

# Dual Private/Public Pension Scheme Encashment Option

## Chapter 29

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## Introduction

### 29.1

Section 787TA Taxes Consolidation Act (TCA) 1997 provides for an encashment option, with effect from 8 February 2012, for certain individuals with significant dual private sector and public sector pension savings.

Where the aggregated capital value of an individual's pension benefits at retirement from private sector and public sector pension arrangements exceeds the standard fund threshold (SFT) of €2 million<sup>1</sup> or the individual's personal fund threshold (PFT), if applicable, a chargeable excess arises which attracts an immediate tax charge at the higher rate of tax in force for the tax year in which the benefit crystallisation event which gives rise to the chargeable excess occurs (40% from the tax year 2015 and 41% for earlier years), with further tax implications when the remaining excess is drawn down as pension. The provisions set out in section 787TA and summarised here allow an affected individual a once-off opportunity to encash their private pension rights, in whole or in part, from age 60 with a view to eliminating or minimising the chargeable excess that would otherwise arise when the public sector pension crystallises.

### Who can qualify for the Encashment Option?

#### 29.2

To qualify for the encashment option an individual must be a "relevant individual" **on 8 February 2012** (date of publication of the Finance Bill 2012). That means he or she must –

- be a member of a private sector pension scheme **and** a member of a public sector pension scheme, or
- be a member of a public sector pension scheme and have drawn down their private sector scheme benefits in the period 7 December 2005 to 7 February 2012 (this caters for individuals who may have drawn pension benefits already from, for example, an RAC or PRSA but remain in public sector employment and a member of the public sector scheme), or
- be a member of a private sector scheme on or after that date and **subsequently** become a member of a public sector scheme (this caters for individuals moving from the private sector into a public sector career in the future), or
- remain an active member of his or her public sector scheme until his or her retirement date (i.e. 60 or later). This means that he or she continues in the public sector employment and accrues pension benefits up to retirement.

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<sup>1</sup> An SFT of €2 million was set for 2014 and this amount continues to apply. The SFT for 2010 (from 7 December 2010) to 2013 was €2.3 million.

In addition, the individual must have entitlements under his or her private sector and public sector pension schemes, the overall capital value of which exceeds the SFT or his or her PFT, at the expected date of retirement from the public sector. The individual's public sector pension entitlements must also be crystallised last after all private sector benefits have been crystallised.

**Please note** that the encashment option can be exercised on one occasion only which must be on or before the individual's retirement date from the public sector and on or after the individual has reached age 60 and **once it is exercised it cannot be reversed**. If the individual has a number of private pension schemes he/she wishes to encash, the option must be exercised on the same date in respect of each of the private sector schemes.

## Retirement on grounds of ill health

### 29.3

An individual retiring on grounds of ill health before age 60 can also avail of the encashment option on his/her retirement date.

## Notifying Revenue

### 29.4

Before the encashment option is exercised, the individual must notify Revenue of his/her intention in that regard at least 3 months before the proposed date of retirement from the public sector scheme (section 787TA(4)) and provide the following information to Revenue –

- Full name, address and PPS Number.
- An estimate of the value of the accrued pension rights to be encashed.
- Particulars of the private sector scheme(s) in respect of which the encashment option is to be exercised.
- The name, address and phone number of the administrator of each such scheme.
- Such other information as Revenue may require for the purposes of section 787TA.

The notification must include a declaration to the effect that the notification is correct and complete.

## Late notifications

### 29.5

A notification that does not meet the 3 months advance requirement can still be a valid notification if Revenue accepts that in all the circumstances the failure to meet the deadline should be disregarded.

## Exercising the Option

### 29.6

Once an individual meets the eligibility conditions, he/she can, at age 60 or over and on or before the date of retirement from the public sector, exercise the encashment option by notifying the private scheme(s) administrator(s) by way of an irrevocable instruction to that effect. The exercise of the option is the transfer by the administrator (of the individual's private sector scheme or schemes) to the individual of the value of his or her accrued rights under the scheme. There are provisions for full or partial encashment and for situations where all or some of a private sector scheme has already been cashed in. Where the encashment option is exercised in full, no lump sum can be taken from the scheme. A partial encashment will result in a restriction of the lump sum otherwise payable under the scheme.

## Deduction and remittance of tax

### 29.7

The encashment amount is charged to income tax under Case IV of Schedule D at the higher rate applying for the tax year in which the payment is made to the individual. No reliefs or deductions may be set off against the encashment amount in order to reduce the tax charge.

The individual and the administrator of the private sector scheme are jointly and severally liable for the tax due on an encashment amount and this applies whether or not either or any of them is resident or ordinarily resident in the State (section 787TA(23)).

The encashment amount is liable to the Universal Social Charge (USC) at the rate of 2.5%<sup>2</sup> (see section 531AN(3A)). The amount chargeable is not be regarded as "relevant income" for the purposes of section 531AN(2), which means that it is not taken into account in determining whether the individual is liable to the additional USC charge which applies where an individual has "relevant income" in excess of €100,000.

The administrator must remit the tax and USC to the Collector General within 3 months of the date of the option being exercised.

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<sup>2</sup> 3.5% for 2015 and 2016. 4% for 2014 and prior years.

## Miscellaneous

### 29.8

Where the encashment option is exercised in respect of a private pension scheme, the encashment amount does not constitute a BCE in the hands of the individual for SFT or PFT purposes. In addition, where a private pension scheme has already been drawn down and is the subject of an encashment option, BCEs that occurred at the time of draw down are, depending on the circumstances, disregarded.

An encashment amount cannot be used as a contribution to, or the payment of a premium in respect of, a relevant pension arrangement.

An encashment amount or deemed encashment amount is not regarded as a taxable distribution from an ARF or AMRF or as a withdrawal from a PRSA.

## Further Information

### 29.9

Further information on the encashment option can be found in the TCA 1997 Notes for Guidance.