New Guernsey Practice Notes

"Pensions in payment can be trivially commuted"

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Following collaboration with BWCI, the States of Guernsey Revenue Service have made available updated versions of the Practice Notes for approved pension arrangements. These Practice Notes summarise the tax approval requirements of Occupational Pension Schemes approved under section 150 of the Guernsey Income Tax Law and Retirement Annuity Trust Schemes ("RATS") approved under section 157A of the Guernsey Income Tax Law. There are several key changes from the previous edition of the Practice Notes.

Definitions

- Dependant

  The definition of a "dependant" has been widened and brought closer into line with the definitions applicable in Jersey and the UK.

- Member contribution

  A definition of "Member Contribution" has been added, reflecting the requirements for tax relief on contributions that were previously elsewhere on the Revenue Service website. In particular:

  - a monetary payment (and specifically not a transfer of funds from another pension scheme) must actually be made to the scheme by the member for tax relief to be obtained
  - contributions which derive from funds withdrawn from an approved scheme are not eligible for tax relief; and
  - in specie contributions (ie transferring the ownership of an asset) are not allowable for the purposes of claiming tax relief or utilising the carry forward provisions.

Tax relief on contributions

The contributions section has been updated to reflect:

- the 2018 reduction in the monetary cap on member contributions that are eligible for tax relief from £50,000 pa to £35,000 pa;
- the tapering of tax allowances for high earners that was introduced in 2018 and revised in 2019. Currently, individuals with taxable income which exceeds £100,000 pa have various tax allowances and deductions withdrawn gradually at a rate of £1 for every £5 that the individual's taxable income exceeds £100,000; and
- the interaction of the high earners' tapering of tax relief on pension contributions with the ability to carry forward prior years' unused tax reliefs.

Trivial commutation

- Before benefits have commenced

  The trivial commutation section has been updated to reflect the latest requirements, which are:

  - an increase in the triviality limit from £30,000 to £50,000;
  - a change in the applicable income tax charge on trivial payments; and
  - removal of the requirement to aggregate fund values across all approved arrangements or to seek prior approval from the Director of the Revenue Service before trivially commuting benefits not yet in payment.

- After benefits have commenced

  A new section has been added covering trivial commutation of pensions in payment. Pensions in payment can be trivially commuted if:

  - the fund value is no more than £50,000; or
  - the fund value exceeds £50,000 but is no more than £100,000 and the beneficiary has guaranteed minimum aggregate retirement income for the remainder of their life of at least £20,000 pa. Depending on the form of guaranteed retirement income, prior approval may be required from the Director of the Revenue Service. Guaranteed retirement income could be met from any of the following:

    (i) defined benefit pension scheme pension income in payment;

    (ii) annuity income in payment for life from an insurance company;

    (iii) State old age pension income in payment for life from any country; and/or

    (iv) other income subject to prior Director approval

Further information

The full Practice Notes can be accessed via our website at https://www.bwcigroup.com/Publications/GuernseyPracticeNotes

If you have any questions on the application of these Practice Notes to your pension scheme, please contact your usual consultant or Debra Smith.