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(ICAEW REPRESENTATION
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Finance (No. 2) Bill 2015 Clauses 21 and 22: Pensions lump sum death benefits and Clause 23 and Schedule 4: Pensions annual allowance

ICAEW welcomes the opportunity to comment on the Finance Bill published on 15 July 2015.

This briefing of 16 September 2015 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.

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WHAT THE CLAUSES ARE INTENDED TO DO

1. Clauses 21 and 22 remove the 45% flat rate charge on certain lump sum death benefits paid from a registered pension scheme and taxes them at the recipients' marginal income tax rate.

2. Clause 23 introduces Schedule 4 which aligns the pension input period with the tax year for all pensions and reduces the £40,000 annual allowance for individuals earning in excess of £150,000 by £1 for every £2 their income exceeds £150,000 to a minimum of £10,000.

General comments

2. Clauses 21 and 22 are welcome in that the tax rate is aligned with the marginal income tax rate of the beneficiary and fulfils the promise in the spring 2015 Budget.

3. Alignment of the pension input period to the tax year is very sensible and removes one of the complications associated with saving to a pension.

4. The tapering of the annual allowance for high earners adds further complication to an already complex field.

5. The calculation of the adjusted income to determine if the individual exceeds the £150,000 barrier will not be easy to self assess particularly in the tax year in question, it will require the individual to forecast ahead.

6. Given the difficulty of knowing in advance what the level of remuneration for the year will be it is iniquitous to then tax excess contributions, we recommend that the clause should be amended to allow for excess contributions due to income exceeding £150,000 to be repaid without a tax charge arising.

7. Following A-day in April 2006 the expectation was that there would be no further changes to pensions. Instead there has been tinkering in almost every year since, such that the current position is poorly understood by the public and acts as a discouragement to saving for retirement.

RECOMMENDATIONS

8. In order to restore public confidence in the pensions tax system, we recommend that no further changes be made to pensions at this stage but a full review should be carried out first. The consultation on Pensions Tax Relief published on 8 July 2015 is a step in the right direction. Only after the conclusion of the review should any changes be proposed and there should be a formal commitment that the regime will remain in place for a number of years.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.

2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.

3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.

4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.

5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.

6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.

7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.

8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.

9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.

10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see via http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax).