

## Dual Private/Public Pension Scheme Encashment Option

### Chapter 29

This document should be read in conjunction with section 787TA of the Taxes Consolidation Act 1997 (TCA)

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## 1. Introduction

Section 787TA Taxes Consolidation Act 1997 (TCA) 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, the amount over the threshold is called a "chargeable excess". This attracts an immediate tax charge at the higher rate of income 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 onwards and 41% for earlier years). There are further tax implications when the remaining excess is drawn down as a pension. The provisions in section 787TA TCA allow an affected individual a once-off opportunity to encash their private pension rights, in whole or in part, from age 60 (or earlier, where retirement is due to ill health) with a view to eliminating or minimising the chargeable excess that would otherwise arise when the public sector pension crystallises.

## 2. Who qualifies for the encashment option?

To qualify for the encashment option an individual must be a "relevant individual", as defined in section 787TA(1) TCA, on 8 February 2012. That means she or he 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 her or his private sector scheme benefits in the period 7 December 2005 to 7 February 2012 (this includes 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 have become a member of a public sector scheme (this includes individuals moving from the private sector into the public sector), or
- remain an active member of her or his public sector scheme until retirement date (i.e., age 60 or later). This means she or he continues in 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 her or his 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.

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. Once it is exercised it cannot be reversed. If the individual has a number of private pension schemes he or she wishes to encash, the option must be exercised on the same date in respect of each of the private sector schemes.

### 3. Retirement on grounds of ill-health

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

### 4. Notifying Revenue

An individual must notify Revenue of her or his intention to exercise the encashment option at least three months before the proposed date of retirement from the public sector scheme (section 787TA(4) TCA) and provide the following information:

- her or his 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 telephone number of the administrator of each such scheme;
- such other information as Revenue may require for the purposes of section 787TA TCA.

The notification must include a declaration to the effect that the notification is correct and complete (section 787TA(5) TCA).

### 5. Late notifications

A notification received by Revenue less than three months before retirement can still be valid if Revenue accepts that, in the circumstances, the failure to meet the deadline should be disregarded (section 787(5A) TCA).

## 6. Exercising the option

Once an individual meets the eligibility conditions, she or he 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(s) of the individual's private sector scheme(s) to the individual of the value of her or his accrued rights under the scheme. There are provisions for full or partial encashment and for situations where all or some of an individual's accrued rights from 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.

## 7. Deduction and remittance of tax

The encashment amount is charged to income tax under Case IV of Schedule D at higher income tax rate for the tax year in which the payment is made to the individual (section 787TA(7) and (8) TCA). No reliefs or deductions may be set off against the encashment amount (section 787 (9) TCA).

The individual and the administrator of the private sector pension scheme are jointly and severally liable for the tax due on an encashment amount and this applies regardless of whether either of them is resident or ordinarily resident in the State (section 787TA(23) TCA).

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

The administrator of the private sector pension scheme must remit the tax and USC to the Collector General within three months of the date of the option being exercised.

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<sup>2</sup> 2.5% for 2017. 3.5% for 2015 and 2016. 4% for 2014 and prior years.

## 8. Miscellaneous

Where the encashment option is exercised in respect of a private pension scheme, the encashment amount does not constitute a “benefit crystallisation event” (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.

## 9. Further Information

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