Withdrawal from service (leaving a pension scheme)

Chapter 12

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

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1. General

In this chapter, the term “withdrawal from service” covers all circumstances of leaving service, except on death or by retirement in accordance with the rules of the scheme. The benefits that may be provided in these circumstances are:

(a) A refund of the member's own contributions (with or without interest thereon);

(b) The provision of a deferred, or frozen, pension and/or a deferred lump sum in the scheme;

(c) The purchase of a deferred annuity and/or deferred lump sum or a buy-out bond*;*

(d) The payment of a transfer value to the scheme of a subsequent employer. (Transfer payments are dealt with separately in Chapter 13).

2. Refunds of contributions

The rules of a contributory scheme may normally permit a withdrawing member with less than two years’ qualifying service for Pensions Act purposes to take a refund of member contributions. In this event no further benefits can be received.

2.1 Mixed benefits

Taking a refund of contributions while retaining rights in a scheme is allowed in the following circumstances.

(a) If an employee with two or more years’ qualifying service takes a refund of her or his pre-January 1991 contributions, she or he is still entitled to a preserved benefit in accordance with Part III of the Pensions Act 1990. In this case, the maximum deferred benefits must be calculated by reference only to actual years of service in respect of which no refund of members’ contributions is payable.

(b) Where a transfer payment has been made from one approved scheme to another on change of employment, any election to take a refund of contributions (where there is no preserved benefit) usually covers contributions included in the transfer payment, as well as those made to the new scheme. In certain circumstances, even though the employee elects to take a refund of contributions to the second scheme, she or he may also take a deferred pension based on the transfer payment:

  (i) If the first scheme was non-contributory, or

  (ii) If the conditions of the transfer prohibited a refund of the employee's transferred contributions during his lifetime, or

(iii) If a refund of the member's own contribution element would leave a substantial balance to accrue to the benefit of the second scheme.

(c) Where a contributory scheme becomes non-contributory, an employee subsequently withdrawing may take a refund of contributions and a deferred pension in respect of the employer's contributions during the non-contributory period only.

Mixed benefits are not allowed where a non-contributory scheme becomes a contributory scheme.

A refund of contributions made to an employee leaving service may include interest at a reasonable rate or it may be the surrender value of a policy appropriate to the contributions. Such interest is regarded as an element in the calculation of a benefit from the scheme and is not treated as interest for tax purposes (which means it is taxable under Schedule E rather than Schedule D Case III).

If an employee who withdraws from service takes a refund of her/his contributions from one scheme but becomes entitled to an immediate or deferred pension from another scheme of the same employer, the refund (the net amount if tax has been deducted) is a lump sum benefit counting towards the maximum lump sum approvable under all schemes relating to that employment.

3. Tax on refunds of contributions

When a member's contributions to an exempt approved scheme are refunded in her/his lifetime or where her/his withdrawal benefit is a policy surrender value appropriate to her/his contributions, section 780 Taxes Consolidation Act 1997 (TCA) provides that the administrator becomes liable to tax on the gross refund under Case IV of Schedule D at the standard rate of income tax in force at the time of payment (currently 20%). The tax is chargeable on the amount paid (inclusive of any interest element) or, if the rules permit the administrator to deduct this tax before payment, on the amount before such deduction.

The refund may be transferred to a PRSA without a tax charge.

All payments of tax due in respect of refunds should be paid to the Collector General via the myAccount service on revenue.ie. Details can be found under "Pension Tax" in Table A at paragraph 4.8 of "Using online methods to make a payment to Revenue", available here.

Alternatively, payment can be sent to:

Revenue Commissioners
Collector General's Division
Sarsfield House
Francis Street
Limerick
V94 R972

The tax charge applies to any refund made during the employee's lifetime. It does not however apply where the employee's employment was carried on outside the State; this condition will be regarded as satisfied if the employee worked abroad throughout at least 75% of the period during which she or he was a member of the scheme.

If an employee who has received a refund of contributions re-joins the scheme in the same year of assessment and pays back all the contributions refunded, no tax will be payable by the administrator. If an employee who has received a refund of contributions re-joins and pays back the contributions in a later year, the gross amount repayable will be set against other refunds of contributions for any year and the administrator's liability reduced accordingly.

The tax is the liability of the administrator and the amount charged is not income of the employee for any purpose of the Income Tax Acts. The tax is not related to the amount of tax relief given to the member on her or his contributions. It is open to the scheme to give the administrator discretion on whether to pass the burden of the tax charge onto the employee.

4. Deferred pensions

If the benefits of an employee withdrawing from a scheme are to be maintained by providing a deferred pension, the maximum amount is normally computed on the same basis as for early retirement otherwise than on grounds of incapacity; that is, one-sixtieth of final remuneration for each year of actual service, or by using the formula N/NS x P. This is legislated for in the Pensions Act 1990. (Please see Chapter 9 for further details.) The terms in the formula are:

N = number of actual years of service;

NS = number of potential years of service to normal retirement age, had service continued until then;

P = maximum pension approvable had the employee served to normal retirement age.

The restrictions for employees with less than ten years' service set out in Chapter 9 apply only if the deferred benefit is taken before normal retirement age.

While the purchasing power of the pension may be maintained throughout the period of deferment, once the deferred pension becomes payable, the amount of benefit received at that point must not exceed that which would have been received had service continued until normal retirement age.

If, while the employee was a member of the scheme, the pension was being secured by means of a policy funded on a level annual premium basis, the amount of deferred pension secured by premiums paid up to the date of withdrawal may be given even if it exceeds the amount calculated under the N/NS x P formula.

Except in the case of certain employments for which an unusually early "normal retirement age" has been accepted, payment of a deferred pension may begin at any of the following times:

(i) At the normal retirement age under the scheme in which the benefits were secured;

(ii) An earlier date in case of ill-health;

(iii) At the earliest date from which an immediate pension on early retirement could be paid under the rules of the scheme (see paragraph 9.1);

(iv) At normal retirement age under the last employer's scheme;

(v) At a later date still if the employee is still in employment but not later than the date the employee reaches age 70 years.

Where the deferred pension becomes payable after normal retirement age, an actuarial increase may be given subject to the restrictions explained in Chapter 8.

5. Deferred benefits - lump sums

A deferred pension which becomes payable under one of the options outlined above may be commuted at that date to provide a lump sum benefit of 3/80ths of final remuneration for each year of service or, if this is more favourable, an amount calculated by the formula

$$\frac{N \times LS}{NS}$$

These terms have the same meaning as set out in **Chapter 9:**

N = number of actual years of service (as in paragraph 4 above);

LS = the maximum lump sum receivable had the employee served until normal retirement age, less any retained benefits, and may take into account the increased benefits detailed in Chapter 7.2; and

NS = number of potential years of service to normal retirement age, had service continued until then (as in paragraph 4 above).

If the scheme rules provide for an independent lump sum, this lump sum may be provided on the same formula with the corresponding reduction in the permissible pension. The restrictions for employees with less than 20 years of service set out in **Chapter 9** only apply if the deferred benefit is taken before normal retirement age.

If the deferred lump sum becomes payable after normal retirement age in the scheme providing it, an actuarial increase may be given in accordance with the practice explained in **Chapter 8.**

Such lump sums are subject to the maximum tax-free limits provided for in s790AA TCA.

6. Deferred benefits - death before payable date

A withdrawing employee who is granted deferred benefits under the scheme may also be given a right to benefits if she or he dies before the deferred benefits become payable. In these circumstances, any lump sum benefit will be governed by the practice in relation to death-in-service benefits explained in Chapter 10 and will be based on the employee's final remuneration at the date of withdrawal. Pensions or pension equivalent of the benefits transferred to an Approved Retirement Fund (ARF) for a spouse, civil partner and/or dependants may also be provided on the basis explained in **Chapter 10,** except that they are to be calculated by reference to the employee's deferred pension.

7. Deferred benefits under annuity (buy-out bonds)

As an alternative to providing deferred benefits from the scheme itself for an employee who has left service, a scheme may prescribe that the benefits be provided by an assignment to the employee of a paid-up insurance or annuity policy already held for the purposes of the scheme, or by purchase of an annuity bond in the employee's name.