

PENSION ARRANGEMENTS

General

Pension contribution rules are broadly similar in Ireland and the United Kingdom. The principal types of pension schemes are Occupational Schemes and Personal Pension schemes.

An occupational scheme is one provided by an employer. An individual may join an employer's scheme or opt to set up a personal pension scheme. He/she may also contribute to both under certain circumstances.

An occupational scheme is a scheme set up by an employer for the benefit of employees. It may be provided through an insurance company or it may be self administered. Contributions can be made by the employer and/or employee.

Schemes may be "defined benefit" schemes under which benefits on retirement are linked to the level of final salary or money purchase or "defined contribution" schemes where the benefit depends on what the underlying scheme investments can purchase.

A personal pension scheme can be established by any individual including an employed, self employed and (to some limited extent) a non employed person including children. Contributions may be made by the individual.

On so called "A" day 6th April 2006, the pension rules were significantly simplified. The amount of tax relief available is now the same regardless of whether the scheme is an occupational or personal pension scheme. Schemes are permitted to invest in a wider range of assets. Most registered pension schemes are governed by the same rules.

Tax Reliefs

Tax relief is available on pension contributions provided the scheme is registered and the individual is resident in the UK and aged under 75.

Regardless of earnings, an individual may make pension contributions of any size to a pension scheme or a number of different pension schemes. However, there is a cap on the tax relief available for each tax year. The maximum contribution which may be made is the higher of £3,600 or 100% of "relevant earnings" chargeable for income tax in the tax year. "Relevant earnings" are defined so as to include profits, employment income, furnished holiday lettings but not other residential investments. Essentially an employment or trading activity must be involved.

The above limits apply to the total contributions made to all schemes. It is possible for an individual with no earnings which would otherwise qualify to contribute up to £3,600 per year.

In the case of contributions into a personal pension scheme, the basic rate relief is given by deduction at source when contributions are made into a registered scheme. Higher rate relief is given by extending the tax payers basic band by the gross amount of pension payment.

Where employees make pension contributions into an occupational pension scheme, the payments are made gross and tax relief is given at source through PAYE. Effectively the contributions are deducted from income from the year before calculating tax to be deducted under PAYE. Relief is therefore given at basic and higher rates through this mechanism.

Contributions by an employer into a registered pension scheme are tax deductible in computing the employer's trading profits.

As in Ireland tax relief deduction is on the basis of payments made rather than accrued i.e. incurred or agreed to be paid. Therefore profit and loss accounts must be adjusted accordingly.

Limitations

Funds in a pension scheme, grow tax free inside the scheme. The scheme is exempted from income tax on income and capital gains tax on capital disposals made by the trustees of the scheme. The funds within the scheme can therefore "roll up" tax free. There is a maximum limit on the amount that an individual can accumulate in a pension scheme. This is a lifetime allowance of £1.5 million. The statutory lifetime limit is £1.75 million for 2009 and £1.8 million for 2010. The legislation provides it cannot be reduced and is expected to be increased each year.

The value of pension benefits is tested against the individual lifetime allowance whenever a benefit crystallisation occurs. This is effectively a vesting of a policy, death lump payment or the purchase of an annuity. Any excess over the limits is taken as income and attracts a charge of 25%. This is deducted by the scheme. Additional pension income arising from the excess is taxed at the marginal rate. Accordingly the excess can be taken as a lump sum on which the charge would be up to 55%.

There is a maximum annual amount which qualifies for tax relief. This is £245,000 for 2009 and £255,000 for 2010. In a defined benefit scheme it is not the actual contributions paid but the capital value of the increase in benefits to the scheme that is tested against the maximum. A factor of 10-1 is applied to the increase in benefit in order to calculate the capital value.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.