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Pension Post

Changes to PRSAs and RACs held to age 75

The Finance Bill amendments, published 4 November, follow up on the original changes proposed in the Finance Bill, in the way PRSAs (and now RACs) will be treated where the client passes, or has already passed their 75th birthday.

The Finance Bill and its subsequent amendments may be subject to change before being signed into law.

Unvested PRSAs and RACs where the client is already over age 75

Where a client is already over age 75 and has not taken any benefits from their PRSA or RAC:

- The PRSA or RAC will be deemed to vest for the purposes of the Threshold limits on the date of passing of Finance Act 2016, likely to be in and around 20 December 2016 based on their value at that date
- If such a client does not return a Benefit Crystallisation Event (BCE) Declaration to the PRSA provider or life assurance company, as the case may be, within 30 days of the passing of the Act, chargeable excess tax @ 40% will be **automatically** taken from their PRSA or RAC. **It is therefore imperative that such clients submit their BCE Declaration by the 30 day deadline, likely to be around 20 January 2017, if they feel they do not have a chargeable excess tax liability related to the PRSA or RAC vesting**

  However, where the BCE Declaration was not submitted in time, by the 30 day deadline, and chargeable excess tax taken, the client can later make a case to Revenue to seek a refund if he or she can then show that they in fact were not over the Threshold limit by submitting a late BCE Declaration. But this is likely to be a slow and cumbersome process, and best avoided by simply submitting the BCE Declaration by the required 30 day deadline.

  Also remember that BCE Declarations can be subject to spot checks by Revenue.

Standard Life

- The tax status on death of the PRSA and RAC will change on the date of passing of the Act, from in and around 20 December 2016, to that of an ARF
- The PRSA or RAC can be matured before 31 March 2017. If they are not matured by that date, no benefits can be taken after that date
- The PRSA, but not the RAC, will become subject to imputed distributions from 2017 onwards, if not matured by 31 March 2017. No imputed distribution will apply for 2016
- Therefore if a client over age 75 at the date of passing of the Finance Act 2016 with a currently unvested PRSA or RAC does not mature it between that date and 31 March 2017:
    - They will no longer be able to get any benefits from it after 31 March 2017
    - On later death, the fund will be taxed as if it were an ARF, e.g. can be transferred gross to an ARF held by a spouse, or if paid to an adult child, subject to 30% income tax
    - The PRSA, but not the RAC, will be subject to imputed distributions from 2017 onwards, with no way to avoid it.

Unvested PRSAs and RACs where the client is under age 75

There is no immediate change to these contracts. However, the client needs to be made aware that if they do not mature these contracts before age 75, some unpleasant things will happen at age 75:

- They will no longer be able to take benefits from the contract, once they pass age 75
- It will be deemed to vest for the purposes of the Threshold limits at their 75th birthday
- If the client fails to supply a requested BCE Declaration to the PRSA provider or Life Company, as the case may be, within 30 days after their 75th birthday, chargeable excess tax at 40% will **automatically** be taken from their PRSA or RAC
- On death after age 75, the fund will be taxed as an ARF
- The PRSA, but not the RAC, will be subject to imputed distributions, with no way to avoid it.

So the message is clear for these clients;

Mature your PRSA or RAC before your 75th birthday

Deemed vested RAC and Capital Acquisitions Tax

Any unmatured RACs will become deemed vested RACs at age 75 (or if already over age 75, at date of passing of Finance Act 2016) and be taxed on death thereafter as if they were an ARF.

However the Finance Bill does not contain any provision to exempt inheritance tax by adult children of such funds, as apply currently for ARFs and vested PRSAs. (S83 Cat Act 2003). Unless this is corrected there may therefore be a double tax charge on inheritance by an adult child of funds from a deemed vested RAC:

- Income Tax @ 30% deducted at source from the pay-out
- The balance is then treated as a taxable inheritance in the hands of the adult child

Buy Out Bonds

The legislation does not impose any deemed vesting treatment on Buy out Bonds held by those already over age 75 or who reach age 75 in the future without having taken benefits from it.

Vested PRSAs over age 75

There are some vested PRSAs where the PRSA holder is already over age 75 and taking income withdrawals to mitigate imputed distributions. Technically in light of changes to legislation, no further withdrawals will be possible after 31 March 2017. However, it should be possible to wind up such vested PRSAs and transfer to an ARF and continue withdrawals that way.