

Membership of Occupational Pension Schemes

Chapter 2

This document should be read in conjunction with Chapter 1, Part 30 of the Taxes Consolidation Act 1997 (TCA)

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Introduction

Membership of an approved occupational pension scheme must be confined to remunerated employees of the employers participating in the scheme. Employees include former employees of the employer concerned and where the employer is a company, any officer, director or manager of the company. Special conditions apply to 20% directors (see paragraph 4 below). The tax provisions applicable to occupational pension schemes are governed by Chapter 1, Part 30 of the Taxes Consolidation Act 1997 (TCA).

Membership need not be open to all the employees in an employer's service or to any particular category of employees; a scheme may relate to a single employee or to individuals selected on a discretionary basis (see section 771(2)(a) TCA) subject to the principle of equal pension treatment provided for in Part VII of the Pensions Act 1990 and the EU Equality Directive (86/378/EEC). However, every member of a scheme and every employee who has a right to be a member must be notified of her or his rights under the scheme (see Tax and Duty Manual (TDM) [Chapter 18](#)).

Part-time and temporary employees may be included as members of schemes. Please refer to TDM [Chapter 20](#) for calculation of benefits for part-time employees.

1 Persons assessed under Schedule D

Agents, consultants, proprietors, sole traders and others who are assessed to income tax on their earnings under Schedule D rather than Schedule E cannot be provided with benefits under an approved scheme in respect of those earnings.

2 Investment and property rental companies

A 20% director of a company that is treated for tax purposes as an investment company cannot be accepted into membership of an approved scheme in relation to that employment. However, Revenue does not object to schemes for such directors of an investment company where the investment company is a holding company of a group of trading companies, in which the holding company acts as the coordinator of the group. Any amount for directors' remuneration that is allowed as a deduction for tax purposes in the employing company's accounts may be pensioned.

3 Spouses or civil partners of directors, proprietors and partners

The spouse or civil partner of a 20% director, of the proprietor or of one of the partners, may be admitted to membership of the pension scheme provided that s/he is a genuine employee actively working in the business on a regular basis.

4 Temporary absence and secondment

The approval requirements for temporary absence differ depending on whether the temporary absence is within Ireland or overseas. The following paragraphs deal only with temporary absence in Ireland. For temporary absence or secondment overseas, please refer to TDM [Chapter 17](#).

An employee who is temporarily absent or is seconded to another employer and remains resident in Ireland may remain in full membership of an approved scheme even though no remuneration is paid during her/his absence if:

- (a) there is a definite expectation that the employee will return to service, and
- (b) s/he does not become a member of another approved retirement benefits scheme, other than where membership of such other scheme is in respect of a concurrent employment.

These requirements do not apply where:

- (i) no retirement benefits accrue during the employee's absence,
- (ii) the benefit of remaining a member flows from aggregation of two periods of service for benefit calculation purposes, and
- (iii) the sole benefit is the provision of life cover during the employee's absence.

A period of full membership while temporarily absent may, subject to the above, continue for up to five years. Where the period exceeds five years the matter should be reported to Revenue through MyEnquiries. Where the pension administrator is a Transport Layer Security (TLS) enabled customer, an e-mail may be sent to lcdretirebens@revenue.ie.

5 Absence due to incapacity

An employee who is absent because of incapacity may be retained in full membership of a pension scheme for more than five years, irrespective of whether the employee is receiving pay under a sick pay or permanent health insurance scheme or directly from the employer, and irrespective of whether it is definitely expected the employee will return to service.