

*Issue 4 2009*

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# Financial Planning Matters



# Pension Reforms

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As 2012 draws closer, many businesses are still unaware that legislation making it compulsory for all employers to contribute towards a pension scheme for their employees will make it up to 3% more expensive to employ individuals in the UK.



## Cover story

The Pensions Act 2008 marks the way for one of the biggest leaps forward in pension provision since the introduction of state pension benefits some 100 years ago. The current proposal is that from 2012, employees will be automatically enrolled into a good-quality workplace pension plan or a system of Personal Accounts.

Pension reform will impact upon all employers and will mean increased pension costs. The option to do nothing with regard to pension provision will disappear with the requirement to contribute towards an employee's retirement "fund" – minimum 3% of earnings between £5,000 and £33,000. Employees will also be required to contribute 4% from their net earnings between £5,000 and £33,000 with 1% being contributed by the taxman.

Employers will be responsible for providing employees with information on the new scheme and failure to comply will result in harsh penalties, so professional advisers will need to be engaged to assist with this process.

Rather than simply complying with government legislation, employers will have the option to offer staff what will be called a Quality Qualifying Workplace Pension Scheme.

## The option to do nothing with regard to pension provision will disappear

The regulations state that the "quality mark" can be achieved if the total level of contributions to the plan is 11% of qualifying earnings (with the employer contributing 6%, employee 4% and 1% from the taxman).

Employers need to consider whether they want to "take control" of the way retirement benefits are provided or simply comply with legislation. To take control now and engage with employees to discuss how they want to be remunerated may allow a scheme to be put in place which flexes the overall level of remuneration over the next few years so the additional cost to the company of complying when the regime is introduced is minimal. If no action is taken now, future budgets and forecasts will need to build in the additional 3% cost so that the additional cash flow is available when the liability falls due.

## Planning for tax rises

In 2010, a 50% income tax rate applying to individuals with a taxable income of over £150,000, and most trusts will be introduced.

The top rate of tax on dividends will proportionally go up by even more, from 32.5% to 42.5% (or taking account of tax credits, from 25% to 36.1% on the net dividend).

Anyone with an income over £100,000 will start to lose their personal allowance to the point where it will be lost completely when income reaches over £113,000 (in between those amounts the marginal rate of tax is 60%). Meanwhile, those with an income over £150,000 have already seen the ability to receive full tax relief on pension contributions severely restricted.

The net effect of these measures is to increase significantly the tax burden for most people with an income over £100,000. However, there are a number of simple measures that can be taken to mitigate this burden.

- Personal pension contributions remain highly attractive, whether you are using them to take yourself out of the 50% tax rate or to take income below £100,000 and restore your personal allowance. Salary sacrifice arrangements can be used to give even higher effective rates of relief.
- Can earned income be reduced? Perhaps you are able to receive greater income prior to next April and, therefore, less when the rate goes up? It may be possible to give up income in favour of non-taxable benefits. If you work with your spouse, can you shift income to a lower taxpaying spouse legitimately?
- Full income tax relief can be obtained through certain capital allowances relating to renovation and conversion of unused commercial property or the space above such premises.
- Investment in Venture Capital Trusts and Enterprise Investment Schemes give income tax relief at 30% and 20% respectively, coupled with other tax incentives. The associated risk attached to these investments must be understood and accepted.



- Personal or trust investments should be reviewed to see if the income generated can be reduced. Is it possible to change the investments in favour of non-income producing holdings and/or those where most returns are subject to CGT? Can the tax liability on the income be transferred to a spouse or, for a trust, to a beneficiary?

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## Anyone with an income over £100,000 will start to lose their personal allowance

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- Is full use made of investments that do not produce taxable income? Individual Savings Accounts (ISAs) are perhaps the most common tax shelter for investments. Many investors will have significant portfolios of ISAs, while the taxable portfolio can be focused on investments aiming for growth.

## Pension contribution anti-forestalling rules

In this year's Budget it was announced that from 2011 onwards, there would be major changes to pension contribution tax relief for higher earners with a total income of over £150,000. In the meantime anti-forestalling measures have been introduced, effective immediately.

Since the announcement, lobbying has centred on the fact that, originally, only regular payments (at least quarterly) would be protected against the new special annual allowance contribution limit of £20,000 per annum. This seemed particularly harsh on those individuals who made less frequent pensions contributions, perhaps to Self-Invested Personal Pension Schemes. Self-employed individuals who waited until their earnings for the tax year were known before making a lump sum contribution were also caught out.

Therefore, a late but relatively small concession was made to the Finance Act for these individuals. Those making single (or less frequent than quarterly) payments are able to take an average of the contributions made for the last three tax years and, if this average exceeds £20,000, the higher amount is protected up to a maximum of £30,000.

Individuals who have received a total income of £150,000 or more in either this or the previous 2 tax years are affected by the new limits of pension contributions. These individuals may wish to take some of the following steps to protect themselves against additional tax charges.

- Ensure that any protected regular pension contributions totalling more than £20,000 per annum are not interrupted or changed.

- Use the £20,000 special annual allowance limit each year.
- Make use of a spouse's contribution allowance.
- For those with total income over £150,000 but under £170,000, a personal pension contribution of up to £20,000 can be deducted to bring them under the £150,000 threshold.
- Consider other tax-efficient investment strategies for retirement.
- Charitable donations eligible for Gift Aid of any amount can be deducted when calculating total income.

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### Individuals who receive a total income of £150,000 or more in either this or the previous 2 tax years are affected by the new limits

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We are still awaiting further clarification of the new contribution limits to be introduced in 2011. All that is known at present is that higher-rate tax relief is due to be tapered away for those earning between £150,000 and £180,000, although this could still change, especially if a new government comes to power.

## Private bank lending

The London housing market is enjoying one of its best spells of purchase activity in over a year. The same could also be said about the specialist mortgage market, which is now attracting much greater interest from overseas lenders and private banks. They have been quick to fill the void left by the high street banks and building societies, many of which have imposed a lending cap on large loans (typically £1m), irrespective of the borrower's circumstances or ability to afford higher repayments.

Indeed, for those who need to borrow more than £500,000, the private banks are currently offering some of the best mortgage deals and they will often lend up to 80% of the property value.

As a general rule, private banks are looking for a wider relationship with a potential client. More often than not they require money on deposit or other assets under management from new clients. Usually the larger a commitment a borrower can offer, the better the lending terms. This is particularly helpful for those whose cash is tied up in a share portfolio they don't want to liquidate at the moment or in offshore funds which can be brought under management with the bank, but kept offshore.

Onshore and offshore lending is available to private individuals, limited companies, trusts and other special purpose vehicles – not just for principal residences. Second homes, holiday homes and investment property can all be financed in sterling and a number of other currencies, a multi-currency mortgage facility is possible on either a managed or self-administered basis.

Independent professional advice can relieve you of the time-consuming, frustrating task of finding and comparing all of the available options. As with most things in life, shopping around is a worthwhile exercise but where to start? We have detailed knowledge and experience of the specialist mortgage market and can address your financial and tax planning needs to offer truly bespoke solutions.

Changes in the exchange rate may increase the sterling equivalent of your debt. Your home may be repossessed if you do not keep up repayments on your mortgage.



## News roundup



### Transfer of nil-rate IHT band

Since October 2007, it has been possible for spouses and civil partners to transfer their nil-rate IHT band allowance, which means that if any part of the allowance is not used on the death of the first spouse or civil partner, it can be transferred and used by the second on his/her death. The transfer remains a useful and valuable IHT planning tool.

The claim to transfer an unused nil-rate band is made when the surviving spouse or civil partner dies, and not on the first death. However, it is important to record the proportion of the nil-rate band that is unused on the first death and to keep the records necessary to support a claim when the surviving spouse or civil partner dies.

### Second offshore amnesty announced

HMRC is to give anyone with previously undisclosed offshore bank accounts or assets one last chance to settle their unpaid taxes without facing the risk of prosecution.

Those who make a full disclosure of their offshore accounts before 12 March 2010 will be charged a penalty of 10% on the outstanding balance (plus the usual interest due on unpaid tax). After this date a penalty of 30% or more will apply and HMRC may decide to prosecute the more serious cases.

Taxpayers must first notify HMRC of their intention to disclose offshore assets, which can be done on paper between 1 September and 30 November or electronically between 1 October and 30 November. The disclosure itself must then be submitted between 1 September and 31 January 2010 for paper disclosures or between 1 October and 12 March 2010 for electronic disclosures.

Anyone who received a letter from HMRC at the time of the first tax amnesty in 2007, but did not complete the Offshore Disclosure Facility, still has the chance to disclose.

Any unpaid tax will, however, attract a higher-rate penalty of 20%.

### Non-residents and the 90-day rule

The 90 day rule has been a generally accepted benchmark for deciding whether someone is non-resident for tax purposes.

Traditionally, people who spend fewer than 90 days in the UK have been deemed non-resident. Once you have been non-resident for 3 years, you do not pay UK income tax on your overseas income. After 5 years or more, no capital gains tax (CGT) is due on UK overseas gains.

The question of whether the days in which you leave or arrive in the UK count as part of the 90 days has been under discussion for some time but the latest HMRC move was unexpected. Guidance released earlier in the year suggested that non-residents may have to pay full UK tax if their lifestyles indicate that they have strong links with Britain, even if they meet the 90-day rule.

What this means exactly is unclear, as HMRC has not provided precise details. It is likely though that when making a decision on residency, HMRC will consider factors such as whether a non-resident has children at a boarding school in the UK, owns a UK property that is occupied by family members or has post sent to a UK address. Membership of a UK-based club or association could also count against a non-resident.

We are able to direct clients to taxation specialists for more information and/or advice on this issue.



### Contact Us:

For further information or assistance regarding any of the topics covered in this newsletter please speak to your usual Blacktower adviser or contact us at one of our offices

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