

News – March 2010

As a valued client we're keen to ensure that you're kept up to date on important issues affecting your pension scheme. Reviewing changes to legislation is a key part of the services that we provide. This bulletin contains information which you will need to consider.

In our last bulletin we mentioned a number of subjects which we need to return to again. We appreciate that not all our clients are affected but our aim is to cover all clients' interests.

50% Income Tax: Anti-forestalling: where are we now?

From 6 April 2010 the top rate of income tax for those with taxable income over £150,000 will be 50%. We also know that there are plans to restrict tax relief on pension contributions for such earners from 6 April 2011.

However to prevent such high earners from increasing their pension contributions and obtaining full tax relief in the intervening period, anti-forestalling provisions were, as previously reported, brought into effect from 22 April 2009. Unfortunately these were extended in the Pre-budget report on 9 December 2009. This has added more complexity and underlines the need for clients who are thinking of increasing their pension contributions to obtain appropriate advice. A high level view of the anti-forestalling provisions is:

- From 22 April 2009, those with taxable income of £150,000 or more who increase pension provision in excess of the amounts below will be subject to a personal tax charge of 20%. The amounts are:
 - £20,000; or
 - the established pattern of regular (ie quarterly or more frequently) pension contributions; or
 - the 3 year average of irregular contributions (ie paid less frequently than quarterly) subject to a maximum of £30,000
- From 9 December 2009, those with taxable income in the band £130,000 to £150,000 who, increase pension provision in excess of the amounts below will be subject to a personal tax charge of 20%. The amounts are:
 - £20,000; or
 - the established pattern of regular (ie quarterly or more frequently) pension contributions; or
 - the 3 year average of irregular contributions (ie paid less frequently than quarterly) subject to a maximum of £30,000.

The 20% tax charge referred to above increases to 30% for tax year 2010/11.

The income figures in the above two points are deemed to be met if taxable income in the current tax year, or in either of the previous two tax years, matches the amounts. In determining taxable income any salary sacrifice amounts made after the relevant date will be included.

These are complex provisions and the consequence for falling foul of them is a tax charge by Her Majesty's Revenue and Customs (HMRC) on the individual as part of the self-assessment process. Taxable income refers to all sources of income (not just earnings) and if you believe you may be affected you should refer to your Independent Financial Adviser and/or accountant as appropriate. The 20% tax charge is known as the "special annual allowance charge" and more information is available from the HMRC web site:

http://www.hm-treasury.gov.uk/d/pbr09_consult_pensions_technote.pdf



Last Chance to Take Benefits Before Age 55

On 6 April 2010 the earliest age at which you can normally take your pension benefits changes from 50 to 55. From that point, the limited circumstances where benefits can be paid to a member under age 55 will be:

- the member has a protected pension age, or
- the age 55 requirement does not apply because the member takes benefits on ill-health, or
- the member started taking those benefits before 6 April 2010.

The decision to take benefits is clearly extremely important (it's why you've worked and saved so hard after all) and it can be quite complex. There can be many requirements to be met including the valuation and/or sale of assets, obtaining benefit quotations, forms to be completed etc. and all this will take a little time. Please also remember that because of the Easter weekend, the last working/banking day before 6 April is Thursday 1 April (and we recommend completing all the formalities before the end of March) so if you are interested in using this "last chance" you will need to take action **NOW**.

VAT Changes for 2010

You are probably aware that HMRC are making changes to require VAT returns to be filed online for entities with an annual turnover of £100,000 or more. This takes effect from 1 April 2010 and furthermore HMRC suggest that all VAT returns may have to be made this way from 2012. Where VAT is relevant within a SIPP (e.g. on rental income), we deal with the VAT returns for you and make the payments to HMRC. Xafinity will continue to do this where required so you have no action to take as far as your SIPP is concerned.

Commercial Property or Land

Self Invested Pension Schemes (SIPP) or Small Self Administered Pension Schemes (SSAS) can purchase commercial property or land and this is frequently done to purchase a property used by the business. We have recently seen an increase in schemes using this arrangement and the examples below demonstrate how the process can be used to the business' advantage.

1. Your business may currently only rent premises and this could be the time to buy if you feel that property prices are low due to market conditions. Rented premises are often a compromise in meeting all your requirements when compared to your ideal accommodation.
2. You may be planning expansion and need bigger or additional premises.
3. Your current premises, owned by the business, are perfectly acceptable and you would like to keep them but you also need to raise capital and do not want the business to go into (further) debt.

Although SSAS and SIPP schemes are different, the principles relating to buying and holding property are broadly the same. Also a number of individuals, who each hold a SIPP, can act together in relation to property purchase so achieving the same "buying power" as a multi-member SSAS.

The advantages of buying your business premises using your pension fund include:

- No liability to capital gains when the property is sold by the pension fund;
- Your pension fund does not pay tax on rent received;
- The pension scheme can borrow in order to achieve the purchase price (it can borrow 50% of the scheme's net value) and the rent can either be used to repay the borrowing or to swell the size of the fund (rather than go to a third party landlord);
- This could be a good time to sell your business premises to your pension fund if you feel that property prices are low due to market conditions, which results in a reduced capital gains tax liability; and
- Should the worst happen, the property is protected from creditors of the business.

There can be many advantages, but it should be stressed that buying and selling prices, as well as rent levels, must be determined by an independent, qualified valuer. Also, inevitably, there are costs to be paid for property transactions.

And there are possible disadvantages ...:

- Consideration, where the business is a company, should be given to the impact of removing the property from the balance sheet
- The business cannot use the property as security
- The property may have to be sold by the pension fund at an inopportune time to pay benefits.

Actions can be taken to mitigate the last of these issues and your Financial Adviser can help you make suitable plans which might include life assurance cover held by the business, plans to diversify the scheme's investments over time and succession planning to pass the property to the next generation in the business without it having to leave the shelter of the pensions tax regime.

The purchase, leasing, developing or selling of commercial property can be complex and you should talk to your Financial Adviser. In addition we have a guide available to provide help to you and other parties involved through the many stages of the transactions. We have a great deal of experience in dealing with these matters so you will be in safe hands.

Obtaining Financial Advice

If you don't have a Financial Adviser, we suggest you contact IFA Promotion Ltd, which is an industry body responsible for promoting independent financial advice in the UK. IFA Promotion Ltd will be able to give you details of a financial adviser in your area and whether they have specialist pensions qualifications. Their contact details are:

Telephone: 0800 085 3250
Internet: www.unbiased.co.uk



Contacting Xafinity

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