

Another Review of the Drawdown Rules

The 2007 Budget and Finance Bill contained yet more changes to the unsecured and alternatively secured pension rules. Not all of it was bad news and although the measures to restrict the use of ASP for estate planning have attracted much of the publicity, the essential reasons for investing through SIPP and SSAS have not changed (indeed it could be argued that what we are left with strengthens the case for real SIPP and SSAS rather than their insured or hybrid 'cousins': we can now concentrate on their real advantages.).

Unsecured pensions: the current rules

Under the current rules, the maximum and minimum withdrawals are determined every five years. The maximum is 120% of the GAD rate and the minimum is zero.

There may be interim reviews if there is a partial annuity purchase or if additional funds are designated for withdrawals, but the five-year review will always apply.

Example:

So for example, if the unsecured pension started on 1 August 2006, under the current rules, the next review would have to be on 1 August 2011 even if part of the fund purchased an annuity in 2008 and there was a review at that time.

Unsecured pensions: the proposed change

The Finance Bill proposes that the member should be able to ask the administrator to bring forward the five-year review to the next anniversary. If the administrator agrees, a new five-year period will start from the next anniversary.

In the example above, the member might ask for the review to be brought forward from 1 August 2011 to 1 August 2008. If the administrator agrees, the five-year term will restart on 1 August 2008 (to 1 August 2013). In 2009, the member could ask for the next review to take place on 1 August 2009 in which case a new five-year period would start from that date.

These changes will also apply to dependants' unsecured pensions and the measure will be effective from 6 December 2006 (although strictly speaking any change should wait until the Bill receives the Royal Assent, probably in late June/July).

Changes to ASP

These changes are more significant and can get very complicated. The main changes are:

- The facility to guarantee payments for up to ten years will be withdrawn immediately. The facility remains in respect of any member under 75;
- The maximum withdrawal will increase from 70% to 90% of the GAD rate and the minimum will increase from zero to 55%. If the minimum is not taken, a scheme sanction charge will be deducted from the fund of 40% of the shortfall;
- Transfer lump sum death benefits (now apparently called ‘transfer of alternatively secured rights’) become unauthorised payments as well as forming the top-slice of the estate for IHT purposes. This is effective for any member who dies after 5 April 2007.

Transfer lump sum death benefits allow funds of a deceased member to be reallocated to another member in the event of death whilst drawing an alternatively secured pension.

Unauthorised payments

The effect of making an unauthorised payment is a range of income tax charges:

- unauthorised payments charge: 40% payable by the recipient out of his or her own money
- unauthorised payments surcharge: 15% payable by the recipient as above
- scheme sanction charge: 15% payable by the administrator, but which will be deducted from the fund
- de-registration charge (only likely on SSAS): 40% of total assets payable on de-registration.

When added to the IHT charge, the total tax bill is likely to be up to 82% and could even exceed 100%.