

## Pre-Budget report – anti-avoidance measures

The Chancellor's pre-Budget report, issued on 5<sup>th</sup> December 2005, contained a number of significant changes to the new pensions tax simplification regime, which will come into effect on 6<sup>th</sup> April 2006 ('A-Day').

Two of the key announcements were as follows:

- Residential property and certain other investment schemes (eg. fine wines, classic cars, art and antiques etc) will be considered to be 'prohibited assets' under the new regime.
- Recycling of tax-free lump sums to artificially generate additional tax relief will be prevented.

### Residential property and other assets

The Chancellor has introduced measures to prevent 'abuse' of the simplification rules. It was previously considered, for example, that you could claim tax relief on contributions to Self Invested Personal Pensions (SIPPs), where the purpose of those contributions was primarily to purchase holiday or second homes. It has now been decided that this will not be allowed.

From 6 April 2006, all forms of self-directed pensions, including Self Invested Personal Pensions (SIPPs) and Small Self Administered Schemes (SSASs), will be prohibited from obtaining tax advantages when investing in residential property and in certain other assets such as fine wines.

It was announced, however, that you will

be permitted to invest self-directed pensions into diverse investment funds that hold residential property. Details of these new funds are yet to be confirmed. Information will follow in future editions of the Financial Update as soon as they are published.

If you have already consolidated funds into SIPP wrappers, with the intention of using those funds post A-Day for residential property purchase,

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or you have been considering your consolidating your existing pension funds with a view to investing in residential property post A-Day, then you will need to review your pension strategy, sooner rather than later.

### Recycling of tax-free lump sums

There has been a number of press articles in recent weeks describing methods for 'turbo-charging' pensions. It was suggested that an individual cashing in their pension fund and taking their tax-free cash entitlement could then pay the lump sum back into their pension, as a net contribution, and receive up to 40% tax relief on that payment. Providing there was sufficient taxable income to support this reinvestment, then the

process could be repeated, producing multiple tax reliefs on the same contribution. The Chancellor announced on 5<sup>th</sup> December, however, that legislation will be enacted to ensure that this will no longer be possible.

If you are concerned that these announcements might affect your pension strategy, and you would like to discuss the implications of the pre-Budget report, please contact Peter Miller on 020 7216 4668 or email him at [p.miller@uhy-uk.com](mailto:p.miller@uhy-uk.com).

### For more information

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Peter can meet you at our offices, or at your home or business premises.



# Maximising your pension

One of the biggest changes we will see on 6<sup>th</sup> April 2006 (A-day) will be the introduction of the lifetime allowance. This will be the maximum tax exempt value of your aggregated pension arrangements, and has initially been set at £1.5 million. The transitional protection measures, discussed in Issue 11 of Financial Update, will at least partially safeguard large funds against the imposition of the recovery charge, which would otherwise be payable at a rate of 55% on the value of your pension in excess of the lifetime allowance. However, the transitional protection measures will also have the effect of limiting your pension contributions post A-Day.

For example, if you elect Primary Protection, you will have limited scope for contributions if you wish to avoid the recovery charge. If you elect Enhanced Protection, however, you will not be permitted to make any further pension contributions after A-day. Given this, it makes sense to maximise your pension contributions before the end of the current tax year, before deciding on the best form of transitional protection.

If you have personal pensions, then as well as making contributions for the current tax year, you can make contributions to utilise unused tax relief from the 2004/05 tax year. However, the final election to carry back contributions must be made by 31 January 2006.

If you have Retirement Annuity Plans (RAPs, Section 226s), you have slightly more room for manoeuvre. As well as making contributions for the current tax year, you can carry forward any unused tax relief from the previous six years into the current tax year. Further, you can carry back contributions to utilise unused tax relief from the 2004/05 tax year. Using both carry forward and carry back means you can effectively utilise unused tax reliefs from seven years. This provides scope for significant pension premium payments.

Importantly, contributions to be carried back to the 2004/2005 tax year must be paid by 5 April 2006, and the election to carry back must be made to HM Revenue & Customs by 31 January 2007. Carry forward of unused tax relief will no longer be available after A-Day, so payments must be made during the current tax year to utilise this facility.

If you are considering making additional pension payments and would like to discuss how these could be best affected, please call Peter Miller on 020 7216 4668 or email him at p.miller@uhy-uk.com.

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## Trustees – a changing world

If you are a UK pension scheme trustee, you are likely to know by now that the legislation surrounding your duties and responsibilities will change with effect from 6 April 2006. However, while you could be forgiven for questioning what all the fuss is about, we would warn that the new requirements are far more prescriptive and potentially onerous than at first thought.

The guidance, issued by the Pensions Regulator in the booklets *IN.TRUS.A5 – The legislation is changing – what trustees need to do* and *INT.EMP.A5 – The legislation is changing – what employers need to do*, makes little reference to the need for trustees to increase their knowledge and professional development. We believe, however, that the requirements of the amended Pensions Act 2004 set out a real need for trustees to develop a degree of knowledge and understanding of the law relating to pensions and trusts, the funding of occupational schemes and the investment of scheme assets.

The Act sets out that your knowledge should be “appropriate for the purposes of enabling the individual properly to exercise his functions as trustee of any relevant scheme” (The Pensions Act 2004, section 247 [5]). Therefore, the degree of knowledge required by you extends beyond the nature of your pension trust to the

obligations and powers of operating any pension scheme. The Act lays strong emphasis on fiduciary responsibilities, conflicts of interest, professional advice on decision-making, the importance of sound administration, principles of investment ... the list goes on! You will, therefore, not only need to be familiar with the rules of your own scheme, but also the new consultation requirements.

Into this change also comes the newly appointed Member Nominated Trustees (MNT's). Although appointed by members of the scheme, an MNT will have the same legal duties and responsibilities as any other trustee. With the option to 'opt-out' being removed, and the ratio of MNT's to other trustees increasing from 33% to 50% of the Board of Trustees, there is likely to be an immediate need to recruit new trustees, many of whom will have had no previous experience in the role.

With the extent of knowledge required being wide, the changes could carry significant cost implications; including those arising from training and ongoing trust development. Guidance and support will be vital if your new responsibilities are to be properly discharged. For further information about how the changes may affect you please contact Andre Turville on 020 7216 4600 or a.turville@uhy-uk.com.

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