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Modernisation of Jersey's pensions law

Insights - 26/02/2015

The amendments introduced by the Income Tax (Amendment No. 44) (Jersey) Law 2014 (the **Amendment**), which are intended to simplify and modernise the tax rules for pensions and pension schemes for Jersey residents, which are now all contained in Part 19 of the Income Tax (Jersey) Law 1961 (the **Law**), came into effect on 1 January 2015.

As reflected in the report which accompanied the draft law, the particular aim of the Amendment is to introduce flexible retirement options in the context of occupational pension schemes and to achieve more consistency in the tax rules as between occupational pension schemes and personal pension schemes and as between different forms of personal pension schemes, ie to minimise the incentive to transfer funds between pension schemes. The main changes are as follows:

- members of occupational pension schemes are no longer required to retire before being able to draw a pension from their pension scheme;
- occupational pension schemes with members in Jersey and one or more other jurisdictions can seek approval in Jersey for just the part of the scheme relating to the Jersey-based members;
- Retirement Annuity Trust Schemes (known as RATS) are renamed as Retirement Trust Schemes;
- non-resident individuals may contribute into Retirement Trust Schemes;
- generally, payments from pension schemes cannot be made before the pension holder reaches the age of 50 and must commence before the pension holder reaches the age of 75; however:
    - pension schemes can now allow a person suffering from serious ill-health (being where there is written evidence from a medical practitioner that life expectancy is less than 1 year) to commute their pension fund irrespective of their age; and
    - pension income may also be paid before the pension holder reaches 50, if their

employment or occupation is one from which individuals would normally retire before the age of 50;

- there is greater flexibility over how the 30% tax-free lump sum can be paid from approved Jersey schemes, ie, having reached the age of 50, a pension holder can elect to take the lump sum in any number of tranches (previously, the maximum was 3);
- where a lump sum payment from an approved Jersey scheme is taxable (eg a lump sum paid following the death of the pension holder, where the pension holder has already commenced benefits) it is taxable at the rate of 10%, deducted by the scheme manager (if a trust, the trustee) from the lump sum before it is paid;
- a much wider range of international pension fund transfers, both to and from approved Jersey schemes without any tax charge, is permitted, ie where the non-Jersey scheme is an equivalent scheme;
- individuals can access the flexibility of drawdown contracts where they have already taken a tax-free lump sum from their pension scheme; and
- the introduction of a potential benefit-in-kind for pension contributions made in the context of owner managers.

You will also find on the Income Tax pages of the States of Jersey website (www.gov.je) the new guidance notes which will support the Law, which guidance notes have just been published and which are now in operation. We shall issue a supplementary briefing covering the changes brought about by those new guidance notes shortly.

It is not obligatory to amend pension schemes to incorporate the flexibility afforded by the Amendment; however, if employers, trustees and scheme managers do wish to take advantage of the changes, we would be happy to review pension scheme rules accordingly.

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