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News on Pensions

FEBRUARY 2014

HMRC VAT on investment manager fees

HM Revenue & Customs (HMRC) has *published business brief 06/14* setting out its updated policy on the recovery of VAT on pensions investment management costs following a case in the Court of Justice of the European Union (CJEU).

Until now, an employer has been able to deduct VAT incurred on the general costs of an occupational pension scheme on the basis that these are costs attributable to the employer and have a 'direct and immediate link' to its business activities. VAT on investment managements costs was not considered VAT deductible as these were said to be costs associated with the activities of the pension scheme. If a combined invoice was issued (covering both general and investment management costs) the employer was able to reclaim VAT on 30% of the invoice amount.

The Court ruled that, subject to the 'direct and immediate link' requirement, an employer is entitled to deduct the VAT paid on all services relating to administration and investment management fees where the pension scheme is a legally and fiscally separate entity.

As a result, HMRC is changing its policy on the recovery of input tax in relation to the management of pension schemes. This means that there are circumstances where employers may be able to claim input tax in relation to pension funds where they could not previously, however in practice such circumstances are likely to be limited. In order to do so the employer must meet a series of conditions imposed by HMRC, including establishing the 'direct and immediate link'. Trustees and employers should review their schedules of contributions to ensure that VAT recovery can be maximised going forward and seek specialist taxation advice.

Cap on management fees delayed

Pensions Minister Steve Webb has announced that plans to cap management fees charged by pension providers will be delayed until next year. The government had intended to have management fees capped at 0.75% or 1% from April 2014, for those auto-enrolled into a pension arrangement.

Meanwhile the Pensions Institute at Cass Business School has *published a report* which concludes that "there is no evidence that higher charges can 'buy' more sophisticated investment strategies that deliver superior performance".

DWP news

Review of public bodies

The Department for Work and Pensions (DWP) has published its *Triennial Review of Pensions Bodies*.

It has concluded that the four pensions bodies – The Pensions Regulator, the Pensions Advisory Service, the Pensions Ombudsman and the Pension Protection Fund Ombudsman – will all continue in their current form for the time being. The review makes a few recommendations for administrative change pending a longer-term review.

Auto-enrolment quality requirements for DB schemes

A supplementary *memorandum* to the Pensions Bill 2013/14 has been published by the DWP which explains that amendments recently tabled will allow the government to introduce simpler quality requirements for defined benefit (DB) schemes being used for auto-enrolment.

It is proposed that there will be:

- a 'money purchase' test for schemes which are defined contribution with a DB guarantee; and
- a test that the cost of funding future benefit accrual is over a prescribed level for purely DB schemes.

These changes have been prompted in part, by the scrapping of contracting out on a salary-related basis in April 2016. The detail will be set out in regulations and subject to full consultation, although no timescales have currently been published.

PPF news

Insolvency model delay

The Pension Protection Fund (PPF) has *announced* that levy payers will have to wait longer than anticipated to see their new insolvency scores which are to be used for the 2015/16 levy year.

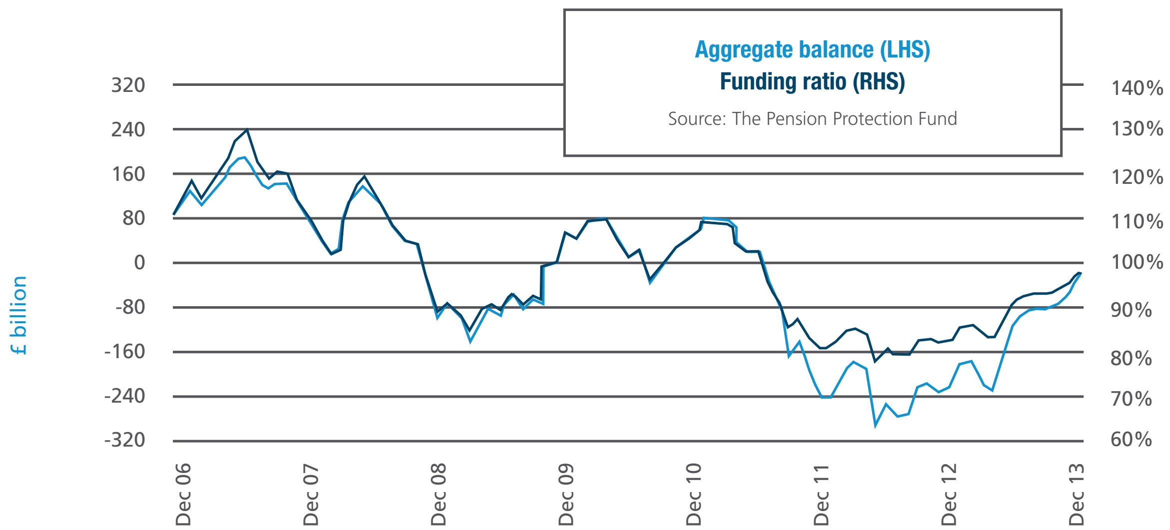
Levy payers had expected to see their new insolvency scores in early 2014. The PPF said that it is taking longer than planned to develop a new insolvency risk model with Experian following a change in the PPF's insolvency risk provider from Dun & Bradstreet (D&B). In the meantime the PPF will continue to work with Experian and an industry steering group, and provide updates to levy payers on progress.

7800 Index update

The *latest update* of the PPF's 7800 Index of schemes' funding (on the s179 basis) has been published.

The aggregate deficit of the 6,150 schemes in the index is estimated to have decreased over the month to £27.6 billion at the end of December 2013 (there was an aggregate deficit of £59.7 billion at the end of November 2013).

The funding ratio rose from 95.0% to 97.6%. There were 3,701 schemes in deficit and 2,449 schemes in surplus.



The PPF has also published its latest *PPF Bulletin* which summarises PPF news over the last few months. This edition includes details of the 2014/15 Levy Determination (see *News on Pensions – January 2014*), progress regarding the PPF's long-term funding aim and information about the new legal and audit panels.

High Court rules in PPF levy case

The High Court has *overturned a decision* by the Deputy Pensions Ombudsman to award compensation to the trustees of a scheme where out-of-date data was used in a scheme's PPF levy calculation.

The West of England Ship Owners Insurance Services Limited Retirement Benefits Scheme, which has a sponsor based in Luxembourg, failed to submit up-to-date accounts to D&B Luxembourg. The scheme's 2010/11 PPF levy was consequently higher than expected and following an initial complaint, the Deputy Pensions Ombudsman ruled in the scheme's favour to retrospectively change the score provided by D&B.

However, the High Court has now ruled that there is no scope in the levy determination for the PPF to depart from a failure score provided by D&B where this is based on information used by D&B in the ordinary course of its business.

Latest from TPR

DC trust research

The Pensions Regulator (TPR) has published '*DC trust 2014*', its annual analysis of the current landscape of occupational trust-based defined contribution (DC) pension provision in the UK.

Based on the scheme return data of around 40,000 schemes, the report reveals that DC membership has risen by 14% over 2013, to around 2.6 million. DC memberships now account for 30% of workplace pensions memberships, up from 27% in 2012. The increase can be attributed to the introduction of automatic enrolment, however not all new membership is captured in the report because scheme returns are submitted on a staggered basis.

The report also found that there are £30 billion of assets in DC schemes with 12 or more members (excluding hybrid schemes with DC members) and the average pension pot at retirement is £25,000.

To discuss these issues in more detail please contact your usual Barnett Waddingham consultant or use the following:

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