Notes for Guidance - Taxes Consolidation Act 1997

Finance Act 2022 edition

Part 36B
Pensions: Incentive tax credits

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PART 36B
PENSIONS: INCENTIVE TAX CREDITS

Overview

Part 36B, which contains ***sections 848V*** to ***848AG*** inclusive, provides an incentive for those on lower incomes to invest some or all of their Special Savings Incentive Account (SSIA) funds, when their SSIA matures, in a pension product.

The types of pension products into which SSIA funds can be invested under the incentive are Personal Retirement Savings Accounts (PRSAs), Additional Voluntary Contributions (AVCs) and Retirement Annuity Contracts (RACs).

The incentive is available to individuals who, in the year preceding the year in which their SSIA matures, had a gross income of €50,000 or less and did not pay any tax at the 41 per cent rate (but see the note in ***section 848W***).

The incentive has two aspects. *Firstly,* for every €3 of SSIA funds invested, the Exchequer will contribute €1, up to a maximum Exchequer contribution of €2,500. *Secondly,* the Exchequer will also contribute a proportion of the exit tax deducted by the SSIA provider when the SSIA matures. That proportion will be the same as the proportion of SSIA funds reinvested in the pension product.

The Exchequer contribution to the pension products will be by way of tax credits and the grant of these credits will be administered by the Revenue Commissioners in much the same way as the Exchequer contribution to SSIAs was administered.

However, neither the first €7,500 invested nor the amounts contributed by the Exchequer can be claimed as a deduction against the investor's income.

As the incentive is intended to encourage long-term pension savings, ***section 848ABA*** provides for a clawback of a proportion of the tax credits contributed by the Exchequer where an individual availing of the incentive withdraws any funds from the pension product within one year of it having received those tax credits.

848V Interpretation (*Part 36B*)

Summary

This section contains definitions of various terms used throughout ***Part 36B***.

Details

Definitions

"additional voluntary contributions" and "retirement benefits scheme" have the meanings assigned to them in ***section 770***;

"administrator" means, subject to ***section 848AD*** —

- as respects a PRSA, a PRSA administrator,
- as respects a retirement benefits scheme, an administrator within the meaning of ***section 770***, and
- as respects an annuity contract, a person mentioned in ***section 784*** (including the person mentioned in ***subsection (4A)(ii)*** of that section) who is carrying on the business of granting annuities on human life;

"annuity contract" means an annuity contract or a trust scheme approved by the Revenue under ***section 784***;

"gross funds", "maturity date", "maturity statement", "maturity tax" and "net funds", in relation to an SSIA, have the same meanings as they have in ***section 848H(5)***;

"gross income", in relation to an individual for a year of assessment, is the aggregate of the individual's income from all sources (including any exempt income) for that year before taking into account any reduction in respect of allowances, losses, or deductions including a deduction in computing Case V income under ***section 372AP*** (relief for lessors), a deduction against total income under ***section 372AR*** (relief for owner occupiers) or a deduction under various residential reliefs under various older schemes;

"PPS Number", in relation to an individual, means that individual's Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

"PRSA administrator" and "PRSA contribution" have the meanings assigned to them in ***Chapter 2A*** of ***Part 30***;

"special savings incentive account" has the same meaning as it has in ***section 848C*** and "account" shall be construed accordingly.

848W Transfer of funds on maturity of SSIA

Summary

This section sets out the conditions that are required to be satisfied in order to avail of the incentive in this Part.

Details

The conditions that must be met in order to avail of the incentive are as follows:

- the individual's gross income for the year of assessment prior to investing SSIA funds in a pension product must not exceed €50,000; (*see note (2) below*) ***(a)***
- in that year, none of the individual's income can be liable to tax at the 41 per cent rate – for this purpose a husband and wife are to be treated as if they were separately assessed; (*see note (1) below*) ***(b)***
- within 3 months of the individual's SSIA maturing, the individual is required to give a pension provider his or her maturity statement (issued by the SSIA manager), make a declaration and invest SSIA funds in a pension product; ***(b)(i) & (ii)***
- the individual cannot claim a deduction from his or her income in respect of the first €7,500 of his or her investment in a pension product nor in respect of the Exchequer contribution; and ***(b)(iii)***
- any other commitment of the individual to making pension contributions should be honoured. ***(b)(iv)***

Note: (1) In the administration of the incentive, the Revenue Commissioners will waive the prohibition on 41 per cent taxpayers availing of the incentive since such taxpayers would receive a greater benefit from investing directly in a pension product and availing of a normal tax deduction.

(2) If at the time that an investor is availing of the incentive his/her gross income for the year concerned has not been determined, the investor may use the gross income figure of the previous year and be eligible to avail of the incentive if that gross income does not exceed €47,500.

848X Declaration

This section sets out the details that should be included in a declaration that an individual who seeks to avail of the incentive is required to make. Essentially the individual is required to declare that he or she satisfies the conditions set out in ***section 848W*** (as modified by

Revenue's concessions set out above in the note to ***section 848W***).

848Y Entitlement to pension tax credit

This section states that where an individual has made a declaration under ***section 848X*** and has provided his/her pension provider with a maturity statement and a pension subscription, then he/she will be entitled to receive tax credits under this Part.

848Z Tax credits

Summary

This section sets out how the tax credit and additional tax credit payable to an eligible individual under this Part are to be calculated.

Details

Tax credit

The Exchequer will add €1 for every €3 subscribed by the individual, up to a maximum addition of €2,500 (i.e. only the first €7,500 subscribed will be eligible for this credit (called a "tax credit")). ***(1)***

Additional tax credit

Secondly, the Exchequer will also add a proportion of the tax deducted from the individual's SSIA on its maturity. This is called an "additional tax credit" and is calculated as follows: ***(2)***

The additional tax credit is: ***(3)***

$$\frac{A \times C}{B}$$

where —

A is the maturity tax in relation to the individual's SSIA,

B is the net funds in relation to the individual's SSIA, and

C is the amount of the pension subscription.

Example

Mr. O'Shea's SSIA matured on 31 January 2007. €300 maturity tax was deducted, leaving net funds of €17,200. On 1 February 2007 he subscribed €15,000 of those net SSIA funds to a pension product. His pension provider made a claim to Revenue for the following amount of tax credits:

The tax credit (€1 for €3) up to a maximum of €2,500 — €2,500

and

the additional tax credit (using the formula in ***subsection (3)***) being —

$$\frac{300 \times 15{,}000}{17{,}200} = \text{€261.63, which can be rounded up to} \quad \text{€262}$$

giving a total amount of tax credits, payable on 1 March 2007, of — €2,762

848AA Payment of tax credits

This section provides that where an individual becomes entitled to tax credits and where the pension provider complies with ***section 848AB*** then those tax credits shall be paid by the Revenue Commissioners to the pension provider who, on receipt, will credit them to the individual's pension product which can be a PRSA, an AVC or an RAC.

848AB Monthly return

This section requires the pension provider to make a monthly return (including, where it is the case, a nil return) to the Revenue Commissioners setting out in relation to that month —

- the total amount of tax credits that are being claimed;
- the total amount of additional tax credits that are being claimed; and
- the number of individuals who invested in each type of pension product.

The pension provider must make the return within 15 days of the end of every month and must declare in the return that, to the best of his/her knowledge, the information in the return is correct.

848ABA Withdrawal of tax credits

Summary

This section provides for a clawback of a proportion of the tax credits paid by the Exchequer where an individual availing of the incentive withdraws any funds from their pension product within one year of it having received those tax credits.

Details

Definitions

In this section — ***(1)***

"requested amount" means an amount of money requested, within one year of vesting day, by the individual from his/her pension provider;

"retained amount", in relation to a requested amount and subject to ***subsection (4)***, means the amount determined by the following formula:

$$R \times \frac{C}{S + C}$$

where —

R is the requested amount,

C is the aggregate amount of the tax credit and the additional tax credit in relation to the individual's pension subscription, and

S is the amount of the individual's pension subscription;

"vesting day", in relation to an individual's pension subscription, means the day on which a pension provider, in accordance with ***section 848AA***, treats tax credits as an AVC, a PRSA contribution or a premium under an annuity contract made by the individual (in other words vesting day is the day on which the individual's pension product receives tax credits from the Exchequer).

Clawback of tax credits

Where an individual's vesting day is on or after 29 September 2006 and he/she requests funds from his/her pension product within one year of that day there will be a proportionate clawback of the tax credits paid into his/her pension product by the Exchequer. The amount of the clawback, called the retained amount, will be in the same proportion to the amount withdrawn as the total tax credits paid bear to the aggregate of the total tax credits paid and the amount of SSIA funds subscribed to the pension product. The retained amount is calculated in accordance with the formula in ***subsection (1)***. ***(2)***

Where the withdrawal of funds from the pension product takes place <u>on or after</u> 10 April ***(2)(a)***

2007, the pension provider must deduct the amount of the clawback from any payment made to the individual.

Where the withdrawal of funds from the pension product takes place before 10 April 2007, the individual will be assessed to income tax by Revenue in such amount as ensures that the appropriate amount of tax credits are clawed back. ***(2)(b)***

Where a pension provider has deducted a clawback amount from a payment to an individual in accordance with ***subsection (2)(a)***, the pension provider must pay that amount to the Revenue Commissioners. ***(3)***

Where an individual has invested monies other than their SSIA funds in their pension product, those monies will be unaffected by any clawback. However, any withdrawal of funds will be treated as having come from the individual's SSIA funds and related tax credits in the first instance, and then, when those funds have been exhausted, from the other monies invested in the pension product. ***(4)***

Example

Using and extending the example from ***section 848Z***:

Mr. O'Shea's SSIA matured on 31 January 2007. €300 maturity tax was deducted, leaving net funds of €17,200. On 1 February 2007 he subscribed €15,000 of those net SSIA funds to a pension product. His pension provider made a claim to Revenue for the following amount of tax credits:

The tax credit (€1 for €3) up to a maximum of €2,500 €2,500

and

the additional tax credit (using the formula in ***section 848Z(3)***) being —

$$\frac{300 \times 15{,}000}{17{,}200} = \text{€}261.63\text{, which can be rounded up to} \quad \text{€}262$$

giving a total amount of tax credits, payable on 1 March 2007, of €2,762

On 1 October 2007 (7 months later), Mr O'Shea requests a withdrawal of €10,000 from his pension product. This will give rise to a clawback of a proportion of the tax credits paid in March. The clawback is calculated using the formula in ***subsection (1)*** as follows:

$$10{,}000 \times \frac{2{,}762}{15{,}000 + 2{,}762} = 1{,}555$$

i.e. €1,555 of the €2,762 tax credits paid on 1 March 2007 will now be clawed back.

Had Mr. O'Shea requested his €10,000 before 10 April 2007, he would have been assessed to income tax in order to collect the clawback amount (€1,555). However, as he requests it after 10 April 2007, the pension provider is required to deduct the clawback amount from the €10,000 requested by Mr. O'Shea and pay it over to the Revenue Commissioners. Mr. O'Shea will receive the balance of the amount he requested, i.e. €10,000 – €1,555 = €8,445.

Information

The Revenue Commissioners may seek certain information from pension providers in respect of an individual who has made a withdrawal from their pension product within one year of it having received tax credits from the Exchequer. This information includes biographical details of the individual, details of the tax credits paid into the pension product by the Exchequer, details of the amount requested by the individual and details of the clawback deducted by the pension provider. ***(5)***

848AC Other returns

Summary

This section requires each pension provider to make a return to the Revenue Commissioners in respect of each of the 4-month periods ending on 30 September 2006, 31 January 2007, 31 May 2007 and 30 September 2007. These returns are required to contain details of every individual in respect of whom tax credits were claimed in the period, certain details of their SSIA and the aggregate amount of tax credits claimed in the period.

Details

Returns

Each pension provider must make a return (including, where appropriate, a nil return) to the Revenue Commissioners in respect of each of the 4-month periods ending on 30 September 2006, 31 January 2007, 31 May 2007 and 30 September 2007. The returns must be made before the 28th day of the month following the end of the period.

Content of returns

A return for each period must contain details of — ***(a)***

- the name, address and PPS Number of each individual for whom tax credits were claimed in that period;
- the maturity date, gross funds, net funds and maturity tax, in relation to each individual's SSIA;
- the amount of the pension subscription paid by each individual;
- in relation to each individual, the amount of the tax credit and additional tax credit claimed and paid in relation to each pension subscription;
- in relation to each individual, whether the tax credits claimed and paid were treated as an AVC, a PRSA contribution or a premium under an annuity contract; and
- in relation to tax credits claimed in the period, the total amount of tax credits and the total amount of additional tax credits. ***(b)***

848AD Registration and audit of administrators

This section provides that the pension provider must be registered with the Revenue Commissioners in order to participate in the operation of this incentive and that the Revenue Commissioners can audit the returns made to them by the pension provider.

848AE Regulations (*Part 36B*)

This section gives the Revenue Commissioners the power to make Regulations to provide for the administration of this incentive, including the registration of pension providers, how returns are to be made under ***sections 848AB*** and ***848AC*** and how tax credits are to be claimed and paid. The section also sets out the usual provision regarding Regulations and Dáil Éireann.

848AF Offences (*Part 36B*)

This section provides that any person who makes a false declaration under ***section 848X*** or ***848AB*** is liable on summary conviction to a fine of €3,000 or, at the discretion of the court, to a prison term of up to 6 months or to both the fine and prison term.

848AG Retention of declarations

This section requires the pension providers to retain, in respect of each individual who participates in the incentive through them, the individual's SSIA maturity statement and the individual's declaration made in ***section 848X***. The period of retention is to be set down in Regulations.