2009 Pre-Budget Report

HM Revenue & Customs

PBRN18

9 December 2009

PENSIONS: RESTRICTING TAX RELIEF FOR HIGH-INCOME INDIVIDUALS (ANTI-FORESTALLING)

Who is likely to be affected?

1. Individuals with incomes of £130,000 or over who, on or after 9 December 2009, change:
   - their normal pattern of regular pension contributions; or
   - the normal way in which their pension benefits are accrued;

   and whose total pension contributions/benefits accrued ('pension savings') exceed the special annual allowance of £20,000 a year (or in some circumstances £30,000).

2. Scheme administrators of registered pension schemes and advisers with clients who have changes to pension savings that are affected by this measure.

General description of the measure

3. The Government announced at Budget 2009 its intention to restrict tax relief on pensions savings with effect from 6 April 2011 for people with incomes of £150,000 or over. At the same time legislation was introduced to prevent those likely to be affected from seeking to forestall this change.

4. The Government announced today that:
   - the income definition for the £150,000 threshold will include the value of employer pension contributions; and
   - tax relief for those with incomes below £130,000 before the inclusion of employer pension contributions will not be restricted (other than by the existing annual and lifetime allowances).

   To reflect this new floor, legislation will be introduced in Finance Bill 2010 to amend the anti-forestalling threshold to income of £130,000 or over.

Operative date

5. These anti-forestalling provisions will have effect for contributions paid under money purchase pension schemes or increases in the rights accrued under defined benefit pension schemes on or after 9 December 2009.

Current law and proposed revisions

6. Schedule 35 to the Finance Act 2009 introduced a special annual allowance and associated tax charge which applied from April 2009.

7. The special annual allowance for an individual is £20,000, or, in certain circumstances, it can be up to a maximum of £30,000. A tax charge, the special annual allowance charge, applies to those affected where their pension savings made in a tax year exceed the special annual allowance, unless the excess pension savings are a protected pension input.

8. This allowance and tax charge applies only to high-income individuals. Currently, these are individuals with income of £150,000 or over for the tax year or for either of the preceding two tax years. The rules applying to individuals with income of £150,000 or over are not changed by this measure.

9. From 9 December 2009, the special annual allowance and tax charge will also apply to those with income of £130,000 or over, for the tax year or for either of the two preceding tax years.

10. For these individuals, the special annual allowance and tax charge will apply in the same way as for those with incomes of £150,000 or over. However, in these cases the special annual allowance tax charge will apply only to additional pension savings over and above the individual's normal regular pension saving made on or after 9 December 2009.

11. Those individuals who do increase their pension savings on or after 9 December 2009 over and above their normal pattern of regular pension savings may be affected if their total pension savings in that year are over £20,000. In certain circumstances where contributions have been made less frequently than quarterly this limit may be increased up to £30,000.

12. The tax charge will not apply to any normal, regular ongoing pension savings arrangements that were in place before 9 December 2009, whatever their value. It applies only to additional savings over and above those made on or after 9 December 2009.

13. Normal, regular ongoing pension savings are defined as follows. For people contributing to a money purchase arrangement, normal, regular ongoing savings are the continuation of those contributions paid under agreements made before 9 December 2009 that are paid quarterly or more frequently and at a rate that does not increase.

14. For people in defined benefit schemes, normal, regular ongoing savings include any increases in pension benefits which arise under the existing pension scheme rules as at 8 December 2009. These include any increased benefits due as a result of normal pay rises and progression.

15. Any additional contributions to money purchase arrangements made from 6 April 2009 up to and including 8 December 2009 which are over and above the normal pattern of regular contributions, will not be subject to the special annual allowance tax charge. However, the total value of additional contributions in this period will reduce the amount of special annual allowance available for 2009-10.

16. For defined benefit schemes the value of any changes over and above the normal increase in pension benefits as a result of changes to scheme rules, from 6 April 2009 to 8 December 2009, are not subject to the special annual allowance tax charge. However, the value of the change in this period will reduce the amount of special annual allowance available for 2009-10.

17. Where regular pension savings exceed the special annual allowance, the special annual allowance charge will apply to any additional pension savings made on or after 9 December 2009 in excess of regular savings. Where regular pension savings are below the special annual allowance, the tax charge applies to any excess over the special annual allowance. The charge has the effect of restricting tax relief on the additional pension savings to basic rate.

18. The special annual allowance and associated tax charge apply to total contributions, regardless of whether these are made by the individual, their employer or by a third party and to any benefits accruing in a defined benefits scheme. The tax charge will be collected through the Self Assessment tax return.

Further advice

19. The rate of the special annual allowance charge with effect from 6 April 2010 has also been announced. PBRN19 sets out the detail.

20. Further information about this measure is provided in a Technical Note that has been published today on the HM Revenue & Customs website.

21. If you have any questions about this change, please contact Peter Seedhouse on 020 7147 2529 (email: pensions.policy@hmrc.gsi.gov.uk). If you have any questions about how the pensions tax rules operate in practice, please contact the Pension Schemes Service Helpline on 0845 600 2622.

22. Information about Pre-Budget Report measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk