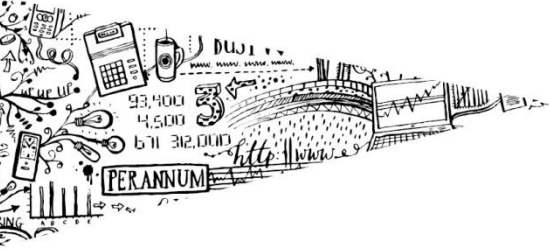


Pension alert Ireland

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Pensions Update - Post Finance (No.2) Act 2011

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The efforts of the last and current Irish government to restore economic stability to the country have resulted in many changes to the tax treatment of contributions to and benefits arising from pension schemes. The most recent change (the introduction of a pension levy) together with a summary of the tax reliefs available and the other significant changes to date are detailed below.

Finance (No. 2) Act 2011

Finance (No. 2) Act 2011 contains details of the pension levy provisions announced on 10 May 2011 as a means of funding the Jobs Initiative. In summary, the levy:

- ▶ applies for a temporary period of four years commencing in 2011
- ▶ applies at a rate of 0.6% on the market value of assets under management in pension schemes approved by the Irish Revenue Commissioners in accordance with Irish tax legislation. Specifically the levy will apply to Occupational Pension Schemes, Personal Pension Plans (but see further details below) and unvested Personal Retirement Savings Accounts (PRSAs).

Administration, payment and collection of the levy

In addition to providing clarification in relation to the type of pension arrangements to which the levy applies, the Act details a number of operational matters in relation to the administration, payment and collection of the levy. These can be summarised as follows:

- ▶ the levy is administered as a stamp duty under the Stamp Duties Consolidation Act 1999
- ▶ the levy is payable once a year at a rate of 0.6% on 25 September in each year up to 2014
- ▶ the chargeable persons are the trustees of pension schemes and the insurers and administrators having the management of the assets of pension schemes
- ▶ the value of the assets subject to the levy is the market value of such assets at 30 June each year up to 2014
- ▶ interest and penalties apply on the late payment of the levy.

Schemes and circumstances to which the levy does not apply

The levy does not apply to:

- ▶ schemes which are being wound up and where the business in respect of which the scheme was set-up is insolvent
- ▶ Approved Retirement Funds (ARFs). Such funds are unlike traditional pensions, but are more in the nature of an investment fund
- ▶ personal pension plans where the individual entitled to an annuity under the plan has received a lump sum from the plan
- ▶ assets of occupational pension schemes (OPS) to the extent the scheme is intended to provide retirement benefits outside Ireland.

Pension contributions

Tax relief on pension contributions can be claimed in any one tax year on the following basis:

Age	% of Remuneration	Earnings Cap* Amount Applicable
Under 30	15	€17,250
30-39	20	€23,000
40-49	25	€28,750
50-54	30	€34,500
55-59	35	€40,250
60 and over	40	€46,000

*Earning cap is the limit on earnings which may be taken into account for income tax relief purposes by individuals. The limit is €115,000 for 2011 and applies to Net Relevant Earnings (NRE) for self-employed individuals and remuneration for members of an OPS. Where a contribution to a pension scheme is back-dated from 2011 to 2010, the limit of €115,000 applies (not the €150,000 limit which applied up to 31 December 2010). In addition the 30% limit applies to certain professional sportspeople under 50 years of age in relation to their income from that occupation.

Contributions must generally be made to an Irish Revenue approved pension scheme to qualify for tax relief. Relief is available at the individual's top tax rate (20% or 41%). For individuals who are subject to the top rate of tax of 41%, the National Recovery Plan prepared by the last Government proposed a reduction in tax relief to 34% in 2012, 27% in 2013 and 20% in 2014. It is not yet clear if the new Government will proceed with these changes.

Prior to 1 January 2011, tax relief generally included relief from PRSI. However, with effect from 1 January 2011, relief from PRSI and the Universal Social Charge (USC) for contributions made by individuals to pension schemes is no longer available.

For employers, PRSI relief on employee pension contributions has been reduced by 50%. This change is effective from 1 January 2011. It has been clarified that employer contributions to a PRSA will not now be liable to PRSI (as was previously indicated). However, there is no relief from the USC due on employer contributions.

It should be noted that employer contributions to an OPS are not subject to the earnings cap or the age-related percentages that apply to employee contributions.

Benefits on retirement

The overall life-time limit on the amount of tax-free retirement lump sums that an individual can draw down from pension arrangements was reduced to €200,000 with effect from 1 January 2011. The excess of retirement lump sums over €200,000 will be taxed as follows:

- ▶ €200,001 up to €575,000 @ 20% (the standard rate of tax)
- ▶ Over €575,000 @ the individual's marginal rate of income tax (20% or 41%) plus USC

All tax-free retirement lump sums taken on or after 7 December 2005 count towards utilising the tax-free amount. The restriction applies to all pension arrangements including occupational pension schemes, Retirement Annuity Contracts, PRSAs, public sector and statutory schemes.

It should be noted that the amount subject to tax at 20% is effectively "ring-fenced" i.e. no reliefs, allowances or deductions may be set or made against it when computing the amount of tax to be deducted. This restriction does not apply to the excess over €575,000 subject to income tax (plus USC).

There are certain exclusions from the above charge for example; lump sum death-in-service benefits paid to a widow are exempt from the above tax charge.

Approved Retirement Fund (ARF) option

Since Finance Act 2011 members of defined contribution pension schemes can, avail of the ARF option on retirement (instead of purchasing an annuity).

The size of the pension

With effect from 7 December 2010 the standard fund threshold (i.e. the maximum allowable pension fund for tax purposes) was reduced to €2,300,000. Higher thresholds applied where the pension fund, as valued on 7 December 2010, is greater than €2,300,000 and does not exceed €5,418,085 (the previous limit) and an application was made to Irish Revenue by 7 June 2011 for a higher personal fund threshold. If an application was not made by 7 June 2011 the excess over €2,300,000 will be liable to tax at 41%, but will not be liable to PRSI or USC. The excess tax charge applies to the aggregate of all pension products held by the individual. This is in addition to the tax, PRSI and USC charge that may apply to normal pension benefits.

Approved Minimum Retirement Fund (AMRF) and Approved Retirement Fund (ARF)

The retirement fund monies of self-employed individuals, Additional Voluntary Contribution (AVC) contributors, proprietary directors and members of defined contribution pension schemes may be invested, subject to conditions, in post-retirement funds (AMRFs or ARFs) after drawing down up to 25% of the total fund as a lump sum.

Funds invested in an ARF can be withdrawn at any stage and in any amount, either by lump sum or by regular income, but subject to the investor's marginal rate of income tax.

Income from an AMRF may be drawn (subject to income tax), but the initial full capital amount cannot be withdrawn until 75 years of age (subject to income tax).

ARFs are deemed to make an annual imputed (deemed) distribution of 5% (previously 3% at 31 December 2009) of the value of their assets and this amount is taxed at the individual's marginal rate. Any actual distributions in the year are deducted from the imputed distribution. The imputed distribution does not apply to an ARF in respect of any year where the ARF holder is under 60 years of age at any time during that year.

Action

Due to the range of changes and the implications for the various parties to a pension arrangement, it is recommended that specific advice be sought if you are impacted by the above.

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