THE TAXATION OF PENSIONS ACT 2014

February 2015

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- *“An Act to make provision in connection with the taxation of pensions”*
- Only four sections and two schedules

1 Provision for pension flexibility etc
2 Restriction and reduction of tax charges on certain lump sums
3 Death of pension scheme member
4 Citation, interpretation and consequential amendments

Schedule 1 — Pension flexibility etc
Part 1 — Drawdown pensions
Part 2 — Annuities
Part 3 — Pension payments out of uncrystallised funds
Part 4 — Annual allowances
Part 5 — Miscellaneous amendments
Part 6 — Provision of information
Part 7 — Overseas pensions
Schedule 2 — Death of pension scheme member
Part 1 — Death benefits: nominees and successors
Part 2 — Lump sum death benefits
Part 3 — Uncrystallised rights at member's death
Part 4 — Income tax on beneficiaries' income withdrawal

RESTRICTION/REDUCTION OF TAX CHARGES ON CERTAIN LUMP SUMS

- Section 2 provides that, wef 6/4/2015 -
  - the special lump sum death benefits tax charge is reduced from 55% to 45% where members die on or after 75 (affects PPLSDB, APLSDB and DPFLSB)
  - a comparable change is made to the serious ill health lump sum tax charge
- Moreover, any lump sum benefit listed above that is paid where the member at the time of their death was under age 75 will be tax-free
- The changes apply to lump sum benefits **paid** on or after 6 April 2015

DRAWDOWN PENSIONS

- Pre 6 April capped drawdown may continue even if additional funds designated after 5 April
- Pre 6 April flexible drawdown becomes ‘flexi-access drawdown’ (FADD)
- Funds designated as available for drawdown from 6 April, where no previous designation, also FADD drawdown
- Similar rules for dependants
- ‘Flexi-access drawdown fund lump sum death benefit’ is a new lump sum death benefit where -
  - member, dependant ‘nominee’ or ‘successor’ dies whilst entitled to income withdrawal from FADD; and
  - it is not a charity lump sum death benefit.
- BCE 5A amended in consequence of FADD

ANNUITIES

- Where entitlement to a lifetime annuity arises on or after 6 April -
  - It must still be payable for life
  - It can decrease (a ‘flexible annuity’)
  - The annuity contract can stipulate a guarantee of any length
- No unauthorised payment charge if member not had opportunity to select provider
- Similar rules for dependants, but no guarantees
- Short-term annuities from member’s drawdown fund or FADD can decrease too

PENSION PAYMENTS FROM UNCRYSTALLISED FUNDS

- ‘Uncrystallised funds pension lump sum’ (UFPLS) is a new form of authorised lump sum
- Entitlement arises immediately before it is paid for the purpose of testing against a member’s lifetime allowance (LTA)
- For a payment to be a UFPLS -
  - Paid after 5 April from a MP arrangement (inc. cash balance)
  - Part of member’s LTA still available
  - Member reached normal minimum pension age or in ill health
  - Not a pension commencement lump sum
  - Not ‘treated as’ a trivial commutation lump
  - Provided from uncrystallised funds not attributable to disqualifying pension credit
- Some individuals denied a UFPLS
- If lump sum paid uses up LTA then excess not UFPLS and treatment depends on age
- Entitlement to UFPLS counts as BCE 6
- 25% of UFPLS tax free and balance taxed as a pension

ANNUAL ALLOWANCES

- If an individual has flexibly accessed their pension then they will have a £10k annual allowance for money purchase savings (‘MPAA’)
- Rules complex, but supposedly affect only 2% of savers over 55
- If MPAA triggered and MP savings over £10k then -
  - AA charge on MP savings in excess of £10k; and
  - AA for DB savings reduced to £30k (‘alternative annual allowance’) plus carry forward
- If savings under £10k then -
  - Total AA , MP + DB, still £40k plus carry forward
  - No carry forward of unused MPAA
- If individual triggers MPAA then the rules apply from the day after the trigger event

‘MISCELLANEOUS’

- Recycling threshold reduced to £7,500
- Trivial Commutation Lump Sum (TCLS) can only be paid from DB arrangement, but -
  - Lump sum only needs to extinguish the member’s DB rights
  - TCLS can be paid from normal minimum pension age or earlier in cases of ill health
- Small Lump Sums as above but -
  - Still available from DB **and** DC
- From 6 April, TCLS death benefit may also be paid to an individual in respect of entitlement to guaranteed pension payments (lifetime annuity or scheme pension)
- Limit for TCLS death benefit increased from £18,000 to £30,000
- Winding-up lump sum death benefit removed from 6 April
- Scheme rules override ‘for trustees’
- No change to members ‘scheme pays’ rights

PROVISION OF INFORMATION

- Changes needed so that members and scheme administrators are made aware when benefits flexibly accessed
- When member first flexibly access their pension rights -
  - The scheme administrator send a statement to the member with **31** days
  - Member needs to inform other schemes that they are an active member of within **91** days
- Where there is a recognised transfer for a member who has flexibly accessed their pension then old administrator must tell new administrator about flexible access with **31** days of transfer
- Where member is subject to MPAA and MP savings exceed £10,000 then pension savings statement must be provided in line with existing PSS requirements
- New ‘Reportable Event 23’ for members who have received a MP PSS

DEATH BENEFITS: ‘NOMINEES’ AND ‘SUCCESSORS’

- For payments from 6 April, pension death benefits for a MP arrangement can be paid to a ‘nominee’ or ‘successor’, as well as a ‘dependant’
- A nominee can receive a nominees’ 'drawdown pension (short-term annuity or income withdrawal)
- A successor can receive a successors drawdown pension
- So, nominees and successors, unlike dependants, cannot buy an annuity
- A ‘beneficiary’ (nominee, successor, dependant) becomes entitled to income withdrawal when funds are designated as available their drawdown pension
- Income drawn by a beneficiary does not trigger the MPAA

DEATH BENEFITS: ‘NOMINEES’ AND ‘SUCCESSORS’

What is a nominee?	What is a successor?
A nominee can be any individual other than a dependant who is nominated by the member, or where there are no dependants and no individual or charity has been nominated by the member, any individual nominated by the scheme administrator.	A successor is someone who inherits any unused drawdown funds on the death of a dependant, a nominee or a successor. A successor can be anyone nominated by the previous beneficiary or where no nomination has been made by the previous beneficiary, an individual nominated by the scheme administrator. As the changes do not impose any limit on how many times unused funds can be passed on, successors’ flexi-access drawdown funds that are unused at the time of the successor’s death will also be capable of being passed to another nominated successor.

LUMP SUM DEATH BENEFITS

- The special lump sum death benefit charge is amended so that -
  - References to members and their death also apply to dependants, nominees or successors and their death
  - The charge also applies if a member dies before age 75 and certain lump sum death benefits are paid outside a two year period
  - The charge also applies if a beneficiary dies before age 75 and certain lump sum death benefits are paid outside the two year period
- The changes affect lump sums paid from 6 April
- Uncrystallised Funds Lump Sum Death Benefit (UFLSDB) only tested against the lifetime allowance if it will be paid tax free
- No change to IHT rules
- *Have pensions really been made more attractive from a inheritance tax planning perspective?*

OTHER TAX AND ‘BCE’ CHANGES

- New BCE 5C applies where -
  - uncrystallised funds are designated into a dependant’s or nominee’s flexi-access drawdown fund,
  - the member was under 75 when they died, and
  - the funds are designated within the ‘relevant two-year period’
- Where there is a payment of income withdrawal from a dependant’s or nominee’s drawdown fund -
  - this payment is not included in the recipient’s taxable income
  - provided that the member had not reached age 75 at the date of their death
- Similar exemption applies for payments of income withdrawal from a successor’s flexi-access drawdown fund -
  - provided that the previous beneficiary died before reaching age 75

PENSION SCHEMES BILL (ACT?)

- ‘Dear CEO’
  - Providers will be required to ask the consumer about key aspects of their circumstances
  - Providers will be required to give relevant risk warnings in response to answers
  - Trustees too?
  - Processes, controls, MI
- Conversions and Transfers
  - Exemption from requirement to check that member has received advice - *‘Safeguarded benefits in the scheme from which the members intends to transfer are less than £30,000 on CETV basis’*
  - Details of check for conversions/transfers >£30,000 awaited
  - Details of when employer to arrange / pay still awaited
  - But IT exemption welcome
  - IE Code?
  - Statutory transfer rights amended so that they apply at benefit category level and subsist up to any beyond NRA

WHAT SHOULD SERVICE PROVIDERS BE DOING?

- Decide what you will and won't do
  - FADD, UFPLS, annuities
  - TV quotes with DB statements
- Communicate with clients
- Encourage additional support and education
  - Member outcomes
  - Tax, personal allowances, welfare benefits, social care, divorce, bankruptcy ...
- Become a 'provider'
- DB De-risking
- 'Watch this space'
  - Update to IE Code
  - Over 35 sets of regulations to be amended
  - I have only seen **drafts** for 3 so far!!!

THANK YOU FOR LISTENING
ANY QUESTIONS?

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