

SCHEDULE 23 Occupational Pension Schemes

Section 770.

FA72 Sch1 Ptl pars1 to 3(3), 4 and 5 and PtVI pars 1 to 4; FA96 s132(1) and Sch5 Ptl par6

PART 1

General

Application for approval of a scheme

1. An application for the approval for the purposes of Chapter 1 of Part 30 (in this Schedule referred to as “Chapter 1”) of any retirement benefits scheme shall be made in writing by the administrator of the scheme to the Revenue Commissioners before the end of the first year of assessment for which approval is required, and shall be supported by—

(a) a copy of the instrument or other document constituting the scheme,

(b) a copy of the rules of the scheme and, except where the application is being made on the setting up of the scheme, a copy of the accounts of the scheme for the last year for which such accounts have been made up, and

(c) such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the setting up of the scheme) as the Revenue Commissioners may consider relevant.

Information about payments under approved schemes

2. In the case of every approved scheme, the administrator of the scheme and every employer who pays contributions under the scheme shall, within 30 days from the date of the notice from the inspector requiring them so to do—

(a) furnish to the inspector a return containing such particulars of contributions paid under the scheme as the notice may require;

(b) prepare and deliver to the inspector a return containing particulars of all payments under the scheme, being—

(i) payments by means of the return of contributions (including interest on contributions, if any),

(ii) payments by means of the commutation of, or in place of, pensions or other lump sum payments, and

(iii) other payments made to an employer;

(c) furnish to the inspector a copy of the accounts of the scheme to the last date previous to the notice to which such accounts have been made up, together with such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the conduct of the scheme in the period to which the accounts relate) as the inspector considers relevant.

Information about schemes other than approved schemes or statutory schemes

3. (1) This paragraph shall apply as respects a retirement benefits scheme which is neither an approved scheme nor a statutory scheme.

(2) It shall be the duty of every employer—

(a) if there subsists in relation to any of that employer's employees any such scheme, to deliver particulars of that scheme to the inspector within 3 months beginning on the date on which the scheme first comes into operation in relation to any of that employer's employees, and

(b) when required to do so by notice given by the inspector to furnish within the time limited by the notice such particulars as the inspector may require with regard to—

(i) any retirement benefits scheme relating to the employer, or

(ii) the employees of that employer to whom any such scheme relates.

(3) It shall be the duty of the administrator of any such scheme, when required to do so by notice given by the inspector, to furnish within the time limited by the notice such particulars as the inspector may require with regard to the scheme.

Responsibility of administrator of a scheme

4. (1) Where the administrator of a retirement benefits scheme defaults, cannot be traced or dies, the employer shall be responsible in place of the administrator for the discharge of all duties imposed on the administrator under Chapter 1 and this Schedule and shall be liable for any tax due from the administrator in the capacity as administrator.

(2) No liability incurred under Chapter 1 or this Schedule by the administrator of a scheme, or by an employer, shall be affected by the termination of the scheme or by its ceasing to be an approved scheme or an exempt approved scheme, or by the termination of the appointment of the person mentioned in section 772 (2) (c).

(3) References in this paragraph to the employer include, where the employer is resident outside the State, references to any factor, agent, receiver, branch or manager of the employer in the State.

Regulations

5. (1) The Revenue Commissioners may make regulations generally for the purpose of carrying Chapter 1 and this Schedule into effect.

(2) Every regulation made under this paragraph shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

PART 2

Charge to tax in respect of unauthorised and certain other payments

6. This Part shall apply to any payment to or for the benefit of an employee, otherwise than in course of payment of a pension, being a payment made out of funds which are or have been held for the purposes of a scheme which is or has at any time been approved for the purposes of Chapter 1.

7. Where the payment—

(a) is not expressly authorised by the rules of the scheme, or

(b) is made at a time when the scheme is not approved for the purposes of Chapter 1 and would not have been expressly authorised by the rules of the scheme when it was last so approved,

the employee (whether or not he or she is the recipient of the payment) shall be chargeable to tax on the amount of the payment under Schedule E for the year of assessment in which the payment is made.

8. Any payment chargeable to tax under this Part shall not be chargeable to tax under section 780 or 781.

9. References in this Part to any payment include references to any transfer of assets or other transfer of money's worth.