Finance (No.2) Bill 2023 clause 25: relief relating to net pay arrangement pensions

Personal tax | Employment Tax

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LITRG’s Finance Bill briefing on clause 25 generated some helpful debate and reassurances relating to the proposed implementation of a scheme of ‘top-up payments’ to low-income contributors to net pay pension schemes.

The Low Incomes Tax Reform Group (LITRG) has been campaigning for more than five years for the government to address a longstanding pensions inequality impacting low earners. Workers contributing to net pay arrangement workplace pensions do not get tax relief on some or all of their pension contributions if their income falls below the personal allowance. By contrast, if their employer chooses to operate a relief at source scheme, the worker gets tax relief, even if they are a non-taxpayer.

The government recognised this as an anomaly needing a ‘fix’ in the 2019 Conservative election manifesto and aims to address the unfairness by legislating (Finance (No.2) Bill 2023 clause 25) to introduce top-up payments to those affected. This will be via an amendment to FA 2004, inserting a new s 193A.

HMRC will calculate these top-up payments using data available to them (for example, pay data obtained through PAYE and real time information). They will be calculated after the end of the relevant tax year, with the first payments being made in the 2025/26 tax year in respect of 2024/25. HMRC will contact the individual, inviting them to submit their bank details for the payment to be made. We understand that this will be via a secure digital channel, such as the individual’s personal tax account. Except for the purposes of calculating the payment itself, the payments will be treated as taxable employment income in the hands of the recipient.

LITRG’s briefing on the proposed legislation raised concerns about anticipated low take-up of the payments and how HMRC will implement them. For example, we stressed that HMRC need to be transparent about how the top-up payments have been calculated, so that an individual could check and challenge it as necessary (including challenging HMRC if a payment has not been made at all). Labour tabled several of LITRG’s proposed amendments, which resulted in the Economic Secretary to the Treasury writing to them (quoted in the debate – see tinyurl.com/4sfe792t) with some reassurances, including:

- HMRC are already planning to provide customers with details of the payment and how it was calculated.
- Where an individual feels that a top-up payment is incorrect, HMRC will help them to understand what may have caused the issue. HMRC will either address this or direct them to their employer.
- Individuals who do not get a payment, but think they should, will be able to contact HMRC, who will explain why a top-up payment has not been made and what is necessary to correct the situation.
- HMRC can use existing powers under TMA 1970 s 9ZB to correct a self assessment tax return where they make a payment under the new FA 2004 s 193A for a tax year for which the return has already been filed.

LITRG will be closely following HMRC’s plans to implement these top-up payments. We are particularly concerned that HMRC get their communication strategy right.

We think this should include a collaborative publicity campaign – in conjunction with the pensions industry, employers, payroll industry and other organisations – so that low earners are aware of their entitlement under the new rules.

This is particularly important in the current climate where the public is encouraged, quite rightly, to be cautious given the proliferation of fraudulent activity related to tax repayments. Otherwise, there is a risk that individuals will not recognise that HMRC offering them a refund is legitimate.

The full briefing can be downloaded at: www.litrg.org.uk/ref2748

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