



Pre A-Day planning

The introduction of the new simplified pension tax regime will mean that all individuals, employers and trustees of pension schemes will need to reassess their pension provision in light of the new rules. This bulletin considers those actions that could best be undertaken prior to the introduction of the new regime.

Maximise current pension provision

The usual advice given is, where possible to maximise pension provision at the earliest opportunity. Maximising such provision prior to A-Day can make particular sense in a number of situations, including:

- » where the individual will be electing for enhanced and/or primary protection under the new regime
- » where a member of an occupational scheme has tax-free cash benefits which exceed 25% of the value of their pre A-Day pension rights, but are less than the maximum allowable under the current regime, and where they wish to maximise the tax-free cash sum that can be protected at A-Day.

It is, of course, still possible for an individual to maximise their personal pension contribution for tax year 2005/06 and in so doing it should be remembered that advantage can be taken of "basis year" earnings. Although it is now too late for an eligible individual to take advantage of carry back under the personal pension rules, the use of carry back and carry

forward is still available to individuals with retirement annuity contracts. In this case any contribution must be paid by no later than 5 April 2006, while the carry back election can be made as late as 31 January 2007.

Where an individual is a member of an occupational scheme, subject to any further contributions/benefit accrual not resulting in their benefits exceeding the maximum approvable by HMRC they could maximise their personal contribution, and take advantage of any additional benefits/contributions provided on their behalf by their employer. Where the individual is a controlling director or a key employee the employer may be prepared to pay a sizeable special contribution to enhance their benefits. Any such special contribution will need to:

- » be justified on the basis of the member's past service with the employer, and
- » not result in the member's benefits exceeding the maximum permitted by HMRC

Provided the above criteria are met the employer will normally receive tax relief on the contribution in the accounting period in which it is paid, although where a substantial additional contribution is made this will be spread over up to four accounting periods depending on the size of the contribution. Talking Points bulletin 1 explained how this position has been complicated somewhat by HMRC's confirmation that where an employer contribution is paid pre A-Day but in an employer accounting period that ends on or after 6 April 2006, tax relief will be considered to that contribution using the "wholly and exclusively for the purposes of the trade" provisions that apply in respect of employer contributions payable under the new regime. While it seems unlikely that HMRC will seek to disallow tax relief on employer contributions that would have benefited from tax relief under the current rules and which were paid prior to A-Day, there is no certainty that this will be the case.



Maximise current pension provision (cont.)

When an employer is considering making such a special contribution, and the member is going to elect for either enhanced or primary protection, it should be remembered that the maximum capital value of benefits that may be protected in

respect of the member will be based on the maximum permitted pension (i.e. 20 times the maximum permitted retirement benefit that could be provided for the member as at 5 April 2006 assuming they were an early leaver).

It would be sensible to restrict any employer contribution so that the member's benefits do not exceed the maximum permitted pension.

Maximise pre A-Day tax-free cash

Although the new regime will enable many individuals to receive at least as high, or a higher, tax-free cash sum than under current rules, this will not be the case for some members of occupational schemes whose tax-free cash entitlement as at 5 April 2006 under their scheme exceeds 25% of the value of their pre A-Day pension rights.

For occupational scheme members in the above position, whose tax-free cash exceeds 25% of the value of their pre A-Day pension rights, but is still less than their maximum approvable tax-free entitlement under the current regime, additional contributions (or increased benefits) could be made to their scheme to maximise their tax-free cash that can be protected as at 5 April 2006.

It is particularly important that an occupational scheme member seeking to protect his pre A-Day tax-free cash entitlement only (i.e. he has elected for neither enhanced nor primary protection) is a member of the most appropriate scheme prior to A-Day. Such a scheme should offer the benefit flexibility and investment options in accordance with the member's objectives/risk profile.

Defer drawing benefits until A-Day

For many scheme members who are presently close to retirement there can be a number of reasons for deferring the taking of their benefits until A-Day. These include:

- » the ability to obtain a higher tax-free cash sum;

- » much greater flexibility of benefit payment (eg. no requirement to take any income in a year where an unsecured pension is being taken);and
- » where an individual wishes to purchase an annuity, the annuity/pension protection rules offering a limited lump

sum payment on the individual's death may be more attractive than the present guaranteed pension payment options.

Talking Point bulletin 5 considered whether it would be more attractive to commence drawdown benefits before or after A-Day

Investments

The new regime will generally introduce greater investment flexibility. However, in certain areas the current investment rules for members of SIPP's and SSAS may be seen as more attractive. These potentially include

- » the amount that may be borrowed within a SIPP to purchase a property
- » the terms for making a loan back to an employer (SSAS)
- » the purchase of the company's own shares (SSAS)

If there is still time before A-Day it may, where possible, be advantageous to bring these investments forward to before A-Day. If your client is still considering a purchase of a commercial property before A-day then please see ['Pre A-Day property purchase under current borrowing rules'](#) in Property/Starting a purchase on our website for further details.





Employers and scheme trustees

They will need to consider what changes to make to their pension schemes in light of the new regime. For example, will occupational schemes

- » adopt a 20:1 commutation factor to tie in with a 20:1 conversion factor for members of final salary schemes?

- » adopt the new flexibility in retirement benefits (i.e. to permit benefits to be taken in tranches without a member having to retire)?

- » make special arrangements for members whose benefits will exceed the Lifetime Allowance?

- » decide to amend the basis on which death benefits are provided (i.e. provide as a lump sum death benefit up to the Lifetime Allowance, with dependants' benefits being provided in excess of this level)?

Recycle tax-free cash

HMRC has just issued the details of how its anti-avoidance legislation will apply to recycled

tax-free cash sums under the new regime.

The legislation is due to apply from 6 April 2006.

Conclusions

With less than eight weeks to go and with still so much unanswered, the next few weeks will be a busy, challenging time for the majority of you.

We hope that Talking Points has been and will continue to be useful in this turbulent time.

Prior to A-Day we will issue Talking Points bulletins on the new provisions against recycling tax-free cash and on our proposition for A-Day.

This bulletin is based on our current interpretation of the changes under Pensions Simplification.