

Technical Bulletin: March 2010

Tax Year End: When must a contribution be paid by?

Care needs to be taken so contributions do not stray into next tax year. This year, 5th April falls over the Easter Weekend— Bank Holiday Monday. **So the last working day is Thursday 1st April 2010.**

Consider the new Higher Rate Tax Relief Restrictions

Before advising clients to make a further contribution, you need to consider whether the new restrictions on higher rate tax relief will apply to the contributions being made. They apply to both member and employer contributions.

These rules were discussed in our April and May 2009 Bulletins. These rules now hit anyone with total taxable earnings of £130,000 or more (in this or the previous two tax years). This was lowered from £150,000 with effect from 9th December 2009. More on these rules and the changes on page 2.

When is a contribution deemed to have been paid?

Remember, the last day we can receive is **Thursday 1st April 2010.**

Cheque:

Where a contribution is paid by cheque, the date of the contribution is the date we receive the cheque in the post (or are handed it). It is not the date we cash it. If it “bounces” the contribution date will be the date we re-present it.

Reminder: Cheques should be made payable to ‘Crescent Trustees Limited’. We cannot cash cheques made out to Pointon York SIPP Solutions Limited, and we will have to return cheques made out this way. We will need the correctly made out cheque before the end of the tax year for it to count that tax year.

New SIPP and Cheques:

Where a new SIPP application is submitted with a cheque, we can only accept the contribution as ‘paid’ from the point the new SIPP is established. This is the day we have a fully completed application pack. If anything is missing from the application, the contribution is only paid at the point documentation is correct and complete.

BACS / CHAPS:

Deadline for one-off BACS/CHAPS contributions is **Thursday 1st April 2010.**

In-specie Contributions:

The effective date of an in-specie contribution is the date we become owners of the asset being transferred in lieu of the cash contribution: it is **not** the date of the contribution promise.

Further Guidance is available in the RPSM Manual on the HMRC website at: www.hmrc.gov.uk/manuals/rpsmmanual/RPSM05300010.htm.

Deadlines for In-specie Contributions for 2009/10

In-specie contributions are complex, and we are reliant on third parties to change the ownership of any asset being contributed in-specie (stockbroker, lawyer, company secretary etc). We will **not** accept any new property cases for 2009/10.

For **Non-Property cases:** Our deadline for 2009/10 is 5pm, **Friday 12th March 2010.** We will endeavour to complete cases received before then before the tax year end, but as we are reliant on third parties to change ownership we can make no guarantee that this can be achieved.

Inside this issue:

	Page
--	------

Tax Year End: When must a contribution be paid	1
Consider the new Higher Rate Tax Relief Restrictions	1
When is a contribution deemed to have been paid?	1
Deadlines for In-specie Contributions for 2009/10	1
Anti-Forestalling Rules (2009/10 & 2010/11 tax years) - Higher Rate Relief Restriction	2
- £130,000 Threshold	2
- Irregular Contributions	2
- Employer Contributions	2
- Further information	2

Anti-Forestalling Rules (2009/10 & 2010/11) - Higher Rate Relief Restriction

The new rules imposed a 20% tax charge ('Special Annual Allowance Charge') on high levels of contribution made after 22nd April 2009 for high earners caught. This 20% charge takes back higher rate relief on any member contributions caught, and effectively works as a benefit-in-kind charge with money purchase employer contributions caught (or on high DB accrual).

The 20% charge hit contributions over £20,000 for those caught, unless the member had a higher existing regular contribution pattern ('normal ongoing pension savings'). If they did, these contributions could continue without triggering the charge (so if a member had paid £4,000 a month previously they could continue and make all those £50,000 aggregate payments and not trigger the charge).

Since introduced, there have been two changes to the rules:

1. Some relaxation for those high earning members caught by the charge who had an existing but irregular contribution pattern when the new rules were introduced. The £20,000 allowance can be increased up to £30,000 before the 20% tax kicks in, depending on the circumstances.
2. But with effect from 22nd December 2009 the £150,000 taxable income threshold test was reduced to £130,000. When looking to see if there is scope for end of tax year contributions now you therefore need to work from the £130,000 figure.

Remember, the income included in the £130,000 test is far wider than the income that counts for Relevant UK Earnings purposes - it includes rental, investment, dividend and pension income.

Irregular Contributions:

A big issue with the new rules was the way an existing regular contribution pattern was defined. The definition was so tight that the majority of those caught who had previously made significant contributions did not fit within the exemption. High earners making large contributions tended to make one-off large contributions throughout the year, and not in a regular monthly or quarterly pattern.

Now where the average annual total 'irregular' money purchase contributions made in the last three tax years to all schemes (by both member and employer) is more than £20,000, the £20,000 allowance is lifted to that average for that tax year, **but** capped at £30,000.

For example, SIPP Member (and his employer) contributed £26,000 in 2006/07, £10,000 in 2007/08 and £30,000 in 2008/09. The yearly average is £22,000. The member / employer can contribute up to £22,000 in 2009/10 without triggering the tax charge. Anything over this is subject to the 20% charge. But if the figures in those three previous tax years were £100,000, £120,000 and £200,000 the allowance would be £30,000 (not the average of £140,000).

The position will be complicated if there is a mixture of regular and irregular contributions, money purchase and defined benefit accrual or where contributions were paid between 6th April and 22nd April 2009. Care is also needed where the member's income is at around the threshold level.

Employer Contributions:

Remember, employer contributions are caught as well. These can trigger 20% tax charges on the member - here, the charge is not offset by any higher rate relief due and the member will have to fund out of their own pocket. Also, unlike member contributions, there will be no facility to refund employer contributions at the end of tax year where the charge has been triggered.

Further Information:

HMRC have produced quite a good two page factsheet on the rules. It also summarises the proposals for 2011/12 onwards. It can be accessed at: www.hmrc.gov.uk/pbr2009/pension_factsheet.pdf.

There is also detailed HMRC Guidance in the RPSM Manual. The index of the relevant pages can be accessed from: www.hmrc.gov.uk/manuals/rpsmmanual/RPSM15100000.htm.

Note : All our Newsletters are based on our understanding of current legislation and HMRC Guidance at the time of print. They should not be relied upon as a statement of law, or for advice purposes. Whilst every effort has been made to ensure that the information is correct, we cannot accept responsibility or liability for any omission or inaccuracy.