Part 3: An Introduction to Pensions on the Isle of Man – Beneficiaries & Benefits

This article looks at the 'beneficiaries' of a pension scheme under Isle of Man law, and the types of benefits which may be available at pension age or death of a member of an Isle of Man pension scheme.

Beneficiaries

Pension beneficiaries are the persons who are entitled to benefit from the pension scheme, and can, depending on the scheme rules, include:

- the member of the scheme themselves;
- the spouse of a member, or any ancestor or descendant of the member or of their spouse, or the spouse of any such ancestor or descendant;
- stepchildren, brothers or sisters of the member or a descendant of any such person;
- other dependents of the member; and/or
- any other person.

Under an occupational scheme, a distinction can also be made between an active member (which means a person who is in the employment to which the scheme relates, accruing benefits under the scheme) or a deferred member (which means any person other than an active member, who has vested accrued rights under the scheme but who is not currently receiving benefits under the scheme).

Personal Pension Scheme Benefits

A personal pension scheme is defined under the Isle of Man's Income Tax Act 1989 (the "**1989 Act**") as a scheme which has the sole purpose of providing annuities, the withdrawal of funds or lump sums under arrangements made between individuals. A personal pension scheme may only provide benefits within the scope of those set out in the 1989 Act:

- **Payment of an annuity:** an annuity is a pension plan in terms of which a member receives a regular payment, usually for life, after making a lump sum investment. If a member dies before receiving the annuity, it may be payable to the surviving spouse, civil partner or dependent of the member.

- **Withdrawal of funds during the life of the member:** a member could have the option to withdraw a portion of the scheme funds during his in accordance with the scheme rules. A withdrawal of funds may also be made after the death of a member by the surviving spouse, civil partner or dependent of the member.

  Neither an annuity nor the withdrawal of funds may commence before a member turns 50 or after he turns 75, unless the member becomes mentally or physically incapable of continuing his occupation before 50 or if the occupation is one in which persons ordinarily retire before the age of 50.

- **Payment of a lump sum to a member:** a member could, before the date on which any annuity or withdrawal becomes payable, elect to receive a tax-free lump sum on that date not exceeding **30%** of the total value of the member's benefits. Provision could also be made for early payment of a lump sum in accordance with the 1989 Act.

- **Payment of a lump sum on death of a member:** a lump sum may be payable to another beneficiary of the scheme in accordance with the 1989 Act and scheme rules.

- **Death tax:** if a member dies before all the benefits have been taken, there will be a 7.5% tax on death.

<u>Occupational Pension Scheme Benefits</u>

The Isle of Man's Income Tax (Retirement Benefit Schemes) Act 1978 (the "**1978 Act**") regulates occupational pension schemes (established by an employer for the sole purpose of providing relevant benefits in respect of service of an employee) and the benefits which may be available to a member thereunder. A 1978 Act scheme can be a defined benefit or defined contribution scheme.

Subject to the discretion of the Assessor of Income Tax (the "**Assessor**"), the following prescribed conditions in respect of benefits must be met before the scheme will be approved:

- **Retirement age:** any pension benefit on retirement must become available at a specified age which is not earlier than 60 and not later than 70;

- **Retirement benefit limit:** any benefit on retirement must not exceed one-sixtieth of the employee's final remuneration for each year of service, up to a maximum of 40 years, and which equates to two-thirds of the employee's final remuneration (this is not applicable to defined contribution schemes);

- **Payment after death of an employee:** any pension benefit for a surviving spouse or civil partner payable on death of an employee after retirement must not exceed two-thirds of any pension which was payable to the employee;

- **Restrictions:** no other benefits must be payable under the scheme and no benefits may be capable of surrender, commutation or assignment, except to allow an employee to obtain a lump sum not exceeding three-eightieths of his final remuneration for each year of service, up to a maximum of 40 years.

In exercising his discretion, the Assessor will take into consideration deviations from the prescribed conditions, such as a scheme which provides benefits for children or other dependents; which provides a lump sum of up to four times the employee's final remuneration on death; or which provides for payment to an employee of a lump sum not satisfying the prescribed conditions.

A **lump sum** which does not satisfy the prescribed conditions may be approved by the Assessor if the employee, before the date on which the pension is first payable but not before the normal retirement age under the scheme, elects to receive a lump sum which does not exceed **30%** of the total value of the benefits payable at the time.

<u>Pension Freedom Scheme Benefits ("PFS")</u>

With effect from 6 April 2018 an additional pension scheme (which is a relaxed form of personal pension scheme) known as the PFS is also available, under the sections 61G to 61X of the Isle of Man's Income Tax Act 1970, as amended by the Income Tax (Pensions) (Temporary Taxation) Order 2018.

The main characteristics of the benefits of the PFS are that:

- relevant benefits can be taken from the age 55, or earlier in special circumstances or on the member becoming mentally or physically incapable of carrying on his occupation;

- a member may elect to receive either a tax-free lump sum of **40%** of the total value of the member's benefits, and the remainder at any time the member elects, subject to tax;

- there is no death tax on benefits not taken when a member dies; and

- a personal pension scheme under the 1989 Act can be switched to a PFS, subject to payment of a fee (10% of the total value of the benefits to be transferred).

If you would like further information on this subject please contact Annemarie Hughes, Greg Jones or Rachel Winterbach.

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