

# INSIGHT

Origen's E-bulletin for Professional Firms

November 2009

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**(read more....)**

### **Personal Accounts Proposals – latest update**

Having spent some time on the anti-forestalling measures in our last edition of Insight, we had hoped to devote more time to non-pensions related topics in this edition. However, we would be remiss to not update you on the recent developments in the Personal Accounts proposals.

**(read more....)**

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Designated Professional Bodies (most Accountant and all Solicitor firms) are able to advise within the FSA's 'Scope' Regulations but this does not cover any special treatment in helping employees understand their options regarding the employer's pension scheme.

**(read more....)**

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On 6th April 2010 the statutory minimum age at which retirement benefits may be drawn rises from the current age of 50 to 55. Anyone reaching their 50th birthday before this date has two options:

**(read more....)**

### **Shaping the Future of Care Together**

Ahead of the Consultation period closing on 13 November, we felt it would be a sensible time to review the Green Paper and the options it provides, particularly as the debate took centre stage in Brighton. **(read more....)**

### **Conclusion**

The public cannot expect further financial assistance from the State. Indeed one of the more controversial proposals is to consider integrating some elements of disability benefits, such as the Attendance Allowance (AA), to create a new offer for individuals with care needs. Potentially this could move this non-means tested benefit towards means testing to help those in greater financial need. **(read more....)**

## **Contact us**

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## Calling all Trustees – You have just 6 months to act

**From April 2010, products that generate capital growth might become more attractive to investors than those that generate income. This is due to the widening gap between the Capital Gains Tax (CGT) rate of 18% (together with the CGT annual exemption) and the Trust Income Tax rate.**

However, this only affects Discretionary Trusts where income is rolled up, not distributed, at which point the tax rate is 50% on non-dividend income and 42.5% on UK dividends. Beneficiaries to whom income is distributed may recover some or all of the tax depending upon the nature of the income and their own tax position but cannot recover the withholding tax on UK dividends.

These new rates could be particularly punitive for some trusts and trustees might need to consider the benefits of continuing with the strategy of accumulating income in light of the increase. In some cases it might be more appropriate to appoint an "interest" in the income to an individual who then becomes entitled to the trust income on an arising basis rather than being subject to the trustees' discretion. Alternatively trustees might use their discretionary powers to distribute income to beneficiaries on lower tax rates.

Other measures to consider include:

- Bringing discretionary trust distributions forward (subject to the available tax pool)
- Reviewing existing trust arrangements. Given the 50% income tax rate for trusts, Family Limited Partnerships may provide a tax-efficient alternative

Offshore insurance wrappers can also provide a tax-efficient way of holding collective investments and can provide an income tax-deferred drawdown each year to meet any calls on capital. These can then be assigned out to beneficiaries to potentially 'by-pass' the higher trust tax rate.

We recommend an early review of all trust assets and have been working closely on our clients' behalf on re-aligning portfolios to 'growth'. In re-aligning largely income producing assets our general experience is that, in current market conditions, there is unlikely to be a CGT implication. We have also researched the market to find options that behave in the same way as cash or bonds (within similar 'risk' bands), but where 'income' is rolled up and distributed as growth.

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## Personal Accounts Proposals – latest update

**Having spent some time on the anti-forestalling measures in our last edition of Insight, we had hoped to devote more time to non-pensions related topics in this edition. However, we would be remiss to not update you on the recent developments in the Personal Accounts proposals.**

### Personal Accounts - A Quick Guide

Formal regulations are yet to be announced but the latest proposals, which carried some significant changes, were aired on 24 September and some of these are summarised below. The feedback period on these proposals came to a conclusion on 5th November 2009.

### Employer Responsibilities

- All employers must participate unless classified as exempt
- All staff aged between 22 and pension age must be automatically enrolled at outset and every 3 years thereafter (if they had elected to opt-out at any subsequent point)
- Employers contribute 3% of qualifying earnings (see below)
- Temporary and contract workers must be included (not agency staff)
- Younger employees can join on request
- Qualifying earnings are £5,035 - £33,540 (in 2006/2007 terms) including bonus, commission and overtime
- Employers can base scheme on higher levels of remuneration, subject to a total individual contribution limit of £5,000 pa
- Salary sacrifice is permitted
- Employers and/or employees can choose to pay higher contributions than the minimums
- Partners of employees can be enrolled into the scheme

### 3 Year Phased Launch (formerly 18 months)

Phase 1 is due to start in October 2012 for the largest employers

- Employers will be placed into 25-30 'size-based groups', with each group assigned a formal start date between October 2012 - October 2015
- Initial contribution levels are 1% employer and 1% employee (of which 0.2% is tax-relief)
- This level of contribution can be maintained for up to 3 years (formerly 1 year)
- Contributions increase to 2% employer and 3% employee (of which 0.6% is tax-relief)
- Finally, contributions reach 3% employer and 5% employee (of which 1% is tax-relief)
- No transfers in or out of the scheme until 2017 at the earliest, apart from retirements

### Auto-enrolment

- All relevant employees are auto-enrolled at outset (within 30 days) and every 3 years thereafter
- Employers must deduct and submit contributions immediately
- Employees have 30 days to opt-out
- Opting-out is not to be encouraged or made too simple

### Exemptions from Personal Accounts for Existing Schemes

- Current schemes must offer auto-enrolment at outset and every three years. Defined Benefit schemes will be able to defer auto-enrolment during the three year transitional period.
- Longer enrolment periods may be allowed subject to larger employer contribution levels
- Schemes must offer a default investment fund
- For exempt defined contribution schemes, minimum employer/employee contributions must match Personal Accounts requirements. Defined benefit schemes must satisfy a "reference scheme" test based on 1/120th of qualifying earnings for each year of service.

## Personal Accounts Proposals – latest update

- Employers may base contributions on alternative definitions of earnings to the NPSS regime but where this creates a shortfall against the minimum NPSS equivalent contribution over a 12 month period, this must be made up within 3 months unless: the shortfall is less than 5%; less than 10% of employees are affected and no employee suffers more than one shortfall over a 24 month period

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## What guidance can an employer give its employees?

**Designated Professional Bodies (most Accountant and all Solicitor firms) are able to advise within the FSA's 'Scope' Regulations but this does not cover any special treatment in helping employees understand their options regarding the employer's pension scheme.**

In 2012, all employers must provide a pension for all employees. In anticipation of this, The Pensions Regulator and the Financial Services Authority have published a Guide for employers called 'Talking to your employees about pensions'.

Of note, is a section on page 9, where the Guide highlights a series of fairly common questions which employees may raise but which you are not permitted to answer. Some of these are shown below:

- How much should I contribute to get an adequate income in retirement?
- Should I transfer in a pension from my previous job?
- Should I suspend or reduce contributions?

In these instances the Regulators suggest that employees are referred to a suitably qualified financial adviser authorised by the FSA.

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## Celebrating your 50th birthday by 5th April 2010?

**On 6th April 2010 the statutory minimum age at which retirement benefits may be drawn rises from the current age of 50 to 55. Anyone reaching their 50th birthday before this date has two options:**

- Take all, or some of your benefits from age 50
- Defer taking any benefits for a minimum of a further 5 years

Most pension arrangements provide a tax-free lump sum which could be spent or invested and all pensions enable you to draw an additional regular income regardless of whether you continue to work.

Taking benefits now does not prohibit you from making further pension contributions, thereby continuing to grow your retirement fund – although care should be exercised in applying pension lump sums back into contributions.

Releasing your tax-free lump sum in cash may sound tempting but serious consideration should be given to whether you really need to access these funds now or whether funds can be obtained elsewhere. It must be remembered that accessing your pension prior to your scheduled retirement date will mean that you will have a smaller pension fund when you actually come to retire.

If your 50th birthday falls beyond 5 April 2010, then congratulations in delaying this milestone, but the earliest time you can access your pension fund is likely to be 55.

Taking pension benefits early can impact on your retirement savings and future income, so seeking independent financial advice before proceeding is important. Furthermore, scheme administrators are likely to require periods of notice, probably in excess of 3 months, to process the "retirement". For those who are considering this option, it will not pay to leave it until the last minute.

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# Shaping the Future of Care Together

**Ahead of the Consultation period closing on 13 November, we felt it would be a sensible time to review the Green Paper and the options it provides, particularly as the debate took centre stage in Brighton.**

Although the White Paper is not due until next year, there is a recognition that the State cannot find adequate funds to ease the burden on families with regards to long term care provision.

Instead the paper seeks to find a consistent and fair solution that can be applied throughout the Country. The 'Executive summary' states 'As part of our aspiration to build a stronger, fairer Britain, we want to build the first National Care Service in England'. This alludes to the Scottish system, where care costs are paid by the devolved Government and which – even at a relatively early stage – is giving rise to concerns over affordability.

It is not until page 105 out of 136 that the Paper clarifies that these proposals relate solely to care costs and not to accommodation costs, which can be more than double the figures quoted.

## What is the current system of funding care costs?

In England, if you need a care home place and have less than £23,500 (£22,500 in Wales), there is a sliding scale of financial support from your local council. At its minimum, if you have less than £14,000, (£20,750 in Wales) you will qualify for maximum support, although you'll still have to contribute some income minus £21.90 per week for personal expenses. As a rule, in England, if your assets are between £14,000 and £23,500, you'll pay a 'capital tariff' of £1 a week for each £250 (equal to over 20% pa return on capital).

The main exception is that a home can often be excluded for means-testing purposes, taking the individual well beneath the £23,500 threshold if a surviving partner, or other relative aged over 60, continues to live in the property. There is a national guide on assessment 'Charging for Residential Accommodation Guide' (or 'CRAG') which sets out the basis on which Local Authorities charge for care costs. Practice is patchy however, as Authorities are known to interpret the regulations unevenly.

## So, what does the Green Paper propose?

The paper refers to six outcomes that the public should expect under the new proposals. Health Minister Andy Burnham describes these as 'some of the most fundamental reforms ever in care and support':

- prevention services
- national assessment
- a joined-up service
- information and advice
- personalised care and support
- fair funding

## Specifically the report proposes three options for discussion:

*Option 1* - A partnership approach, which proposes that the government, and the individual who needs care share the costs, with the government paying between a quarter and a third or more for people on a low income.

*Option 2* - An optional insurance-based model, which would also see the government paying between a quarter and a third of the costs, but would allow individuals to pay £20,000 to £25,000 to cover themselves against the remaining costs of care.

*Option 3* - A compulsory state insurance scheme under which everyone who can afford it pays between £17,000 and £20,000 – and receives free care in return. Two alternative ideas were rejected: a scheme whereby everyone pays for themselves (ruled out because it would leave too many unable to afford any care), and an entirely tax-funded scheme (rejected because it places too heavy a burden on people of working age).

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## Conclusion

The public cannot expect further financial assistance from the State. Indeed one of the more controversial proposals is to consider integrating some elements of disability benefits, such as the Attendance Allowance (AA), to create a new offer for individuals with care needs. Potentially this could move this non-means tested benefit towards means testing to help those in greater financial need.

The greater cost of accommodation is not up for debate; if you have capital, you will be expected to provide for yourself.

Whilst this Paper opens up the debate, one which has been brewing for some time, there is no time frame given for implementation and a General Election in the meantime could throw proposals into disarray. There are no counter proposals (as yet) under a manifesto from the Opposition parties.

The real concern is that many pensioners may decide to do nothing until it is too late in the hope that the proposals in Shaping the Future of Care Together will deliver greater financial assistance.

There are already a number of potential solutions to families confronted with some very difficult decisions at a highly emotional time. Independent Financial Advisers in this market are required to pass a specific Long Term Care paper within the Diploma before giving advice and Origen Consultants are subject to additional testing.

It is interesting that an insurance scheme is one of the options. These were popular contracts in the late-90s with a number of insurance companies offering risk-based products. A lack of demand, varying contract terms and complex underwriting has reduced this market to a single provider for new plans. As a result Origen Consultants will focus on making use of existing assets and/or income to meet the cost of accommodation and care.

With careful prior planning, the massive increase in living costs for most pensioners can be mitigated and, where possible, estates can be protected. Immediate care planning can also be catered for.

Often it is not the Inheritance Tax, payable at 40% on a qualifying estate, which decimates family wealth, but the cost of Long Term care, which can potentially reduce estates to the lower level of means-testing i.e. £14,000.

If you want to get involved in the debate and share your views, 'The Big Care Debate' is touring the country in various guises in an attempt to bring the topic closer. Among the initiatives is a stakeholder forum and a web-optimised version of the Green Paper where you can leave your comments.

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**This Bulletin is purely for information and the content is not intended to be taken as investment advice. It is always recommended that independent investment advice should be sought before any action is taken in relation to tax planning or investment.**

**No action must be taken or refrained from based on the contents of this newsletter alone. Accordingly no responsibility can be assumed for any loss occasioned in connection with the content hereof and any such action or inaction.**

**Equity linked investments do not generally contain guarantees, which means that the value can go down as well as up and they should be invested for the medium to long term. The tax treatment of investments can change with alterations to legislation and the extent to which investors may be advantaged or disadvantaged, depends upon their individual circumstances.**

This bulletin is for general guidance only and is based on Origen's understanding of current legislation, HMRC practice and tax laws. New regulation and products are being introduced all the time. Origen accepts no responsibility for any action taken as a result of this bulletin. An individual should seek independent financial advice about his/her own circumstances.

## About us

We are one of the UK's leading Independent Financial Advisers with consultants located nationwide. 350,000 private clients, 6,000 small and medium sized companies and over 70 of the largest organisations in the UK retain Origen as their adviser. We are an advice-led, fee-based consultancy with a history of working closely with professional firms for over 40 years.

In order for clients to receive truly holistic financial planning advice, we understand that complementary tax or legal advice is also required – and that this is equally true in reverse. Leaving a client to seek financial advice independently or to leave a gap in their financial planning will not provide the best service available to them. Collaborative advice allows you to extend the services you offer, creating additional value to your current and prospective clients.

Aligned to our history of advising within the professional services market, our Members Club was founded to provide an increased level of engagement with our professional partners and to deliver the 'Complete Advisory Service' to our mutual clients.

### Advice we offer

#### Private clients

Advice to private clients focuses on holistic or specific financial planning and includes:

- Family protection in the event of death, illness or medical expense
- Inheritance tax planning solutions
- Pre-retirement planning, including pensions
- At retirement planning, including pension income options
- Investment strategies
- Planning for the elderly
- Mortgage advice
- Financial planning around divorce
- Wealth solutions and tax efficient investments

#### Trustees

We work closely with Trustees to ensure compliance with the Trustee Act 2000. Our advice encompasses:

- Asset allocation and investment advice
- Risk management
- Trustee training
- Tax and 'wrapper' planning

#### Corporate clients

Advice to corporate clients includes:

- Employee benefit design, implementation and management
- Benchmarking of employee benefits
- Total reward statements and flexible benefits
- Business protection – keyperson, shareholder and partnership assurance
- Corporate investments
- Succession planning
- Exit strategies for owner managers
- Employee communication strategies
- Redundancy and retirement counselling

#### Self-administered pensions

We are an expert in self-administered pensions, offering whole of market solutions for Self Invested Personal Pensions (SIPPs) and Small Self Administered Schemes (SSASs). This enables us to provide comprehensive retirement planning for individuals and owner managers, including commercial property purchase.

## Contact us

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