Transfer Payments

Pensions Manual - Chapter 13

This Manual should be read in conjunction with Part 30 of Taxes Consolidation Act 1997

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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1 Introduction

This chapter of the Pensions Manual deals with the process of transferring a deferred pension where the scheme permits, and the employee has left service. This right is reinforced by the Pensions Act 1990 which provides the employee with a statutory right to a transfer for a period of up to two years after leaving service.

2 Transfer payments

A transfer payment may be made by an exempt approved scheme (as defined in section 774 Taxes Consolidation Act 1997 (TCA)) to another exempt approved scheme, to an approved buy-out bond or to a Personal Retirement Savings Account (PRSA).[1] A transfer payment to a Pan-European Pension Product (PEPP) is not permitted. For more information on PEPPs please refer to **Chapter 31**. Transfers are not permitted once benefits come into payment. A transfer payment should relate to the whole of an employee's benefits; split transfers are not permitted.

The scheme receiving the transfer (the "receiving scheme") may treat the transfer payment as representing the employee's contributions only to the extent certified by the administrator of the scheme making the payment. Any amounts representing employee Additional Voluntary Contributions (AVCs) must be clearly identified as such.

The administrator of the scheme making the transfer must be satisfied that the receiving scheme is an exempt approved scheme and must advise the receiving scheme of the benefits attaching to the payment. Details should be given of service, salary, lump sum benefit entitlement or if an employee has irrevocably given up the right to receive a lump sum from such a scheme.

3 Overseas schemes

3.1 Transfers to overseas arrangements

It is the responsibility of all trustees and PRSA providers to ensure full compliance with the requirements of the Occupational Pension Schemes and Personal Retirement Savings Accounts (Overseas Transfer Payments) Regulations 2003. These Regulations were made by the Minister for Social and Family Affairs (the title of the office at that time) in exercise of powers conferred by the Pensions Act 1990. In essence, prior to making any overseas transfer payments, the trustees or PRSA provider must be satisfied that:

[1] Section 772(3D)(a)(ii) TCA previously provided that a transfer to a PRSA may only take place if the individual has been a member of the scheme or of any other scheme related to that individual's employment with, or with any person connected with, the employer for less than 15 years. This was repealed by section 13 Finance Act 2021.

(a) the member or PRSA contributor has requested a transfer,

(b) the overseas arrangement provides relevant benefits as defined by section 770 TCA, and

(c) the overseas arrangement has been approved by the appropriate regulatory authority in the country concerned.

To comply with (b) and (c) above, the trustees or PRSA provider should obtain written confirmation from the administrator of the overseas arrangement to which the transfer is to be made.

If the transfer is to another EU Member State, the overseas scheme must be operated or managed by an Institution for Occupational Retirement Provision (IORPS), within the meaning of the EU Pensions Directive[2], and must be established in a Member State of the EU which has implemented the Directive in its national law. The scheme administrator must be resident in an EU Member State.

If the transfer is to a country outside the EU, a transfer may not be made to a country other than the one in which the member is currently employed.

Transfers that comply with the above may be made without prior Revenue approval. When making a transfer payment, the amount that could be taken in lump sum form should be notified to the receiving scheme. Please refer to Chapter 25: Limit on Tax Relieved Pension Funds, as a transfer in excess of a specified monetary amount may trigger a tax charge.

Only bona fide transfers are acceptable. The use of certain transfer arrangements relating to occupational schemes, to circumvent Revenue rules on the tax treatment of retirement benefits (for example, transfer payments to the UK and back again to Ireland) are not permissible.

3.2 Transfers to and from United Kingdom schemes

Transfers to the UK should be dealt with on the same basis as transfers to EU member states.

For information on transfers from the UK to Ireland, please refer to the guidance on "Overseas pensions: pension transfers" which is available on the UK Government website. (NB – Revenue is not responsible for the content of external websites.)

[2] DIRECTIVE (EU)2016/2341 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs).

4 Buy-out bonds

A buy-out bond (BOB) is an insurance policy or bond purchased in the name of a beneficiary by the trustees of a scheme, in lieu of the beneficiary's entitlement to claim benefits under the scheme. Transfers to and from a buy-out bond are dealt with in the same manner as transfers to an exempt approved scheme. It is possible to take benefits at a later date than that specified under the original scheme in circumstances similar to that which applies to a transfer payment.

Please refer to Pensions Manual - Appendix I for further information on the rules which apply to buy-out bonds.

5 New employer

A new employer may assume a former employer's responsibilities regarding the transferred pension.

6 Company re-organisations

Where there is a change of employer following a merger, liquidation, management buy-out, etc., the employment of "arms-length" employees (that is, employees who are not 20% directors – please see paragraph 6.1 below) will normally be regarded as continuous for the purposes of calculating maximum permissible benefits.

6.1 Restrictions for 20% directors

If an employee is a 20% director of a company both before and after a re-organisation, etc., continuation of service for pension purposes will only be accepted where a claim has been admitted under section 400 TCA. This section provides that relief for unused losses and capital allowances may be passed to a successor company provided all the assets, liabilities and business of the first company are also taken over.

7 Additional benefits

The receipt of a transfer payment into a new scheme will not affect the amount of lump sum benefit that an employee may receive. The normal maximum limits will continue to apply.

8 Maximum pension payable by a new scheme

When an employee joins the scheme of a new employer and brings a transfer payment, the receiving scheme may provide -

(a) the maximum benefits normally appropriate to their service with the new employer, **plus**

(b) the additional benefits which the transfer payment is sufficient to buy if invested by the receiving scheme.

If the benefits at (a) exceed 1/60th of final remuneration for each year of service with the new employer, the total of (a) plus (b) must not exceed 2/3rds of the employee's final remuneration less any retained benefits (section 772(3)(a) TCA).

9 Lump sum benefits

If the transfer payment is to provide a pre-determined amount of pension specified in money terms, the additional pension may be commuted using the formula 3N/80 x R where

N = number of years of service in earlier employment and

R = employee's final remuneration in the same employment.

Final remuneration should be calculated in accordance with the rules of the transferring schemes. If the rules do not contain such a definition, it should be taken as the average final remuneration of the last three years of service.

9.1 Added years

If the transfer payment is to provide benefits on the basis of added years of service, benefits in lump sum form are limited to the formula 3A/80 x F, where

A = number of added years certified by the actuary and

F = the employee's final remuneration in the receiving scheme.

9.2 Total lump sum benefits

Whichever of the two options above is adopted, the total lump sum benefits given under the scheme, including those produced by the transfer payment, should not exceed 120/80ths of the employee’s final remuneration (inclusive of retained benefits) (section 772(3)(f) TCA) where the lump sum benefits from service with the new employer exceed 3/80ths of final remuneration for each year of service. Where the receiving scheme provides strict 3/80ths of final remuneration per year of service in commutation of pension, the lump sum benefits arising from the transfer payment may be no greater than if they had remained in the original scheme.