

BUDGET AND FINANCE ACT 2011

FREQUENTLY ASKED QUESTIONS

Q1) What impact does the Finance & Budget Act 2011 have on my Pension?

Answer: The vast majority of individuals with pension schemes will not be affected by the tax changes announced by the Minister of Finance in his December 2010 Budget statement relating to the Standard Fund Threshold (SFT), regarding the maximum tax-free lump sum and annual earnings limit.

Q2) What is the Standard Fund Threshold (SFT)?

Answer: The Standard Fund Threshold is the maximum allowable pension fund on retirement for tax purposes.

Q3) What is the Value of the Standard Fund Threshold (SFT)?

Answer: The value of the Standard Fund Threshold at 7th December 2010 is €2.3m. This has been reduced from its former level of €5.418m set at 7th December 2005.

Q4) What is a Personal Fund Threshold (PFT)?

Answer: A personal fund threshold is an increased maximum allowable pension fund on retirement for tax purposes, which an individual may apply for if the capital value of his/her pension benefits at 07/12/2010 had exceeded the new SFT of €2.3m.

Q5) Can an Individual apply for a PFT On the basis that His/Her Pension Fund is likely to Exceed €2.3m at Retirement Date?

Answer: Only individuals whose capitalised pension benefits exceed €2.3m at 07/12/2010 may apply for a Personal Fund Threshold (PFT).

Q6) What Elements are included in the Personal Fund Threshold (SFT)?

Answer: All pension benefits, including any overseas pension benefits, from 7th December, 2005 are to be included in calculating the PFT. Benefits already drawn down between 7th December, 2005 and 6th December, 2010 are known as Crystallised Benefits.
Benefits accrued but not yet drawn down at 7th December, 2010 are known as Uncrystallised Benefits.

Q7) Give Examples of the Range of Potential Benefits to be Included in PFT.

Answer: The following must be included in the PFT if applicable:
Crystallised Benefits (Already drawn down between 07/12/2005 and 06/12/2010)
AVC/PRSA (Actual Payments Received)
Non Irish (Overseas) Public Sector Pension Benefits (if any)
Irish Public Health Sector Pension Benefits (if any)
Un-crystallised Benefits (At 07/12/2010 not yet drawn down)
AVC/PRSA (Fund Value at 07/12/2005)
Non Irish (Overseas) Public Sector Occupational Pension Benefits (if any)
Irish Public Health Sector Accrued Benefits Capital Value at 07/12/2010

Q8) Is there a limit on the PFT that I can claim?

Answer: Yes, no case can exceed €5,418,085 – the SFT threshold in place from 07/12/2005 to 06.12.2010.

Q9) Is my HSE pension a Defined Benefit or Defined contribution scheme?

Answer: All HSE benefits are Defined Benefits therefore capitalisation requires multiplication by 20 when producing any details past or present

Q10) How is the Capital Value of a Defined Benefit Pension Entitlement calculated at 7th December 2010?

Answer: This is calculated by reference to gross annual pension and lump sum to which the individual would have been entitled based on accrued service to 7th December, 2010, and on the assumption that he/she had attained normal retirement age on that date, ie. compulsory retirement age for non new entrants (65 years).

The capital value is established as follows:

- (i) Gross Annual Pension at 07/12/2010 multiplied by 20 PLUS
- (ii) Gross Lump Sum at 07/12/2010

The sum of (i) plus (ii) is the Capital Value.

Q11) Are Social Welfare (Department of Social Protection) Payments Included?

Answer: Social Welfare (Department of Social Protection) Payments are not included, as they are not pension benefits. Accordingly, the State Pension (Contributory) for Class A employees is disregarded for the purpose of SFT.

Q12) Is the PFT I received based on the 2006 budget still valid or do I have to obtain another one?

Answer: The PFT obtained on foot of budget 2006 is still valid and will provide a ceiling greater than the current €2.3m as it would be over the previous SFT of €5.4 m.

Q13) As I am not in the pension scheme and may be entitled to a non –pensionable gratuity, will this be affected by this Act?

Answer: Non-pensionable gratuities are NOT included for calculation under this Act.

Q14) If there is a pension adjustment order who is liable for the Tax?

Answer: Pension Adjustment Orders are not affected by this Act as the tax liability lies with the member not the spouse or dependant.

Q15) In the event of a Pensioner dying who pays any outstanding Tax due?

Answer: Any outstanding tax monies due to under deduction of tax at time of death will be payable from the pensioner's estate (tax liability on death, out of estate)

Q16) What happens if an Employee dies in Service?

Answer: The tax liability due dies with the employee. The changes in the Act do not impact the situation.

Q17) I have an AVC for death in service only. Is this impacted by this Act?

Answer: AVCs for death in service benefits only are excluded for tax liability in these circumstances.

Q18) I received a pension in 2002. Is this affected?

Answer: This is excluded as it precedes the start date of 07/12/2005.

Q19) If period of Service has not been verified when claiming a PFT, can a revised PFT be claimed subsequently?

E.g. Deadline is June 6/7? 2011. If service can only be established after that deadline and PFT has been issued by Revenue, do we produce a Benefit Statement rather than an estimate including non verified service?

Answer: Clarification sought from the Department of Health. Our current advice is to issue Benefit Statements at 07/12/2010 based on verified service only.

Q20) Valuation process for any foreign pension scheme arrangements e.g. NHS service 10 yrs prior to becoming a Consultant in Ireland.

(a) How is NHS pension entitlement to be valued for capital purposes @ 7/12/2010?

(b) When UK pension comes into payment how is it to be valued? Exchange rate to be applied in a) & b) above?

If in foreign currency what value is used – when originally received, current value and at what Exchange rate?

Answer: Clarification sought from the Department of Health

Q21) How to deal with added years and notional service (See section Q4 if added in at Benefit Statements stage how many years based on DOB/ Service, and letter from Austin) Estimates to include professionally added years, notional service? Liabilities, subject to confirmation, Confirmation of Declaration Form to be used

Answer Clarification sought from the Department of Health.

Q22) What is a Benefit Crystallised event?

Answer: It is a benefit that has matured/ been claimed between 07/12/2005 and 07/12/2010.

Q23) What is an Un-crystallised Benefit Event?

Answer: It is a benefit that is still to mature/ be claimed.

Q24) What are the impacts of these changes on my lump sum payment?

Answer: The previous ruling whereby an individual had a lifetime tax-free limit of 25% of the old SFT approx €1.35 million, has now changed with effect from the 1st January 2011.

From 1st January 2011, retirement lump sums above €200k will be subject to tax in two stages. The portion between €200k and €575k will be taxed at 20%*, while any portion above that will be taxed at the recipients marginal rate of tax.

This rate is ring fenced and will not be impacted by any reliefs, allowances or deductions.

Q25) Is the €200k tax free amount on each Pension lump scheme payments?

Answer: No this is an aggregate amount across all pension lump sums – PRSAs, AVCs, etc.

Q26) As I received my Pension and Lump Sum before 7th December 2010 do I still need to apply for a PFT?

Answer: If all benefits have been claimed (Crystallised before 07/12/2010) with no further benefits due – no action is required to obtain a PFT.

If however you have benefits to mature / crystallise after the 07/12/2010 a value will need to be obtained to identify whether a PFT is required to reduce the potential for paying tax on sums over €2.3 m

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Q28) I have 3 AVCs due to mature on my 65th birthday when I am retiring from the HSE. How is the Tax deducted & what do I have to do?

Answer: The employee needs to notify us of full sequence via the Pensions Declaration Form of benefits to be claimed. If multiple benefits are to be claimed on same date or within

a close duration, highlighting the sequence that tax is to be calculated. In general it would be recommended that the occupational benefit is the primary benefit.

Q29) How will the deductions be calculated?

Answer: Calculation consists of lump sum value, annual pension x 20 (post cut rates for pensionable remuneration unless decision has already been made to retire by 29/02/2012).

EXAMPLE:

Pensionable Remuneration:	€235,521.46
Service:	40 yrs
Pension:	€117,760.73
Lump sum :	€353,282.19
X 20:	€2,355,214.60

€2,708,496.79

No PFT approved	
SFT applies	€2,300,000.00

Diff to be taxed > €2.3 m @ 41%	€408,496.79
Tax due on excess > €230,000	€163,398.71
#Tax due on Lump sum@20% (with full tax allowance of 200k)	€30,656.43

Total tax liability: €194,055.14

Where Retirement date is on or after 01/01/2011 cumulative Lump sums

Q30) What happens if the Estimate given including Best 3 in 10 gives a higher/ lower value than at actual date of maturity?

Answer: If allowances initially included in Best 3 in 10 reduce by date of retirement, the higher PFT remains but may not be required.

If allowances increase from the initial Benefit Statement on the date of retirement, a new PFT may be requested. If not agreed then the higher rate of tax will apply to the additional sum.

Q31) A pensioner has been under taxed what can we do to get the overpayment?

Answer: This is subject to discussion with the pensioner. However if mutually satisfactory agreement cannot be reached, the HSE has the power to deduct what they feel is reasonable. Legislation enables the organisation to deduct the overpayment (under tax) from lump sums, pensions and estate of the pensioner.

Q32) If the Pension payments to be made are impacted by the SFT/ PFT does this mean that the Lump sum is Tax free?

Answer: If the lump sum is due for payment before 01/01/2011 the amount is tax free, but if being paid after 07/12/2010 will be included in calculations for SFT/PFT.

If the lump sum is due for payment after 01/01/2011 the amount will be taxed and be included in calculations for SFT/PFT.

The tax on the lump sum also has its own tax regulations as highlighted in question 22.

Both tax liabilities must be considered in the overall process, on a current, futuristic and historic basis.

Q33) How do I process and calculate the appropriate amount of tax?

Answer: Various processes are documented to ensure that the appropriate steps are taken.

Documents have been amended to include Pensions Declaration Form into the HR107A and Covert to Pensioner Forms, ensuring details on lump sums and requirement to rank benefits and supply PFT are included

In order to establish previous lump sums received as a new lifetime threshold of €200K now applies.

(a) If lump sum of €300 k previously paid >07/12/2005 any subsequent lump sum will be taxable with original €300K consuming €200 k tax free limit and €100k of 20% band will be due for payment.

(b) Any balance up to €575k will be taxable @ 20%, remainder will be taxable at individual's marginal rate of tax.

Q34) What rate of pension is used to calculate the Capital value of my pension?

Answer: Capital value is based on the pension awarded. Actual amount as per memo awarded to be used at all times.

Q35) Does the HSE have to inform leavers of the potential impact on their preserved pension?

Answer: Yes. Local Pension Offices will need to contact any leavers with Persevered Benefits after 07/12/2005 of the potential implications on their pension.

Q36) My PRSI class is A. Will I be impacted by the changes?

Answer: Class A PRSI contributors have the same potential for liability as Class D contributors. However, their capitalised accrued pension benefit will be lower than their Class D counterparts due to the reduction of salary at retirement by twice the rate of state contributory pension, and the fact that the Department of Social Protection pension entitlement is excluded from the calculations.

Q37) I have some Service that is waiting to be verified. Will it be included in the estimate provided for consideration for a PFT?

Answer: The HSE are unable to process any pension benefits for payment unless the Pensions Declaration Form has been completed and returned.

Q38) If a retiree's Capitalised Benefits have exceeded the SFT at 07/12/2011, what is the HSE's responsibility where the awards have already been paid?

Answer: The onus rests with the HSE to contact the retiree with a view to recoupment of the individual's tax liability. Where clarification regarding this matter is required, liaison with the Revenue is desirable.

Q 39) Give examples of Taxation on Retirement Lump Sums in Excess of €200,000.

Answer: Budget 2011 imposed a limit on the amount of tax free lump sum which can be availed of on retirement from all sources since 7th December, 2005. The position is as follows:

- Max €200,000 Tax Free
- Next €375,000 to be taxed at 20%
- Above €575,000 (€200,000 plus €375,000) to be taxed at 41%

Example 1:

A is paid a retirement lump sum on 10/01/2011 of €100,000. He had previously received a lump sum of €300,000 on 30/09/2009. As his earlier lump sum of €300,000 is in excess of the tax free limit, all of his retirement lump sum at 10/01/2011 is taxable at the standard rate of 20%. The earlier lump sum is unaffected.

Example 2:

B is paid a retirement lump sum on 01/07/2011 of €300,000. He had previously received a lump sum of €400,000. The earlier lump sum has eroded all of B's tax free limit of €200,000, so that the entire lump sum at 01/07/2011 is taxable. Although the previous lump sum (€400,000) is not taxable, it affects the rate of tax applying to the later lump (€300,000). The earlier lump sum has 'used up'

- The €200,000 tax free limit and
- €200,000 of the €375,000 that is taxable at standard rate

Therefore

- €175,000 of the later lump sum is taxed at standard rate
- The remaining €125,000 is taxed at B's marginal rate