



Appropriate independent advice in respect of conversions and transfers of pension scheme benefits

Who is likely to be affected?

Employers running a defined benefit to defined contribution pension scheme transfer exercise on or after 6 April 2015. Employees and former employees who are members of a defined benefit employer pension scheme subject to transfer to a defined contribution pension scheme.

General description of the measure

The measure will introduce a new income tax exemption for payments made when employers are mandated to provide employees or former employees with appropriate independent advice as part of any employer-led transfer exercise from defined benefit (DB) to defined contribution (DC) pension schemes. The Pension Schemes Act 2015 introduced the new definitions of 'safeguard' and 'flexible' benefits, which broadly cover the benefits offered in defined benefit and defined contribution schemes, respectively.

Where the employer provides or pays for advice to an employee in order to meet their obligation, then that provision or payment is covered by the new income tax exemption.

When this obligation is met by an advisor whom the employer has contracted with for the purpose, the employee benefits. This would ordinarily be chargeable to tax and the exemption will remove this charge. No Class 1A National Insurance contributions (NICs) liability will arise as its treatment automatically follows the tax position. When this obligation is met by means of a reimbursement to the employee there will be a corresponding disregard for Class 1 NICs.

Policy objective

The Pension Schemes Act 2015 supports the delivery of greater flexibility in pensions, including setting out how transfers from a DB to a DC pension scheme will operate after April 2015. Before committing to a DB to DC transfer, members will be required to obtain appropriate independent advice from a Financial Conduct Authority approved advisor before the scheme can action the transfer. This is intended to ensure that the implications of giving up a valuable benefit are fully understood. Employers will be obligated to pay when they have raised the option of transferring by running an official transfer exercise. The scope of the tax exemption ensures that it will only apply when the employer bears the cost of providing the advice and does not pass this on to employees, for example through the use of salary sacrifice arrangements.

The provision of advice by employers would represent either a benefit in kind or payment of taxable earnings. The policy objective is to prevent employees from being subject to an additional tax charge or NICs liability as a result of receiving government mandated advice, and also to protect employers from the NICs liability that would arise. Consequently, advice provided by employers to employees or former employees under these circumstances will be

exempt from income tax for the employee, nor will there be a NICs liability for the employer (or employee dependent on how provision of the advice is paid).

Background to the measure

The measure was first introduced as a Report Stage amendment to the Pension Schemes Act 2015 during its passage through the House of Commons in November 2014.

Informal stakeholder consultations were held by DWP during January 2015 as part of the process of developing the regulations for the Pension Schemes Act 2015. In these meetings the conditions under which the employer will be mandated to pay for appropriate independent advice provided to an employee or former employee were defined, along with the conditions under which the income tax exemption and associated NICs disregard will apply.

The instruments detailing the relevant regulations were laid during March 2015. No formal announcement has yet been made.

Detailed proposal

Operative date

The measure will have effect on and after 6 April 2015.

Current law

There are a number of income tax exemptions for benefits in kind in Part 4 of the Income Tax (Earnings and Pensions) Act 2003.

The related NICs disregard will be provided in Part 6 of Schedule 3 to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004).

Proposed revisions

Clause 54, Part 4, Chapter 2 of the Pension Schemes Act 2015 inserts section 308B into the Income Tax (Earnings and Pensions) Act (2003). This exempts employer-funded independent financial advice provided to employees or former employees in respect of conversions and transfers of pension scheme benefits from liability to income tax, including where the employee is reimbursed. The Pension Schemes Act 2015 received Royal Assent on 3rd of March 2015 and the legislation has been published.

The Social Security (Contributions) (Amendment) Regulations 2015 will insert a new paragraph (12) within Part 6 of Schedule 3 to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004). This confirms that any payment which is exempt from income tax under section 308B of ITEPA 2003 will also be disregarded from liability for Class 1 NICs. The instrument was subject to the negative resolution procedure and was published during March 2015.

Summary of impacts

Exchequer impact (£m)	2015-16	2016-17	2017-18	2018-19	2019-20
	negligible	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer.				
Economic impact	This measure is not expected to have any significant economic impacts.				
Impact on individuals, households and families	This measure is not expected to impact on family formation, stability or breakdown.				
Equalities impacts	This measure is not expected to have any specific impact on those with protected characteristics.				
Impact on business including civil society organisations	<p>This measure is expected to have a negligible impact on businesses and civil society organisations.</p> <p>A small administrative saving will accrue in respect of any employees where employers would have voluntarily paid for advice which they will be obligated to pay for under the Pension Schemes Act 2015. The employer will no longer have to treat such advice as a taxable benefit. The number of such employees is estimated to be no more than a few thousand.</p>				
Operational impact (£m) (HMRC or other)	There will be no additional costs for HM Revenue & Customs in implementing these changes.				
Other impacts	Other impacts have been considered and none have been identified.				

Monitoring and evaluation

The measure will be kept under review through communication with affected taxpayer groups.

Further advice

If you have any questions about this change, please contact the Employment Income Policy Team (email: employmentincome.policy@hmrc.gsi.gov.uk).

Declaration

David Gauke MP, Financial Secretary to the Treasury, has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.