

Trustees of pension plans which are (or have been) contracted out on a protected rights basis should be aware of the tax position in relation to short service refunds of contributions from 6 April 2012 onwards.

One of the conditions for payment of a short service refund is that this must extinguish the member's entitlement to benefits from the plan unless legislation prevents this. Up until 6 April 2012, legislation prevents the refund of the protected rights element of the benefit. However, from 6 April 2012 this restriction will be abolished. So, where the rules of a pension plan do not specifically allow for the refund of a member's entire rights as a short service refund, the partial refund will be an unauthorised payment. HMRC has expressed an intention to amend the relevant legislation to allow partial refunds to be paid without incurring unauthorised payment charges, but it is not yet known when this will take effect.

On a positive note, HMRC has confirmed that from 6 April 2012 a second refund can be made to members who have already received a short service refund but whose protected rights were retained in the pension plan. This is subject to the rules of the pension plan and the requirements for short service refunds at the time a refund is paid. There is a window of opportunity for pension plans to extinguish small member accounts. The window may be closed by the Government's proposals to abolish refunds of contributions, anticipated to be as early as 2014.

Actions

This is one of a number of issues that pension plans will have to tackle in relation to the abolition of protected rights. As previously communicated, employers and trustees should consider the effect of this change as soon as possible. Rule amendments will be required.

For further information please contact any of the partners listed, or your usual contact in the Squire Sanders pensions team.

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