
AVOIDING UNINTENDED TAX CONSEQUENCES IN RELATION TO PENSION SAVINGS

Who is likely to be affected?

1. Individuals who have tax-relieved pension savings with an insurance company in the possible circumstance where the insurer qualifies for assistance from the Financial Services Compensation Scheme (FSCS).

General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to provide powers to make regulations to ensure that in the circumstance where the FSCS assists an insurance company, there will be broadly the same tax treatment for the resulting payments or transfers as if the FSCS had not intervened.
3. The FSCS assistance can include transferring an individual's rights to another insurer or paying compensation to the individual. Tax rules would apply differently because the FSCS is not a registered pension scheme. This measure will ensure that the individual will not be disadvantaged because of FSCS involvement.
4. The proposed legislation will also extend other regulation-making powers in relation to registered pension schemes by allowing regulations to apply retrospectively where they do not increase the individual's liability.

Operative date

5. The measure will have effect on and after the date that Finance Bill 2009 receives Royal Assent. Any regulations made using the powers in this measure can be backdated to have effect before Royal Assent, provided they do not disadvantage the individual.

Current law and proposed revisions

6. Insurance companies can make pension provision which benefits from tax privileges and that provision can be registered as a pension scheme for tax purposes. They can also transfer tax-relieved pension savings to other registered pension schemes and provide an annuity from those savings.

7. Unintended tax consequences may arise when the FSCS provides assistance to an insurer as the FSCS is not a registered pension scheme for tax purposes.
8. Finance Bill 2009 will introduce a regulation-making power to allow changes to be made to the tax consequences of FSCS assistance for insurers who make pension provision. The regulations will be able to provide for individual members to have their payments after FSCS intervention to be treated for tax purposes in broadly the same way as if FSCS had not intervened.
9. The regulations made under this power may take retrospective effect but only where they do not increase the individual's tax liability.

Further advice

10. If you have any questions about this change, please contact Beverley Davies on 020 7147 2869 (email: beverley.davies@hmrc.gsi.gov.uk) Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk