Pension scheme approval - administrative matters

Chapter 18

This Chapter should be read in conjunction with Part 30, Chapter 1 and Schedule 23 Taxes Consolidation Act 1997

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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18.1. Approval applications

Applications for tax approval of a pension scheme should be made electronically to Revenue through MyEnquiries. This application should be made by, or on behalf of the administrator before the end of the first period of assessment for which approval is required. Where the administrator is a Transport Layer Security (TLS) enabled customer, applications may be sent to retirebens@revenue.ie.

The statutory requirements relating to applications for approval are set out in Schedule 23, Part 1, Taxes Consolidation Act 1997 (TCA). In practice, Revenue may agree detailed approval procedures with “life offices” (life insurance companies) and pensions practitioners. The Act empowers Revenue to request any information regarding a scheme that "the Commissioners may consider relevant".

An application will normally include copies of:

- the deed or other instrument establishing the scheme;
- the scheme rules;
- the members' booklet or announcement letter; and
- any actuarial advice received or details of scheme funding.

18.2. Documentation procedure

Definitive documentation should be completed at scheme commencement. In exceptional circumstances when this is not possible, Revenue may accept that the scheme is effectively established by an interim deed creating an irrevocable trust and setting out the main purposes of the scheme. When interim approval is granted, immediate relief on a provisional basis will be allowed for employee contributions. If the scheme is to be operated by insurance policies, the life insurance company may treat the premiums received as "pension business". In certain circumstances, exempt approved status may be given to individual arrangements retrospectively to the date of commencement.

18.3. Information to employees

If a scheme is to be approved, every member and every employee who has a right to be a member must be given written particulars of all essential features of the scheme that concern that individual.

18.4. Alterations to schemes

Copies of all scheme amendments must be forwarded to Revenue.

18.5. Reporting requirements

Schedule 23, Part 1, TCA obliges the scheme administrator to furnish to the Inspector of Taxes any information and particulars as the Inspector considers relevant. The reporting requirements for small self-administered schemes are set out in the Pensions Tax and Duty Manual Chapter 19.

All schemes must maintain detailed and up-to-date records in order that information regarding contributions and benefits is available for compliance and audit purposes. All self-administered schemes should prepare annual accounts and complete actuarial reviews on a regular basis.

18.6. Unapproved schemes

Every employer is required to deliver to Revenue particulars of any scheme that has not been approved.

Section 777 TCA provides that a payment made by any employer to an unapproved scheme is assessable under Schedule E on the employee (and is therefore subject to PAYE).

An employee who has rights under an unapproved scheme which are not fully secured in advance by payments by the employer is assessable under Schedule E on the estimated amount required to secure the benefit.

18.7. Withdrawal of approval

Section 772 (5) TCA empowers Revenue to withdraw approval from a scheme. Withdrawal is effected by notice in writing to the administrator, specifying the grounds for, and the operative date of, the withdrawal.

An unacceptable amendment to a scheme will cause approval to lapse automatically. Approval may also be withdrawn for

- payment of excessive or unauthorised benefits,
- failure to furnish information
- failure to meet the scheme's tax liabilities,
- unacceptable investments, or
- any serious breaches of the scheme rules.

Following withdrawal of approval, the employees are chargeable to tax under section 777 TCA on any contributions from the employer.