Autumn 2011

Hot Topics

Pensions

1. STATUTORY EMPLOYERS

A recent announcement from the Pensions Regulator emphasises the importance of trustees of DB plans identifying their statutory employers for the purposes of funding, debt liability and PPF entry requirements. In future, statutory employer information will be required on scheme returns, and reporting requirements will be increased. Trustees need to be certain of the nature and extent of employer obligations.

2. COUNTDOWN TO 1 OCTOBER 2012 (AUTO-ENROLMENT DUTIES)

With less than a year to go until the advent of auto-enrolment duties, large to medium sized employers should now have an action plan in place. Key strategic decisions need to be taken (if they have not been taken already) and a workforce assessment should be planned to gauge the impact on company budgets. *Action will be needed in all cases.*

3. REFUNDS OF CONTRIBUTIONS

Trust based pension plans typically allow leavers with less than two years of membership to take a refund of their own contributions. The pension plan normally retains the contributions the employer made for that member. Following recent Government announcements, we are expecting legislation to restrict/abolish this option. This may influence employer decisions regarding pension arrangements to be used for auto-enrolment.

4. ALL CHANGE FOR AGENCY WORKERS

Auto-enrolment is not the only concern for those employing agency workers. The new pensions duties will follow hot on the heels of the Agency Workers Regulations (in force 1 October 2011) which introduce a whole raft of new rights for agency workers, including the right to be paid the same rate as the permanent staff they work alongside after 12 weeks in the job.

5. FIXED PROTECTION

The Lifetime Allowance will reduce from £1.8m to £1.5m from 6 April 2012. Individuals who expect to have pensions savings in excess of £1.5m can apply to HMRC for Fixed Protection before 6 April 2012. Such individuals will lose Fixed Protection if they build up further pensions savings in registered pension plans. *Beware the impact of auto-enrolment!*

6. 'SCHEME PAYS'

Trustees must issue a pension savings statement to a member whose savings exceed the Annual Allowance in a Pension Input Period. Where that member faces an AA charge of more than £2,000 he can notify the trustees that the element of the charge arising from savings in the plan is to be met from his benefits. Unpopular? Definitely!

Squire Sanders Hammonds
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7. FLEXIBLE DRAWDOWN

Subject to plan rules, DC members who have a guaranteed annual level of pension income of at least £20,000 can withdraw their excess DC funds, without a cap applying. DB members may wish to 'reshape' their benefits by transferring all or part of their benefits to a DC plan. This can lead to derisking opportunities for DB plans.

8. DEFERRED MEMBERS AND AA TESTING

Where plan rules provide that deferred members' benefits will increase at a rate of revaluation allowed by tax legislation, the increase will not count towards the Annual Allowance. Where the rules provide higher increases, members should be informed as it could affect their financial planning/tax liability. Trustees should be certain of the position for their plan.

9. ABOLITION OF PROTECTED RIGHTS

It will not be possible for pension plans to contract out on a protected rights basis from April 2012. The Government is consulting on draft regulations allowing trustees to amend their rules by resolution to remove references to protected rights. Employers and trustees should be considering the impact on their pension plan and the required communication to members.

10. A BRIDGE TOO FAR?

The ruling in the Bridge case established what are "money purchase benefits" (which fall outside the statutory funding and employer debt regimes). DC benefits with guaranteed investment returns, and DC 'scheme pensions', are both "money purchase". Common sense? Yes. Will the PPF step in if they're underfunded? No. Hence the UK is in breach of the 1980 Insolvency Directive and corrective legislation can be expected.

FURTHER INFORMATION

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