LEGISLATIVE UPDATE

MAY 2014

Our Legislative Updates help to keep you informed about recent changes to pensions law, regulation and guidance, which may have an impact on you, your pension scheme or your scheme members. Keeping up to date on these changes can help you when reviewing your pension arrangements, so that you can be confident that your pension scheme will continue to meet your needs and is capable of delivering value for money and a good outcome for your employees.

SCOTTISH WIDOWS

MAY 2014

Government (www.gov.uk)

THE BUDGET 2014

Trustees need to be aware of the far reaching changes announced in the 2014 Budget as many will have implications for the ways in which schemes are operated.

The key changes to be aware of which came into force in March 2014 are:

- An increase in the trivial commutation threshold from £18,000 to £30,000;
- An increase in the amount that can be taken as a small pot from £2,000 to £10,000; and
- Changes to drawdown limits, so the guaranteed income required in flexible drawdown has fallen from £20,000 a year to £12,000 and the maximum amount that can be taken in capped drawdown has increased from 120% of an equivalent annuity to 150%.

In addition, although not yet confirmed by legislation, it seems that it may be possible to take a pension commencement lump sum now and delay taking the corresponding pension until after April next year.

The biggest changes are due to come into effect from April 2015 and will allow members with money purchase pots to take the whole pot as a cash lump sum. 25% of such a lump sum can be tax free (as currently) and the balance will be subject to income tax at whichever rate applies to the member. Members will need to be given a new form of face to face advice before exercising this option and details of what such advice will entail have yet to be given.

CONSULTATION ON STANDARDS IN DC SCHEMES

The Government is consulting on standards in DC schemes. Its main proposal is that there will be a cap on charges in auto-enrolment default funds of 0.75% (excluding transaction costs). Consultancy charges where members must pay for advice given to their employer will be prohibited from April 2015 along with payments for sales commission deducted from members' pensions, and increased charges when members leave employment from April 2016.

From April 2015, trustees will have new duties to consider and report on costs and charges.

All schemes will need to have a chair of trustees with responsibility for saying how the scheme has complied with these governance requirements, and trustees will need to provide an independently audited statement of compliance.

There will also be a requirement for providers of contract based schemes to operate independent governance committees to assess value for money, and report on how quality standards are met.

GUIDANCE ON REPORTING MATERIAL PAYMENT FAILURES IN DC SCHEMES

Regulator (www.pensionsregulator.gov.uk)

Where there has been a material late payment of DC contributions by an employer, reports should be made to the Regulator via Exchange. There are alternative methods for reporting failures by one employer and failures by several. The guidance also sets out the information that trustees will need to make a report to the Regulator.

Where trustees are looking to report a late payment, they should ensure that they have read this guidance and make the report in the correct way.

Where trustees are not sure whether a payment failure is material, there is existing Regulator guidance on the factors to take into account.

PENSIONS NEWSLETTER 60 - FEBRUARY 2014

Tax (www.hmrc.gov.uk/pensionschemes/index.htm)

In relation to pensions liberation, the Newsletter reiterates that HMRC will respond to requests for confirmation of the registration status of a receiving scheme without seeking its consent.

HMRC will only provide confirmation where the receiving scheme is both registered and the information held does not indicate a significant risk that the scheme was set up, or is being used, to facilitate pension liberation.

Otherwise, a response will be issued setting out the conditions in which HMRC will confirm registration status and explain that one or both of the conditions are not satisfied (but not which condition is not satisfied).

PENSIONS LIBERATION - HMRC GUIDANCE

Pensions liberation was also dealt with in the Budget and in the Finance Bill. As a result, HMRC has issued guidance summarising the new provisions:

"From 20 March 2014 HMRC can... ask for documents and other information from the pension scheme administrator and other persons to help HMRC decide whether or not to register a pension scheme. There are new penalties and appeals in respect of the application for registration and information notices.

These include a new penalty if false information is provided in connection with an application for registration.

There is also a new requirement that the pension scheme must be set up and maintained for the main purpose of providing authorised pension benefits. Where HMRC believe this is not the case, registration may be refused, or an existing pension scheme may be de-registered".

These changes do not affect the process for dealing with applications from members for transfers to schemes which trustees believe may be being used for liberation but they may make it harder for such schemes to continue.

REVALUATION OF EARNINGS FACTORS ORDER 2014

Legislation (www.legislation.gov.uk)

Sets out how much earnings are to be revalued by for various purposes, including the calculation of GMPs.

The percentage for the 2014/15 tax year is 0.9.

THE SOCIAL SECURITY (CONTRIBUTIONS) (LIMITS AND THRESHOLDS) (AMENDMENT) REGULATIONS 2014

The lower earnings limit for 2014/15 is £111 per week (£5,772 pa).

The upper earnings limit is £805 per week (£41,865 pa).

The primary threshold (from where National Insurance contributions are paid) is £153 per week (£7,956 pa).

AUTO-ENROLMENT

GOVERNMENT RESPONSE TO CONSULTATION ON EMPLOYER AUTO-ENROLMENT DUTIES

Draft legislation contains a power to allow certain categories of employees to be exempted from the auto enrolment requirements. The Government has been consulting about which employees this should extend to.

It has concluded that there is a strong case to permit employers not to enrol workers who:

- have tax protected status for existing pension savings (eg fixed and enhanced protection);
- are on the brink of leaving employment;
- have given notice of imminent retirement;
- recently cancelled membership after being contract joined.

THE AUTOMATIC ENROLMENT (EARNINGS TRIGGER AND QUALIFYING EARNINGS BAND) ORDER 2014

From 6 April 2014 the revised thresholds for auto-enrolment are:

- £10,000 for the earnings trigger, a rise from £9,440;
- £5,772 for the lower end of the qualifying earnings band, a rise from £5,668;
- £41,865 for the upper end of the qualifying earnings band, a rise from £41,450.

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