**Pensions Legislation Review**

# Summary of proposed changes

1. **Self-certification**

Automatic submission of establishing documentation will no longer be required, as a matter of course, when a scheme seeks approval (except retirement annuity trust schemes). Instead, an application form will be developed which will require the necessary details, including certification by the person responsible for administering the scheme that it complies with the relevant approval conditions.

Changes are required to the Income Tax (Guernsey) Law, 1975 ("the 1975 Law") in respect of occupational pension schemes, and the Income Tax (Guernsey) (Retirement Annuity Schemes & Retirement Annuity Trust Schemes) Regulations, 1984 ("the 1984 Regulations") in respect of personal pension arrangements.

2. **Benefits – lump sums**

(a) Occupational pension schemes will be able to calculate lump sums by reference to fund value rather than, as at present, final remuneration.

(b) Defined benefit schemes will, under the proposed arrangements, calculate fund value using a formula. This formula will be decided by the administrators of the scheme, following actuarial advice, but will broadly be in line with the formula used to calculate transfer values at present.

(c) For both occupational and personal pension arrangements, the maximum lump sum which may be taken will be 30% of fund value.

(d) For all types of pension arrangement, lump sums could be available at any time after age 50 (unless the individual is in a specialised occupation where it is customary to retire prior to that date) and commutation will not be dependent upon pension or annuity benefits commencing at the same time.

In this respect, guidance will be developed in order to ensure that these rules are not abused.

For the above changes, amendments are required to the 1975 Law in respect of personal pension arrangements, and the Income Tax (Guernsey) (Limit of Retirement & Other Benefits) Regulations, 1977 ("the 1977 Regulations") in respect of occupational schemes.

3. **Benefits – pensions**

As for lump sums, benefits for occupational schemes could be calculated by reference to fund value rather than final remuneration as at present. In other words, this will be on the same basis as for personal pension arrangements.

Defined benefit schemes will retain the option to use a formula to calculate the fund value, as for lump sums above.

Changes are required to the 1977 Regulations.

4. **Flexible retirement**

With immediate effect, an individual need no longer actually retire to activate benefits, subject, of course, to the scheme rules.

No legislative changes are required in order to achieve this and the published Practice Notes will be amended to reflect this in due course.

5. **Contribution limits**

(a) There will be no monetary limit on the amount which may be contributed to an occupational or personal pension arrangement by any individual.

(b) Tax relief will be available to all individuals in respect of their own contributions, whether or not they are in receipt of relevant earnings, subject to a limit of the lower of 100% of taxable income, or a specific monetary limit to be set by Treasury & Resources Department. At present it is anticipated that this limit will be between £35,000 and £50,000.

(c) Relief to an employer for contributions to an employee's pension arrangement will be available as now – in other words, subject to the provisions of sections 7 and 152 of the 1975 Law.

(d) Contributions to a personal pension by an employer will not constitute an emolument in the hands of that employee, thus placing them on the same basis as contributions made to an occupational pension scheme.

(e) If an individual does not take advantage of the full relief available to him in any year, he may carry forward the unused tax relief to a later year for a maximum period of 6 years following the end of the year of charge.

To achieve the above changes, amendments are required to the 1975 Law in respect of occupational pension schemes, and to the Income Tax (Pensions) (Contribution Limits & Tax-free Lump Sums) Regulations, 2010 and the Income Tax (Exemption of Benefits) Ordinance, 1995 in respect of personal pension arrangements. A specific Resolution of the States, following consideration of the Budget Report, will also be required to amend the contribution rules for personal pensions.

6. **Triviality**

Full commutation of benefits will be available to an individual in the following circumstances:

(a) If an individual is 50 or over and the fund value (as defined below[1]) does not exceed £30,000 in aggregate, for all retirement pension schemes.

(b) To ease administration for individual schemes, if the fund value within a scheme does not itself exceed £15,000, the administrators may allow full commutation without taking account of the value of funds in other schemes (the responsibility for ensuring that the limits are not breached then rests with the individual and the Director of Income Tax). The purpose of this provision is to prevent schemes having to engage in complex tracking of an individual's other pension arrangements.

(c) A tax charge at one-half the standard rate would apply to commutation under the above provisions.

(d) If the individual is under 50 and the fund value does not exceed £15,000, full commutation may also be available.

(e) In those circumstances, a tax charge at the standard rate (currently 20%) will apply to benefits commuted.

The precise legislative changes required to achieve the above are under review at present but are likely to require amendment to the 1975 Law and possibly other Regulations.

7. **Net pay arrangements**

Where an employee contributes to a group personal pension plan sponsored by his employer, the employer may deduct such contributions from gross pay when calculating deductions to be made under the Employees Tax Instalment Scheme. This is to mirror the present position in respect of an employee's contributions to an occupational pension scheme.

Changes to the Income Tax (Employees Tax Instalment Scheme) Regulations, 2007 are required to achieve this.

8. **Approval of schemes**

In addition to the proposals already outlined above, the Director intends to seek approval from the States to approve a scheme whether or not the individual and/or the employer is resident in Guernsey.

This is to ensure that, in the light of Guernsey's growing global prominence in the provision of pensions, proper control is in place to ensure that, so far as is possible,

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[1] "Fund value" would be the amount of fund available before reduction by way of lump sum.

schemes adhere to appropriate conditions to preserve the integrity of those schemes as a pension arrangement.

Changes are required to the 1975 Law in respect of this amendment.

**Guernsey Income Tax Office**
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