Pensions Update – Finance Act 2013

The Finance Act 2013 was signed into law by the President on 27 March 2013. Here is a reminder of the main provisions of the Act which relate to pensions.

1. Pre-retirement access to Additional Voluntary Contributions (AVCs)

For a period of three years from 27 March 2013, a member of an **Occupational Pension Scheme (OPS) who has made** AVCs under the scheme or to a separate AVC scheme or an AVC PRSA will have the option to drawdown up to 30% of the value of their AVC fund.

Important points to note about this option

- This is a one-off option and therefore only one drawdown can be made during the three year period.
- The legislation does not require the rules of a scheme to be changed to allow this option.
- AVCs made for the purposes of purchasing notional service (added years) under a defined benefit scheme, which often occurs in public sector schemes, are specifically excluded.
- Normal employee contributions to an OPS made at the rates specified for employee contributions under the scheme rules are not regarded as AVCs.
- Personal contributions to a PRSA (which are not AVC PRSA contributions) are excluded.
- Contributions by employers to an OPS or a PRSA are also excluded.
- Where a PRSA transfers to an OPS, the transfer is not considered an AVC for the purposes of the option. The option will only be available on the transfer of an AVC PRSA to an OPS.
- Where the fund is subject to a pension adjustment order, both beneficiaries may exercise the AVC drawdown option independently of each other in respect of the AVC portion of their share of the pension fund.
- Amounts paid under the AVC drawdown option will be subject to income tax under PAYE. Unless the administrator has received an individual's certificate of tax credits and standard rate cut-off point, the administrator will be required to deduct tax at the higher rate (41%). These payments will be exempt from Universal Social Charge (USC) and PRSI.

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2. Changes to the Approved Retirement Fund (ARF) / Approved Minimum Retirement Fund (AMRF) regime

The pre 2011 levels of specified income (guaranteed income for life) of €12,700 p.a. or investment of €63,500 in an AMRF (or annuity), before a person can invest in an ARF or take taxable cash, have been reinstated. These replace the higher amounts (€18,000 p.a. and €119,800) which were brought in by the Finance Act 2011.

The reduced limits are intended to apply for a further three years from the date (27 March 2013) of the passing of the Finance Act 2013. It is expected that the Finance Act 2016 will reintroduce the higher amounts.

The Act makes allowance for people who have taken retirement benefits since the higher limits were introduced in February 2011 as follows:

- if a client has specified income of at least €12,700 p.a. then their AMRF will become an ARF, and
- if a client does not have specified income of at least €12,700 p.a. then any part of the original capital amount that they placed in an AMRF in excess of €63,500, immediately becomes an ARF.

The reduced limits will also apply to vested PRSAs, where you must satisfy the specified income requirements or have a fund in excess of €63,500 in order to make withdrawals.

3. Taxation of Vested PRSA assets on death

The Finance Act 2013 has amended the Capital Acquisition Tax (CAT) legislation to equalise the inheritance tax treatment of vested PRSAs and ARF products. Where assets in a vested PRSA pass to a child over age 21, the payment will be exempt from CAT. This change brings the legislation into line with stated Revenue practice in this area.

4. Revised rate of USC – income over €60,000 p.a.

As indicated in the Budget, the reduced rates of USC which previously applied for persons over age 70 and medical card holders will no longer apply if their income is in excess of €60,000 p.a. This change was effective from 1 January 2013.

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