



# I'M LEAVING YOU... MY PENSION FUND

Roger Smith discovers a new meaning in 'when there's a will, there's a way'.

**N**ow that the dust has settled on 'A Day', one feature of the new regime is causing quite a stir: clients approaching 60, with large new single premiums, now realise they must improve their pension dramatically in the next five years or retire in relative poverty. Many are using the 100% of current declared taxable income as the figure on which to make single contributions from cash reserves and claiming 40% relief whilst it lasts.

It appears unduly generous of the Chancellor to allow contributions to attract full tax relief at 40%. How can he have estimated how much tax relief he is giving away from those who now use their spare cash for topping up their pension fund? Some pension experts say he will realise this as a mistake (like residential housing as a SIPP investment which he with-

drew in November 2005) and reduce pension contribution allowances next year or reduce tax relief to 22% from a maximum of 40%.

It seems a high minded notion to allow everyone to invest up to £1.5m (the new capped level for 2006-07 of their total pension funds before they are taxable unless they have applied for preservation status (as referred to in my earlier article in Counsel August 2005). Few will reach that heady level of saving. The Chancellor's clear target was the over-funded chief executive pumping millions at the expense of customers or shareholders into his scheme prior to retirement. But has Gordon Brown realised that the middle classes may well invest inherited accumulated wealth?

## Time to rethink

This idea seems to have inspired clients to rethink their wealth, planning and Inheritance Tax

(IHT) particularly after the clamp down on wills and trust planning that proved such a shock to professional advisers in the last Budget. The new regime permits you via the concept, rather than a rule as such, of Family SIPP's (self invested personal pensions), to leave the accumulated wealth of unused pension funds to a list of your chosen beneficiaries on your death (not only before age 75 as in the old



Smith: the next piece of the alphabet

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rules) but now under certain conditions AFTER age 75.

'A Day' has abolished the rule that anyone reaching the age of 75 has to buy an annuity. Now they can keep their pension fund invested until the day they die. (Am I

wicked or just highly imaginative to ascribe ulterior motives to those who govern us and to wonder what other reason can they have for this than a new 1-2% pension fund levy, introduced for the best possible reasons by a tax collecting Chancellor?

One of the conditions governing the new annuity is that it must on death, be transferred to another pension scheme with the same SIPP pension company as your SIPP scheme of the lucky beneficiary. This need not be a child or grandchild (although they will undoubtedly be popular choices for many investors) and not to be spent on fast women and cars but for the heir's sober contemplation until they can claim it at age 55 or older as a pension (possibly more clearly taxable revenue for a needy future Chancellor? ).

#### No venom in the ASP

You still have to take some income at 75 but rather than giving up your entire fund for an annual income, you can use an ASP (Alternatively Secured Pension). Here you draw an income directly from your fund. It pays to have consolidated all your pensions into one new SIPP account for easy management, and opened SIPP's for your possible beneficiaries with the same pension /fund manager company: lower charges from the new schemes are available since A Day.

An ASP allows you to draw an income limited up to 70% of the standard single life annuity rates, as defined by the Government's Actuaries Department. Provided your chosen beneficiaries are clearly nominated you will be able to pass on any remaining money to them on your death via the 'Family SIPP'

you have set up for them. Any 'unvested' (unclaimed ) SIPP or PP funds, where investors are not drawing an income, can be passed on death before you reach 75.

Any other funds in excess of the nil rate band will be subject to a 40% IHT charge, unless going to a spouse, civil partner or charity. If a 40% tax charge seems somewhat harsh it should be seen in the context of up to 40% tax relief having been given at the outset when the money was invested.

#### For charity

Charity pension giving has been another major source of recent enquiries. Among my clients, many single people have willed much of their estates to charity. They are now keen to top up their pensions and leave their unused pension fund to their favourite charities rather than having to buy an annuity at age 75 which dies with them and leaves a healthy profit for the insurance company.

But returning to my main theme of family SIPP's I expect this process will become popular with wealthy investors who prefer that unused pensions funds go to their children and grandchildren retirement funds rather than fill the pockets of their insurance companies. Many investors will be happy to leave 60% of their fund to their children in the event of their death rather than losing it all as they would have done in an annuity.

#### Sharp decline in annuity sales?

Indeed I predict the sharp decline of annuity sales from now on. Cautious managed fund portfolios held within a new style SIPP will take their place, some claimed for income, some left to grow in the sure knowledge that it will go to a good home if death comes prematurely. Second marriages; partnerships with potential beneficiaries and children from the earlier relationships often create a contentious and difficult area for wills and trust planning and a potential nugget of gold for the Revenue and specialised lawyers so some spouses and

civil partners may be especially concerned with benefits for their own children.

#### Love and Money

Finally an interesting point recently arose with a self employed client aged 59. She wished to put in £100,000 single premium (under the 100% of earnings contribution rule) but was unsure of her future earnings in 2006-07. She could do this at the outset of the tax year, with a net payment of £100,000 less 22% tax, that is £78,000 and claim the balance of tax relief through the tax office, using proof of earnings from the year before, as long as they roughly matched the current contribution level.

If they do not match it would be wise to agree the contribution before it is made with the local tax office under the 'reasonableness test'. This was introduced in post Budget regulations, if such evidence is available to predict earnings in the year ahead. If you should end up contributing too much, that is for example, you invest £100,000 gross and declare earnings of only £50,000 taxable, then you will be given a refund of £50,000 at year end but any growth on the money will either be refunded to you and subject to your capital gains tax allowances) or remain in your pension fund tax free... a good test for logicians.

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Roger Smith LLB, FPC, FRGS, FRSA, Barrister, Independent Financial Adviser, is a senior adviser at Foster Denovo Ltd., 2 Stephen Street, London W1T 1EW. Tel 0207 916 8282 (switchboard), 0208 995 8351/01736 851008 (direct and voicemail) Fax 01736 851035, email: roger.smith@fosterdenovo.com www.rogersmithifa.co.uk (my new website to be launched shortly).