

Budget Summary for Executives

June 2010

Each Budget in the last few years has introduced changes affecting the pension planning for high earners and the latest Budget, by the new coalition Government, has been no different. One positive element of this new Government is that it has listened to businesses and their concerns about the difficulties of working with the proposals for restricting the pensions tax relief for high earners, introduced by the previous Labour Chancellor. These were due to come in from 6 April 2011.

The new Government has indicated that in order to restrict pensions tax relief, it will do so by reducing the Annual Allowance (currently at £255,000 per annum). The Chancellor needs to ensure that the revised Annual Allowance will raise at least the same amount of tax as was expected by the Labour proposals. Treasury analysis indicates that the revised Annual Allowance will have to be much lower: in the region of £30,000 to £45,000! This is a drastic reduction.

The Government has delayed making the final decision by stating that it will consult employers as well as pension experts to determine a workable regime to ensure it operates "fairly and effectively".

There are still more unanswered questions, e.g.

- how pension accrual in DB schemes would be valued;
- options to ensure basic-rate taxpayers are not subject to the restriction, and to support hard cases caused by one-off 'spikes' in pension accrual;
- whether and how there could be flexibility for individuals over paying any charges that arise;
- how compliance and delivery would operate in practice.

The Government has indicated that legislation will be introduced before the summer recess to repeal through regulations the legislation passed at Finance Act 2010. The Government will repeal the legislation once it has decided on the detail of its approach.

The Government has also decided that there will be no changes to the anti-forestalling regime, as the existing regime broadly protects against forestalling risks. However, they will continue to actively monitor the regime and, if necessary, act in future to protect tax revenue at risk.

As the anti-forestalling rules prior to April 2011 will remain in place, current "high earners" must remain vigilant to avoid incurring unexpected tax charges. However, this does mean that anyone who is not currently a "high earner" could benefit from making large pension contributions before April 2011. This applies equally to any substantial augmentations to DB benefits that could be made this year instead of next.

The March 2010 Budget had announced action to tackle arrangements using trusts and other vehicles to reward employees which seek to avoid, defer or reduce liabilities of employees and directors to income tax and national insurance, or to avoid restrictions on pensions tax relief. The Government has confirmed that Employer-Financed Retirement Benefits Schemes (EFRBS) are within the scope of this measure. Any changes in legislation are likely to target aggressive offshore EFRBS but genuine EFRBS (like our EFRBS) could be caught by the changes and we will have to await the final outcome.

The rate of capital gains tax has increased to 28% for higher-rate taxpayers (with effect from 23 June 2010, subject to review with effect from April 2011). This rate also applies to trusts (e.g. EFRBS).

For further information

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