DEPARTMENT OF HEALTH AND CHILDREN
AN ROINN SLÁINTE AGUS LEANAÍ

Quality and Fairness
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Circular 8/2006

24 April, 2006

Chief Executive Officer
Non-Commercial State Sponsored Body
Under the aegis of the Department of Health and Children

Chief Executive Officer
Health Service Executive

Re: Finance Act 2006: Certain pension implications for public service employers

Dear Chief Executive Officer,

The Department of Finance has written to the Secretary General of each Government Department drawing their attention to Section 14 of the Finance Act 2006 with regard to retirement benefits and taxation.

The Department of Finance has requested that the contents of their letter of 13 April 2006, a copy of which is enclosed, be conveyed to each Body under our remit for their attention.

I would be grateful if the provisions of this letter in association with the Finance Act 2006 are brought to the attention of the relevant personnel accordingly.

Yours sincerely,

Simonetta Ryan
Principal Officer
National HR and Workforce Planning

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Finance Act 2006: Certain pension implications for public service employers

To All Heads of Department,

1. I am writing to draw your attention to certain provisions of the Finance Act 2006 with regard to retirement benefits and taxation. The provisions are contained in Section 14 of the Act, in particular subsections 1(e), 1(f)(ii) and 2.

2. Section 14(1)(e) of the Act provides that a person with retirement benefits (from any source, including all public sector superannuation schemes, but excluding social welfare benefits) with an aggregate capital value on drawdown above a specified threshold is liable for tax on the amounts above that threshold. This threshold, which applies only to benefits payable for the first time on or after 7 December 2005, and which will be indexed from 2007 in line with an earnings factor, has been set at €5 million, though in certain circumstances a higher threshold may apply. Where the threshold is exceeded, an up-front income tax charge of 42% on the excess arises. **Under the Act, the administrator and the individual are made jointly and severally liable to the charge. It is therefore essential that the administrator is aware of and collects any tax due from the individual.**

3. In order to assess potential liability to the tax, a capital value has to be established whenever a person becomes entitled to receive a retirement benefit. In the public service this will usually be at retirement or, for former public servants, on reaching preserved pension age. The Act gives details as to how the capital value is to be calculated. In general, in the case of Defined Benefit schemes (the most usual model in the public service), the aggregate capital value is calculated by multiplying the person's annual pension on retirement by 20 and then adding that figure to the actual value of the lump sum.

4. While this change will not affect the vast majority of public servants, it may impact on certain public servants, in particular those who have pension arrangements additional to and independent of their public service occupational pensions. Given the joint liability, it is vital that Government Departments and public service employers take full account of the provisions of Section 14 of the Act in dealing with all employees retiring from now on, and make such employees aware of these provisions.

5. The Finance Act 2006 also provides for the taxation of lump sums where the payment is in excess of a specified limit. That limit is currently €1.25 million.

6. Further detailed guidance will issue in due course, following consultation between this Department and the Revenue Commissioners. This note does not purport to be a legal interpretation of the changes referred to, which are fully set out in the Act.

7. Please bring the contents of this note to the attention of all relevant public service bodies under the aegis of your Department.

Yours sincerely,

Cloda Ryan

Cloda Ryan/Sarah Kyne
Principal
Pensions Section
Department of Finance

13 April 2006