Retirement Annuity Contracts

Chapter 21

This Chapter should be read in conjunction with Part 30, Chapter 2 of the Taxes Consolidation Act 1997 (TCA).

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21.1 Introduction

The legislation governing retirement annuity contracts (RACs) is contained in sections 783, 784, and 785 to 787 Taxes Consolidation Act 1997 (TCA). To be an RAC, the contract must be between an individual and an insurance company, sometimes referred to as a "life office". The life office agrees the terms of a standard contract with Revenue and can then offer the contract to customers. Following receipt of a contribution or premium, the insurance company issues an RAC certificate to the individual, who can then claim tax relief.

Revenue will no longer approve any applications for new RACs from 1 January 2024, except where an application has been made to Revenue for approval under this section before this date. RACs which have already been approved by Revenue can continue to offer RAC contracts and life assurance under those contracts to new members. Existing RAC contracts will continue to operate, retaining their features, terms and conditions.

21.2 Eligibility

To obtain tax relief on contributions to an RAC, an individual paying into the contract must have a source of "relevant earnings", which means income arising in a tax year from a trade, profession or a non-pensionable employment. A "non-pensionable employment" is one where either the individual is not included for retirement benefits under an approved occupational pension scheme relating to the employment or where the sole benefit arising is a lump sum payable upon death.

The fact that an individual may have a separate source of pensionable employment does not prevent them claiming tax relief if they have a source of relevant earnings. However, tax relief can only be claimed against the source of relevant earnings.

Only earned income qualifies for tax relief on contributions. Income from an investment company does not qualify.

An individual working abroad on a temporary basis may continue to make contributions provided that the secondment abroad is directly related to their source of earnings prior to the move and is for a period of less than five years with a clear expectation of return following the absence.

In the case of married couples or civil partnerships, each spouse or civil partner must have their own source of relevant earnings to obtain or contribute to a contract. Tax relief is allowable against the individual spouse's or civil partner's relevant earnings only.

21.3 Tax relief

As with other pension products, tax relief for premiums paid in respect of RACs is subject to two main limitations.

The first limitation, provided for in sections 774 and 776 TCA, is an age-related percentage limit of an individual's earnings in respect of the office or employment for the year for which the contributions are paid. The maximum amount of pension contributions in respect of which an individual may claim tax relief may not exceed the relevant age-related percentage of the individual's earnings in any year of assessment.

The age-related percentage limits are:

Under 30	15%
30-39	20%
40-49	25%
50-54	30%
55-60	35%
60 or over	40%

A 30% limit applies below the age of 50 years to certain categories of professional sportspersons.[1]

The second limitation, provided for in section 790A TCA, is an overall upper limit, currently €115,000, on the amount of earnings that may be taken into account for tax relief purposes. This limit applies whether an individual is contributing to one or more than one pension product.

Where an individual is contributing solely to one or more RACs the maximum amount of tax relievable premiums is the relevant age-related percentage of the lower of:

- the individual's net relevant earnings, and
- the earnings limit.

Where an individual has two sources or more of income (for example, earnings from employment and profits from self-employment) and is making pension contributions to an occupational pension scheme and to an RAC. The aggregate earnings limit of €115,000 applies in determining the amount of tax relievable contributions.[2]

[1] The categories are athletes, badminton players, boxers, cricketers, cyclists, footballers, golfers, jockeys, motor racing drivers, rugby players, squash players, swimmers and tennis players – section 787(8A)-(8C) and schedule 23A TCA.

[2] Please refer to Chapter 26 for detailed information and examples on tax relief for pension contributions, including contributions to more than one pension product.

Where full relief cannot be given in a year of assessment for premiums paid in that year, the unrelieved amount may be carried forward to the next year or succeeding years and treated as a qualifying premium paid in subsequent years.

If a premium is paid after the end of the year, but on or before 31 October of the following year, relief may be claimed for the previous year provided an election to do so is made by the individual on or before the 31 October of the following year. (For example, if an individual makes a pension contribution on 30 April 2024, he or she can claim relief for that contribution in the 2023 tax year provided her or she does so before 31 October 2024.) Taxpayers who file and pay online via the Revenue Online Service (ROS) or myAccount may avail of the extended return filing and payment date to make an election and pay a premium. An election cannot be made before paying the qualifying premium. The date for making an election in respect of premiums paid in the year of retirement may be extended to 31 December of that year in certain circumstances (see Appendix III of the Pensions Manual).

Full details of RAC premiums should be included on an individual's annual Return of Income (Form 11 or Form 12). Employees contributing to an RAC may be given tax relief via the net pay arrangement, as is the case for additional voluntary contributions (AVCs).

Tax relief for RAC premiums is not transferable between spouses or civil partners.

21.4 Interaction of age-related limits with payments from dispositions to descendants

Section 792 TCA provides that certain payments made by a person to any other person are deemed for the purposes of the Income Tax Acts are deemed to be the income of the first mentioned person. The interaction of the age related limits for net relevant earnings for retirement annuity relief under section 787(8) TCA and of total income for chargeable annual payments to descendants under section 792(2) TCA can give rise to complex computations. To overcome difficulties in this regard, the calculation of the limits to the reliefs may be made as follows:

- the chargeable annual payments to "descendants" in accordance with section 792 TCA may be computed as 5% of the provisional total income before deducting retirement annuity relief, and

- the retirement annuity relief in accordance with section 787 TCA may be computed as the appropriate age-related percentage limit of net relevant earnings after deducting the amount in respect of chargeable annual payments to "descendants" as computed.

21.5 PRSI and Universal Social Charge

There is no relief from PRSI or the Universal Social Charge (USC) for premiums paid into RACs.

21.6 Benefits on retirement

Benefits may be taken at any time after age 60, even if the individual is still working, but must be taken on or before the individual's 75th birthday (section 784(2)(a)(iii)(III) TCA – see Paragraph 21.8 below in relation to RAC benefits which are not taken on or before an individual's 75th birthday). In certain occupations, benefits may be taken before age 60 but not before age 50, with the prior approval of Revenue (section 784(3)(c) TCA). In cases of serious ill-health, benefits may be taken at any age provided the life office has received medical evidence to show that the individual is "permanently incapable through infirmity of mind or body of carrying on his or her own occupation or any occupation of a similar nature for which he or she is trained or fitted" (Section 784(3)(b) TCA).

Up to 25% of the fund may be taken as a tax-free lump sum (section 784(2)(b) TCA – for more on lump sums see Chapter 27) and the balance used to either purchase an annuity from a life office or to exercise one of the retirement options detailed in Chapter 23 , Approved Retirement Funds (ARFs). All annuity payments are chargeable to tax under Schedule E.

Section 787TA TCA provides for the "encashment option" for individuals with dual private and public sector pension arrangements who meet certain conditions. The provision allows such individuals to encash their private pension rights, in whole or in part, from age 60 (or earlier, where retirement is due to ill health) with a view to eliminating or reducing the chargeable excess that would otherwise arise when their public service pension crystallises. The exercise of this option leads to an income tax charge (which is ring-fenced) at the point of encashment on the full value of the rights at the higher rate of tax in force at that time plus 2% USC. No benefits can be taken from a scheme in respect of which the encashment option has been exercised. Chapter 25 gives information on the taxation of a chargeable excess – that is, an amount in excess of the Standard Fund Threshold, currently €2 million.

Chapter 7.4 outlines the circumstances in which the practice relating to the commutation of trivial pensions may be extended to holders of RACs.

21.7 Death benefits

Where an individual dies before retirement, the value of their pension fund may be used to purchase a spouse's, civil partner's or dependant's pension or, if no pension is purchased, the fund may be paid to the individual's personal representatives. A contract approved under section 785 provides death benefits only. Total relief for both section 784 and 785 contracts are limited to the age based percentage limits and earnings ceiling detailed above.

Section 21.8 outlines the treatment of cash and other assets in an RAC from which benefits had not been taken on or before the individual's 75th birthday.

21.8 Group schemes

A representative body may establish, under an irrevocable trust, a group scheme to provide benefits under sections 784 and 785 TCA (see section 784(4) and section 785(5) TCA). The same conditions apply to a group scheme as apply to an individual RAC.

21.9 Retirement benefits not taken on or before age 75 years

An RAC from which retirement benefits have not commenced on or before the date of an individual's 75th birthday is treated as becoming a vested RAC (within the meaning of section 787O TCA) on that date. Where the individual was 75 before 25 December 2016 (the date on which Finance Act 2016 was passed), the RAC is deemed to vest on 25 December 2016. A consequence of an RAC vesting in these circumstances is that the individual cannot access the RAC assets in any form from the date of their 75th birthday. As a transitional measure, the owner of an RAC which is deemed to vest on 25 December 2016 (that is, where the owner was aged 75 years before that date) may, on or before 31 March 2017, take retirement benefits from the RAC in the form of an annuity, a retirement lump sum or under the ARF options.

The vesting of an RAC is a "benefit crystallisation event" (BCE) for the purposes of Part 30, Chapter 2C TCA (see Chapter 25).

Cash and other assets in a vested RAC representing an individual's rights under the RAC when they die are treated as if they were cash and other assets of an ARF and section 784A(4) TCA applies accordingly (see Chapter 23.10).

21.10 Exemption from income tax of rental income of RACs in possession of a residential property

Where an RAC has acquired a residential property as an investment asset of the scheme, such a scheme may claim an exemption from income tax on rental income received from this property. This exemption is provided for under the provisions of sections 784(4) TCA in relation to rents received from a qualifying lease.

Finance (No. 2) Act 2023 inserted a new section 790F into Part 30 TCA which provides that, from 1 January 2024, this exemption is now dependent on the tenancy being registered with the Residential Tenancy Board (RTB), under the requirements of the Residential Tenancies Act 2004.

This applies to cases where a RAC has acquired a residential property as an investment asset for the purposes of scheme. Where such a requirement applies –

a) Revenue may request by written notice that the person chargeable provide, within 30 days of such notice, evidence that the qualifying lease has been registered with the RTB, under the provisions of Part 7 of the Residential Tenancies Act 2004, and

b) a copy of an entry in respect of the published register provided under section 132 of the 2004 Act, by the person changeable, will be accepted by Revenue as evidence of this registration.