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Happy New Tax Year!

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To celebrate the new tax year, we provide a round-up of some of the pensions measures that come into force on 6 April 2018.

Bulk transfer without consent of DC benefits

At last, trustees and employers can close an occupational money purchase (DC) plan without the pension plan actuary having to decide how the certification requirement under the preservation regulations operates in the context of a DC bulk transfer. By way of a reminder, before 6 April 2018, an actuary had to certify that “the transfer credits to be acquired for each member under the receiving scheme in the categories of member covered by this certificate are, broadly, no less favourable than the rights to be transferred.” Did this mean, for example, that the actuary was expected to consider the charging structure in the receiving plan? Instead, trustees can reach their own assessment as to the suitability of the receiving plan. If the receiving plan is not an authorised master trust then the trustees must take investment advice from an adviser who is independent of the receiving plan. Broadly speaking, an adviser will be “independent” if he has not provided advisory, administration or investment services to the receiving plan, service provider or sponsoring employer or a connected firm in the preceding year before the transfer takes place.

Do we think this will assist clients? **YES**

Bulk transfer without consent of contracted-out rights to plans that have never been contracted-out

Employers wishing to undertake a plan merger or other form of bulk transfer of DB benefits, which includes contracted-out rights, can use a newly established salary related pension plan as the receiving plan, rather than a plan that was formerly contracted-out. Conditions apply, including that GMPs must be provided on the same basis as they would have been in the transferring plan (including as to increases) and section 9(2B) rights must be provided on the basis that would have complied with the statutory standard immediately before the abolition of contracting-out on 6 April 2016.

Do we think this will assist clients? **YES**

New employer debt easement

Those employers participating in non-associated multi-employer pension plans may have been thrown a lifeline in the form of a new employer debt easement. From 6 April, an employer who ceases to employ any active members in a multi-employer plan can enter into a deferred debt arrangement with the pension plan trustees, subject to certain conditions being met. This will avoid triggering a section 75 debt against the employer. However, the downside to this arrangement is that the employer loses control over the subsequent triggering of the employer debt. In certain circumstances, the trustees will be able to trigger the debt unilaterally at a time of their choosing.

Do we think this will assist clients? **MAYBE** (The jury is out on this one.)

Other regulatory developments

- New provisions come into force requiring trustees of plans with “safeguarded-flexible benefits” (broadly speaking, DC or cash balance benefits with an underlying promise or guarantee relating to the rate of pension) to issue risk warnings to members before carrying out transactions such as a transfer or conversion of benefits, or the payment of an uncrystallised funds pension lump sum. Additionally, the valuation basis for the purposes of assessing whether a member needs to take appropriate independent advice has been revised.
- HMRC now has the power to de-register certain pension plans (primarily where the sponsoring employer has been dormant for a month in the preceding year or a plan is an unauthorised master trust). This is in order to reduce the risk posed by such types of plans as vehicles for pension liberation.
- Automatic enrolment contributions have increased for those employers and workers who are paying the statutory minimum. From 6 April, the minimum contribution is 5%, of which at least 2% must be contributed by the employer. This has caused confusion for some employers whose payroll operates from the first of the month. The Pensions Regulator has indicated that if an employer makes the higher rate pension deduction from 1 April, rather than 6 April, this is a purely administrative matter. The Pensions Regulator is therefore unlikely to take action in respect of a technical failure to consult with workers in respect of the 5 days during which a contribution rate higher than that required by legislation has been deducted.
- From 6 April, DC schemes that are required to produce a Chair’s statement must include information about charges and transaction costs for all funds in which a member can invest. It will no longer be acceptable to quote a broad range of figures although narrow ranges may be appropriate for funds adopting lifestyle strategies where investments depend on the member’s age and/or target retirement date. The Chair’s statement must also include an illustrative example of the cumulative effect over time of the costs and charges on members’ pension pots for each fund.

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