

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**.

Adoption of Post A Day Scheme Rules

All schemes in existence on 'A day' (6 April 2006) have had the opportunity to adopt new scheme rules that comply with the requirements of the new pensions tax regime which came into force on 'A day'. Most schemes have taken the required action but unfortunately there remain a few schemes that have not. If you haven't adopted new scheme rules yet you should read this section carefully.

HMRC put in place various regulations which were designed to enable pre-A Day approved schemes to continue to function in the new pensions tax regime without falling foul of the new requirements. For example, trustees were given the discretion not to make a payment required under the old rules of the scheme that would now be treated as an unauthorised payment (and become taxable). **However these regulations only have affect for a transitional period during which time schemes need to adopt new rules. The transitional period covered by the regulations expires on 5 April 2011. After that date, if the scheme rules have not been changed there is a risk that taxable unauthorised payments will occur.**

How does my scheme now adopt A Day rules?

If you still have the A Day documentation pack and instructions that we issued to you in February 2006, these can still be used. If you are one of the few schemes yet to adopt A Day rules we will have contacted you in December 2009 and February 2010 regarding this. If you have an Adviser, we are in the process of contacting them to see if there is anything that we can do to help you address this issue. We provide professional Administrator services to the vast majority of our clients and will be happy to undertake the role of Administrator or the supporting role of Authorised Practitioner as detailed in the pack subject to a satisfactory, brief, and free, review of your scheme.

The many requirements of properly administering a registered pension scheme are time consuming and complex which is why so many trustees utilise Hazell Carr's services. HMRC can and will impose fines where schemes are not run in accordance with their rules. Appointing Hazell Carr as Administrator lifts much of the burden of running the scheme from the trustees although inevitably there are still responsibilities that must remain with the trustee.



VAT Changes for 2010

HMRC have announced new VAT changes that will impact everyone liable to VAT including Self Invested Personal Pensions (SIPP) and Small Self Administered Schemes (SSAS). These will need to be dealt with by the scheme trustees and for SSAS this will normally mean that the scheme members should be aware of the changes.

With effect from 1 April 2010, if annual turnover (annualised rent due to SSAS, excluding VAT) is £100,000 or more, the SSAS must file its VAT returns online, and make payment electronically (including by direct debit). Any SSAS trustees whose scheme falls into this category must sign up with HMRC online to use the VAT online services, prior to this date. Although a SSAS with annual rent below £100,000 can continue to submit paper VAT returns after 1 April 2010, HMRC will be happy for the scheme to change to online filing and electronic payment if so wished. However, HMRC suggest that all VAT returns may need to be online by 2012 so it may be worth changing to this process now.

Until now, SSAS trustees have simply forwarded a cheque with their paper VAT return for Hazell Carr to counter-sign. For schemes where Hazell Carr holds the chequebook, a request could be made for a cheque to be drawn and submitted to HMRC with the paper VAT return. This payment method will no longer be allowed in tandem with online filing.

As such, consideration will now have to be given by SSAS trustees as to how they wish to make payment. Hazell Carr's recommendation is that the trustees do so by direct debit, thereby ensuring safe, speedy and automatic payments. It is also worth noting that HMRC will process its direct debit collection approximately 10 days after the VAT due date, thereby allowing additional time before payment is taken. Other allowable methods that Hazell Carr will consider are payments to be made by BACs or CHAPs, but of course such payments will have to be drafted and signed in accordance with the bank account mandate every quarter.

Although HMRC will allow payment methods such as by Internet or Telephone, these really are impractical. Further, whilst an online direct debit can be set up on the HMRC website, this will not work due to joint bank signatory requirements or Hazell Carr being sole signatory.

However, a manual direct debit can be downloaded from HMRC website, which will then need to be signed in accordance with the bank account mandate and submitted to HMRC.

Full details can be obtained from HMRC web-site (<http://www.hmrc.gov.uk/vat/vat-online/moving.htm>). Alternatively, your Hazell Carr consultant who deals with your scheme will be happy to help.

Commercial Property or Land

SSASs and SIPP 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 HCPS

SSAS Administrator/Practitioner:

Hazell Carr Pensions Services

www.xafinity.com

Tel: 01786 434250

Email: SIPPTeam@xafinity.com

HCPS SSAS Department
Scotia House
Castle Business Park
Stirling
FK9 4TZ

Hazell Carr Pensions Services is a trading name of Xafinity SIPP Services Limited which is authorised and regulated by the Financial Services Authority. Hazell Carr (ES) Services Limited, Hazell Carr (PN) Services Limited, Hazell Carr (SA) Services Limited, Hazell Carr (SG) Services Limited are Appointed Representatives of Xafinity SIPP Services Limited. Registered Offices. Xafinity SIPP Services Limited (SC069096) and Hazell Carr (SA) Services Limited (SC086807) are registered in Scotland at Scotia House, Castle Business Park, Stirling, FK9 4TZ. Xafinity Pension Trustees Limited (01450089), Hazell Carr (ES) Services Limited (02372343), Hazell Carr (PN) Services Limited (00236752) and Hazell Carr (SG) Services Limited (01867603) are registered in England & Wales at 27 Kings Road, Reading, Berkshire, RG1 3AR. Part of the Xafinity Group.