To: info@pensionpractitioner.com, gavinm@pensionpractioner.com

Dear Gavin,

Re: 2010 Compliance

Did you get my email regarding the HMRC letter of 14th March 2012? Anyways, I have attached another copy. Can you please let me have your thought soonest.

Also you will find enclosed an unsolicited email. Any comments therein? Should I be taking out a lump sum?

I look forward to hearing from you.

Yours sincerely,

Lance Trevellyan

HM Revenue & Customs

Local Compliance
PO Box 168
Bootle
L30 4WN

Mr L J Trevellyan
Greenhills House
Tilford Road
Tilford
FARNHAM
GU10 2DZ

Phone 0191 4198885
8.30am to 5.00pm Monday to Friday

Fax 0151 471 2527

hmrc.gov.uk

Date 14 March 2012
Our ref CFSS-435704
NI number YW384349A

Dear Mr Trevellyan

Thank you for your letter and enclosures of 29 February 2012.

I note your comments within said letter and will, hopefully, now set out the charges and alternatives which may arise;

Special Annual Allowance Charge

When an individual has made infrequent contributions over the 2007, 2008 and 2009 tax years, and the average of those contributions over the 3 years is £30,000 or more, then their Annual Allowance will be £30,000 rather than £20,000.

The effect of this on your pension contribution of £50,000 is reflected at point 1 on the enclosed computation and tax calculation (2).

Reversing the Excess Payment

As you will note from the above your "allowable" pension contribution for 2009/2010 would be £30,000 and therefore any amendment to your 2010 SA return would have to reduce the pension claim to this amount, ie from £50,000 to £30,000.

This is reflected at point 2 on the enclosed computation and copies of the before (1) and after (3) tax calculations.

Please may I have your comments to the above and enclosed by 13 April 2012.

However you choose to contact us about this check, you need to quote the case reference CFSS-435704 and any other references shown above. If you write, you need to use the address shown above and if you send documents you must tell us if you want them returned.

Yours sincerely

Mr John Ramshaw
Compliance Officer

Mr L J Trevellyan

1) Special Annual Allowance Charge;

Pension contributions made in the previous 3 years;

2007	£40,000
2008	£42,249
2009	£25,000
	£107,249

£107,249 divided by 3 (years) = £35,749.66

Therefore, your annual allowance becomes £30,000 rather than £20,000

£50,000 - £30,000 = £20,000 x 20% = £4000 tax due

2) Reversal of the excess payment;

Original gross contribution claimed	£50,000
Revised gross contribution would be	£30,000
	£20,000

The adjustment within the amended Self Assessment would be;

Dividend income £20,000 x 22.5%* = £4500 (see enclosed calculations)

* 22.5% being the higher rate for dividend income

(1)

HM Revenue & Customs

Ref: 19931 69215
Year: 2010 ORIGINAL
OUID: 258101
Name: MR L J TREVELLYAN

Tax Calculation for 2009-10 (year ended 5 April 2010)

Income received (before tax taken off)		
Pay from all employments	£ 39,999.00	
Profit from UK land and property	£ 20,484.00	
Interest received from UK banks and building societies	£ 22.00	
Dividends from UK companies (plus 10% tax credits)	£ 111,111.00	
Total income received		£ 171,616.00
minus		
Loan interest payments	£ 14,024.00	
Personal allowance	£ 6,475.00	
Total		£ 20,499.00
Total income on which tax is due		£ 151,117.00

How I have worked out your Income Tax

Your basic rate limit has been increased by £ 50,000.00 to £ 87,400.00 for pension payments etc. This reduces the amount of income charged to higher rates of tax.

Pay, pensions, profit etc.	£ 39,984.00	@ 20% =	£ 7,996.80
Interest received from a bank or building society etc.	£ 0.00	@ 10% =	£ 0.00
	£ 22.00	@ 20% =	£ 4.40
Dividends from companies etc.	£ 47,394.00	@ 10% =	£ 4,739.40
	£ 63,717.00	@ 32.5% =	£ 20,708.02
Total income on which tax has been charged	£ 151,117.00		

Income Tax charged		£ 33,448.62
minus 10% tax credits on dividends from UK companies (not repayable)		£ 11,111.10
Income Tax due after dividend tax credits		£ 22,337.52
minus **Tax deducted**		
Interest received from UK banks and building societies	£ 4.50	
Total tax deducted		£ 4.50
Total Income Tax due		£ 22,333.02

Printed 14/03/2012

(2)

HM Revenue & Customs

Ref: 19931 69215
Year: 2010 POSSIBLE AMENDMENT
OUID:
Name: MR L J TREVELLYAN

Tax Calculation for 2009-10 (year ended 5 April 2010)

Income received (before tax taken off)

Pay from all employments	£ 39,999.00	
Profit from UK land and property	£ 20,484.00	
Interest received from UK banks and building societies	£ 22.00	
Dividends from UK companies (plus 10% tax credits)	£ 111,111.00	
Total income received		£ 171,616.00

minus

Loan interest payments	£ 14,024.00	
Personal allowance	£ 6,475.00	
Total		£ 20,499.00
Total income on which tax is due		£ 151,117.00

How I have worked out your Income Tax

Your basic rate limit has been increased by £ 50,000.00 to £ 87,400.00 for pension payments etc. This reduces the amount of income charged to higher rates of tax.

Pay, pensions, profit etc.	£ 39,984.00	@ 20% =	£ 7,996.80
Interest received from a bank or building society etc.	£ 0.00	@ 10% =	£ 0.00
	£ 22.00	@ 20% =	£ 4.40
Dividends from companies etc.	£ 47,394.00	@ 10% =	£ 4,739.40
	£ 63,717.00	@ 32.5% =	£ 20,708.02
Total income on which tax has been charged	£ 151,117.00		

Income Tax charged		£ 33,448.62
minus 10% tax credits on dividends from UK companies (not repayable)		£ 11,111.10
Income Tax due after dividend tax credits		£ 22,337.52
plus Total pension savings charges		£ 4,000.00
Income Tax due		£ 26,337.52
minus **Tax deducted**		
Interest received from UK banks and building societies	£ 4.50	
Total tax deducted		£ 4.50
Total Income Tax due		£ 26,333.02

Printed 14/03/2012

(3)

HM Revenue & Customs

Ref: 19931 69215
Year: 2010 POSSIBLE AMENDMENT
OUID:
Name: MR L J TREVELLYAN

Tax Calculation for 2009-10 (year ended 5 April 2010)

Income received (before tax taken off)

Pay from all employments	£ 39,999.00	
Profit from UK land and property	£ 20,484.00	
Interest received from UK banks and building societies	£ 22.00	
Dividends from UK companies (plus 10% tax credits)	£ 111,111.00	
Total income received		£ 171,616.00

minus

Loan interest payments	£ 14,024.00	
Personal allowance	£ 6,475.00	
Total		£ 20,499.00
Total income on which tax is due		£ 151,117.00

How I have worked out your Income Tax

Your basic rate limit has been increased by £ 30,000.00 to £ 67,400.00 for pension payments etc. This reduces the amount of income charged to higher rates of tax.

Pay, pensions, profit etc.	£ 39,984.00	@ 20% =	£ 7,996.80
Interest received from a bank or building society etc.	£ 0.00	@ 10% =	£ 0.00
	£ 22.00	@ 20% =	£ 4.40
Dividends from companies etc.	£ 27,394.00	@ 10% =	£ 2,739.40
	£ 83,717.00	@ 32.5% =	£ 27,208.02
Total income on which tax has been charged	£ 151,117.00		

Income Tax charged		£ 37,948.62
minus 10% tax credits on dividends from UK companies (not repayable)		£ 11,111.10
Income Tax due after dividend tax credits		£ 26,837.52
minus **Tax deducted**		
Interest received from UK banks and building societies	£ 4.50	
Total tax deducted		£ 4.50
Total Income Tax due		£ 26,833.02

Printed 14/03/2012

Lance Trevellyan

From: Christopher Coleridge Cole <ccc@greshamstreet.com>
Sent: 05 March 2012 18:43
To: ltrevellyan@trevellyan.co.uk
Subject: A unique QC's opinion - strategies to mitigate the threat of HMRC revising Lifetime Pension Allowances

Dear Mr. Trevellyan,

Just in case there is someone within your orbit that this might be of real interest to.

You may have seen the recent announcement by HMRC regarding the reduction in lifetime allowances on UK pension schemes from £1.8m to £1.5m (effective 6/4/2012) - this year!

- We believe that this is the first of several potential downward revisions in the limit
- Any excess above this lifetime allowance will be taxed at a minimum of 25% growing to 55% for lump sum payments - after April this year
- The reduction(s) in the lifetime allowance are likely to capture significant numbers of pension plan members in the future; for example a 45/50 year old with a pension pot of £500k today is potentially likely to be caught as the pension pot grows towards retirement and the lifetime ceiling continues to fall
- It is possible to transfer a UK pension entirely out of this tax environment into a QROPS before it reaches the lifetime limit

Summary details of this opportunity (provided by UK Tax Counsel) are set out below. To discuss further please contact me on my above Email - or if of no interest personally, plse be kind & pass on to anyone that it might be .

In the meantime, go to the Red highlighted paragraph below - to avoid all the QC's legalese - for the really relevant points of this QC's opinion.........

" When a member of a UK pension scheme takes his pension it will be tested at that time against his "lifetime allowance." This is known technically as a benefit crystallisation event (BCE). It is assumed that the member's scheme does not enjoy any pre 6 April 2006 protection. With defined contribution schemes (i.e. money purchase schemes) the amount that is tested will be the market value of assets and cash held within the fund at the time of the benefit crystallisation event in question. A BCE includes the pension commencement lump sum, income drawdown and a transfer to a qualifying recognised overseas pension scheme (QROPS). If the lifetime allowance is exceeded when the BCE occurs then the member incurs a charge on the amount by which the lifetime allowance has been exceeded. If the lifetime allowance has not been exceeded at the time the BCE occurs then the lifetime allowance is reduced by the percentage of the lifetime allowance that has been used up. For example the lifetime allowance in the 2011-2012 tax year is £1.8m. If M took a PCLS of £180,000 then he would have used up 10% of his lifetime allowance with 90% carried forward until the occurrence of the next BCE. On the second and any subsequent BCE, the fund value would be tested against the lifetime allowance limit in force at the time of the event in question albeit reduced by the amount previously crystallised (in the previous example the limit would be £1.62m, assuming the lifetime allowance was £1.8m when the second BCE occurred)

Until recently the lifetime allowance grew with each tax year. However from 6 April 2012 the lifetime allowance will be reduced to £1.5m and there is speculation that it could subsequently be reduced to £1.3m. What is clear is that members of UK pension schemes are going to increasingly find that their pensions are "overfunded". This means that when BCE occurs it will trigger a tax charge. If a lump sum payment triggers a charge then the rate will be 55%; otherwise the rate of charge will be 25%. The overall result is that a greater number of members of UK schemes (resident or non resident) will suffer income tax before they have even begun to drawdown from their pension.

One possibility for members of UK schemes whose pensions are overfunded would be to transfer to a QROPS before the lifetime allowance is reduced. This is because the transfer to the QROPS is a BCE. Thus a member is able to test his pension against his lifetime allowance potentially many years before he could otherwise crystallise his pension fund. This enables him to take advantage of the current (higher) lifetime allowance limit. There is another significant advantage: the lifetime allowance is tested only once, on the transfer into the QROPS not on any future benefit crystallisation events. The third advantage is that the rate of tax will always be fixed at a rate of 25%; the member is not exposed to the 55% rate if his overfunded pension is transferred to a QROPS.

The result is that a member of a UK pension whose pension is overfunded can transfer his pension to a QROPS and benefit from the current £1.8m allowance. Any charge will be imposed at a rate of 25% and the fund would not be tested against the lifetime allowance again.

Of course a member considering transferring his UK pension to a QROPS must either be non UK resident or have a clear intention of leaving the UK. The transfer should be principally made for non tax reasons.

Laurence Lancaster LLB,LLM
Barrister-at-law
Group Tax Counsel
llancaster@SovereignGroup.com
