

Topical Revenue Issues

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Agenda

- Finance (No.2) Act 2013.
- Revised Revenue Pensions Manual.
- Overseas Transfers.
- Revenue Contractors Project.
- Issues for 2014.

Finance (No.2) Act 2013

- Pensions stuff in Section.18.
- Act signed by President on 18/12/2013.
- Unusual in that most measures w.e.f. 1/1/2014 and not from date of Bill publication.
- No point in running through what you should have done before New Year's Eve.

Early Access to AVCs

- Amends Sec.782A to strengthen existing override provisions.
- Concerns that some rules/contracts don't allow early access.
- Provides that option may be exercised notwithstanding rules/contract don't facilitate.
- No longer necessary to amend rules/contract.

Personal Fund Threshold

- Those with funds between €2M and €2.3M will need to apply for a PFT.
- Revenue developing an electronic system for future PFT notifications.
- Time limit: 12 months from date system in place: interim paper applications OK.
- Must include statements from administrators certifying information in the notification.
- Existing holders of a PFT are not affected

Retirement Lump Sum

- SFT reduction has a consequential effect on lump sums.
- Convoluted methodology in Sec.790AA.
- “tax free amount”: 200,000.
- “standard chargeable amount” is calculated using a formula:
- SFT divided by 4 less the tax free amount

Sec.790AA

- “excess lump sum” is the amount by which the lump sum received exceeds the tax free amount and is taxed @20%.
- BUT any amount of the excess lump sum that exceeds the standard chargeable amount is treated as income of the individual and is taxed @ marginal rate.

Plain English

- No change to existing 200K tax free amount.
- Previous amount taxable @20% is reduced from 375K to 300K as the standard chargeable amount has been reduced from 575K to 500K.
- 75K taxed @ higher rate, plus USC, PRSI.
- Tax 41%, PRSI 4%, USC 7%
- Additional liability 39,000.

Valuation of DB Pensions

- Pension accrued to 31/12/2013 continue to be valued by applying the 20 factor to the annual pension.
- Pension accrued from 1/1/2014 valued by applying an age-based factor.
- The later you take benefits, the lower the factor.

Public Service Example

- Asst. Sec., Salary 120K, age 50, NRA 65, will have 40 years service, assume salary @ NRA 150K.
- Pension 50% plus LS 1.5 salary.
- Pension 75K, LS 225K
- Previously valued @ 75K x 20
- 1,500,000 + 225,000
- 1,725,000

Revised Valuation

- Accrued to 31/12/2013
- $150K \times 25/80 = 46,875$
- From 1/1 2014
- $150K \times 15/80 = 28125$
- $46875 \times 20 = 937,500$
- $28125 \times 26 = 731,250$
- Lump sum = 225,000
- Valuation = 1,893,750.

Impact of New Factors

- Age when benefits are taken is important.
- Main relevance to those some distance from retirement.
- NRA 66 using factor of 25 for benefits accrued from 1/1/2014
- Discourage high earners from joining or remaining in a DB scheme
- Impact on future early retirement calculations.
- Additional complexity in the system

Payment of CET by Public Servants

- Existing reimbursement options amended & extended.
- Maximum amount recovered from lump sum reduced from 50% to 20%.
- Reduce gross pension payable over a period of up to 20 years

Penalties

- New fixed penalty system applies to any person who fails to comply with any obligations imposed by Chapter 2C or Schedule 23B.
- Fixed penalty of €3,000 for each “failure”.
- Administrators beware!

Save using a Pension?

- Upward rate trend continues.
- DIRT & Exit tax rates now 41%, same as earnings.
- Are long term savings better off in a pension product?
- Impact of pensions levy is a problem.
- Still get marginal rate relief on contributions

Redundancy

- Effective lifetime cap of €200K.
- Top slicing relief abolished for amounts in excess of this last year.
- Now extended to all payments.
- Use pension scheme top up as an alternative to taxable severance payment

Pension Levy

- Section 67 confirms the revised arrangements.
- 2014: increase from 0.6% to 0.75%.
- 2015: 0.15%.
- Rationale: Waterford Glass case?
- Minister claims misleading information
- Retire prior to 30 June.
- Defer contributions to July.

Social Welfare Change

- Last year's announcement of extension of PRSI to unearned income is in Section 3.
- Extends PRSI liability to employed contributors and pensioners under age 66 who have unearned income (investment, dividend, deposit interest, rents).
- Chargeable @4% (class K) but no benefits.
- PAYE taxpayers who have other income of €3,174 p.a.

- “ to read anything without joy or pleasure is stupid”
- -- John McGahern

Revenue Pensions Manual

- Reflects changes in legislation & Revenue Practice: Revised May 2013
- Major alterations to Chapters 20,21,23,24 and 25
- 5 new Chapters (26-30) & new Appendix 3
- www.revenue.ie: Taxes & Duties, Tax & Duty Manuals, Sec.16 FOI Act, Pensions
- Last updated 2007

Revised Chapters

- 20. Employees with part-time service
- 21. Retirement Annuity Contracts
- 23. Approved Retirement Funds
- 24. Personal Retirement Savings Accounts.
- 25. Limit on Tax-Relieved Pension Funds & Lump Sums

New Chapters

- 26. Relief for Personal Contributions: Earnings Limit.
- 27. Taxation of Retirement Lump Sums.
- 28. Imputed Distributions.
- 29. Dual Private/Public Sector Income: encashment option.
- 30. Pre-Retirement Access to avcs
- Appendix 3. Relief for contributions: late elections

Chapter 30

- Pre-retirement access to avcs.
- Very little detail in the Chapter.
- Advised to refer to TCA Notes for Guidance for Sec.782A and the Q & A document on the Revenue website.
- 3 different sources for information on one simple topic.

Accessing Information

- Revenue Pensions Manual.
- Notes for Guidance: Taxes Consolidation Act.
- Tax Briefing.
- eBrief.
- Other random edicts.
- Notes of Meetings (occasional) with Industry Bodies.
- Not easy to keep up to date.

Overseas Transfers

- Current High Court case.
- PRSA Provider refused transfer request.
- Court asked for Revenue “observations”.
- Definition of “relevant benefits”.
- Revenue position is that there is no requirement for an employer/employee relationship if PRSA involved.
- But what if it’s not a transfer from a PRSA?

Bona Fide (1)

- Initial problem was “artificial” transfer to UK and back again.
- Highly risky or opaque investment structures with no guarantee that individual will get money back.
- Dual transfer: initial movement followed by second transfer

Bone Fide (2)

- Individuals lose savings to unscrupulous overseas agents.
- Pre-retirement access to funds.
- PRSA Provider obligations & Declaration.
- Ensure the Declaration is what it appears to be, other circumstances of which the Provider is aware or other information available to Provider.

Clear as mud?

- No Revenue requirement for individual to be living & working in other EU Member State.
- What's the position if the pension arrangement is operated by a regulated entity?
- Is there a problem if the overseas arrangement provides benefits similar to Irish PRSA?
- Undertaking from overseas Provider?
- Irish version of QROPS?

Revenue Contractors Project

- Tax Briefing No.4/2013
- Employment Tax Compliance.
- Pensions are an integral part of any remuneration package.
- Main tax obligations (liabilities) rest with employers.
- Hardline Revenue approach

Salary Sacrifice

- Amended 3.8 confirms that Sec.118B applies where an employee waives an entitlement or accepts a reduction in salary in return for an employer pension contribution.
- BIK charge on employee.
- Lack of detail explaining Revenue position.
- Tax Briefing No. 70. 2008.
- Revenue Taxes & Duty Manual 5.3.11

Take Care

- A bona fide renegotiation of an existing contract of employment to provide a mixture of salary & benefits is probably OK
- Where remuneration is entirely discretionary and the employee has no prior entitlement to it (bonus), the payment may be made by way of a benefit

Employed V Self-Employed

- Self-employed: no employer PRSI (10.75%)
- If employed: obligation on employer to deduct & pay taxes.
- Contract of service: employee
- Contract for service: self-employed.
- Individuals may use a company to operate a contract for service.
- As individual is a proprietary director, class S PRSI @ 4%

Other Revenue Issues

- Expenses payments where individual's services are provided via an intermediary.
- If end-user's premises are the normal place of work, travel costs may not be reimbursed free of tax.
- Home is not the normal place of work

Family Members

- Must be performing services or duties in the business.
- Rates of pay must be similar to other employees doing the same type of work.
- If pay is for technical work, the employee should have the skills, qualifications and experience necessary to carry out that work and to justify the rate of pay.
- Directors fees?

eBrief No.39/13

- Tax Treatment of Employee Benefit Schemes.
- Sec.811B, TCA, 1997.
- Anti-Avoidance measure d/w scenarios where employers place funds in trusts/offshore arrangements that will provide benefits.
- Provision of loans that are not repaid.

Implications

- Amounts “set aside” by employer are chargeable to tax.
- Not a great idea!
- Measure doesn't apply to Revenue approved pension & share schemes.

Issues for 2014

- Employment Disputes.
- Litigation.
- Continuing Demise of DB.
- Compulsory Annuity Purchase.
- Standard Fund Threshold
- Incoherent Policy.

- If you or your clients have concerns about any of the issues raised in this presentation, please seek immediate professional help by contacting:
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