs from A-Day. But it is prudent to wait until we get the Finance Bill, so as to be 100% sure.

#### **Finance Bill 2006**

It is expected to be issued during the first half of April i.e. probably just before Easter!

*March 2006*

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