

## **INFORMATION**

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### **Pension Legislation 2008 Update**

In April the Isle of Man introduced new changes resulting from the Income Tax Bill 2007

Over the last few years, there has been a lengthy consultation period on the island that resulted in the Income Tax (Pensions) Bill 2007 being passed by Tynwald (the Manx Parliament) and effective from 6 April 2008. Many of the changes will be familiar to the UK practitioner, but with some important differences. The following are the main changes

#### **Concurrency**

It is now possible to contribute to more than one pension scheme at a time as long as the overall contribution limit is not exceeded. This allows a member of a company pension scheme to contribute to a personal pension as well.

#### **Limits and tax relief**

For the tax year 2008/09 the overall contribution limit is set at £300,000 a year from all sources (employee, employer and DHSS), and tax relief will be granted on up to 100% of earnings subject to the £300,000 cap. Like the UK, a new £3,600 lower limit will be introduced for those with no earnings, although this will work differently in that tax relief will only be due if there is other income (such as investment income) to offset the contribution against.

Unlike the UK, there is no lifetime allowance in the Isle of Man, so residents can contribute up to the maximum for as long as they like without risking punitive taxation on retirement.

#### **Tax-free lump sum**

Previously, a maximum tax-free lump sum of 25% of the fund value for personal pensions and a maximum amount based on length of service for company pensions could be taken on retirement. Both were subject to a £150,000 cap.

The Bill has abolished the £150,000 ceiling, and raises the maximum lump sum for a personal pension to 30% of the fund value.

#### **Income drawdown**

There is now no requirement to purchase an annuity on retirement. Instead, a scheme can go into drawdown along the same lines as the UK - that is, an income of between 0% and 120% can be taken. Drawdown must commence before age 75.

Unlike the UK, however, drawdown can continue after age 75, and the member is not faced with the choice to either purchase an annuity or opt for the Alternatively Secured Pension (ASP) that is the subject of much criticism in the UK.

#### **Investments**

Permitted investments within SIPPs and SSASs have been liberated. Previously, unconventional investments required the discretionary approval of the Income Tax Assessor.

The Bill now defines permitted and prohibited investments by means of four tests. An investment is judged permissible if it:

- satisfies the duty of care on the part of the scheme administrator and does not contravene the 'sole purpose' requirement (that the sole purpose of a pension scheme must be the provision, for its members, spouses and dependants, of benefits on retirement and death);
- is commercial and entered into on an 'arms-length' basis;
- does not give members/connected persons further personal benefits (other than the sole purpose benefit) from the investment;
- can readily be valued by independent third parties.

This change means that residential property will be a permitted investment within an Isle of Man SIPP for the first time - a distinct advantage over a UK pension scheme.

### **Tax on death/winding up**

If a scheme is in drawdown and the member dies, the remaining funds can either be used to provide a dependant's pension, or the scheme can be wound up and the funds distributed. If the funds are distributed, there is a tax charge of 7.5% of the fund value. If they are passed onto another approved scheme no tax is payable.

This is possibly the most significant difference between the Isle of Man and the UK. If a UK registered pension scheme in drawdown is wound up and a lump sum is distributed, then tax is payable at 35% if it occurs before age 75. After age 75 the charge can be as high as 82%.

Anyone moving to the Isle of Man from the UK who has substantial UK pension funds should consider transferring them to an Isle of Man pension fund. For some it may not be appropriate in view of the revised DTA introduced in 2009.

A transfer from a UK-registered scheme is possible provided the Isle of Man scheme is registered with HM Revenue & Customs as a Qualifying Recognised Overseas Pension Scheme (QROPS).

**"MAC" SIPP is approved as a Qualifying Recognised Overseas Pension Scheme ("QROPS") by HMRC, reference number 500873. Please click on the [www.freesipp.com](http://www.freesipp.com) link for further details.**