

## THE DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

The Finance Act 2004 (as amended by the Finance Acts 2005 and 2006), introduced a new function in connection with the operation of UK pension schemes, that of the "Administrator". This is a formal duty which must be carried out in addition to the usual day to day administration of a pension scheme. This guideline explains the day to day role of pension administration, the formal duty of Administrator, and the fines or penalties which result if these roles are not performed correctly.

IPS carries out all functions of pension Administration, and, over 30 years, has established a reputation for providing a quick, efficient, helpful and trouble free service. On appointing IPS as your Administrator, you can be confident that the requirements outlined as follows will all be carried out for you.

### 1. Day to Day Administration

- a) Rules and Documentation - Pension schemes are operated according to scheme Rules, trust or contract documentation, and other membership and operators' documentation. This is usually produced by lawyers and is subject to scrutiny by HM Revenue & Customs. This must be overseen by the Administrator, who must be satisfied the documents comply with regulations. When regulations change so too must the documentation.
- b) Record keeping – Full records of all members, contributions, investments, pension and/or death benefit payments and pension transfers must be kept. This includes obtaining and providing valuations to the pension scheme members as and when required, and maintaining a record of transactions.
- c) Statutory Money Purchase Illustrations (SMPI) – Some types of pension plan must provide members with an annual SMPI.
- d) Contribution levels – These must be monitored to ensure they do not exceed HM Revenue & Customs limits, and that they qualify as allowable payments.
- e) Retirement and/or death benefits – These must be monitored to ensure they do not exceed HM Revenue & Customs limits, and that all benefit reviews are carried out at the required frequencies and the correct information and statements are provided to members.
- f) Benefit payments – these must be paid in the amounts and frequency requested by the pension scheme members. PAYE must be administered for all pension payments.
- g) Tax relief – Some types of pension arrangement must operate a Relief At Source system to ensure basic rate tax relief is granted on personal contributions.
- h) Investments and transactions – All pension investments and transactions must be checked to ensure they are not "Taxable Investments", and that

funds are transferred as necessary to ensure transactions are carried out in a timely fashion.

- i) Transfers – these can only be “Permitted Transfers” under regulation. This must be determined and transfers processed to ensure HM Revenue & Customs limits are not breached.
- j) Money Laundering – the pension scheme must comply with the Criminal Justice Act 1993 and Money Laundering Regulations of the Financial Services and Markets Act 2000.
- k) The Pensions Registry – Occupational pension arrangements with two or more members must register with the Pensions Registry, renew the registration every year and pay the required levy.
- l) The Pensions Regulator – Occupational pension schemes are regulated by the Pensions Regulator and must comply with its rules. Schemes can be subject to inspection and audit.
- m) HM Revenue & Customs – All pension schemes are subject to regulation by HM Revenue & Customs and must comply with its rules. Schemes can be subject to inspection and audit.
- n) Data Protection Registry – Pension schemes must register with the Data Protection Registry, renew the registration every year and pay the required levy.

## 2. The Formal Duties of Administrator

- a) The Administrator must be registered with the “Pension Schemes Online” section of the HM Revenue & Customs website, and be capable of filing reports and making payments electronically.
- b) Event Reports – An annual report for every pension scheme must be submitted to HM Revenue & Customs no later than the 31<sup>st</sup> January following the 5<sup>th</sup> April tax year end. Reportable events are:
  - Unauthorised payments to members or employers
  - A lump sum payment on death in excess of 50% of the Lifetime Allowance
  - Payment of retirement benefits before normal minimum pension age
  - Payment of a serious ill health lump sum
  - Suspension of an ill health pension
  - Payment of retirement benefits in excess of the Lifetime Allowance
  - Payment of retirement benefits in excess of the Lifetime Allowance where the individual has an enhanced Lifetime Allowance or Enhanced Protection
  - Payment of a tax free lump sum greater than 25% of a member’s fund, which exceeds 7.5% of, but is not greater than, 25% of the Lifetime Allowance
  - A pension transfer to a qualifying recognised overseas pension scheme that is not a registered pension scheme

- A scheme is wound up (the reporting deadline is three months)
  - Where the original persons who established a pension scheme cease to control it
  - Where a member gains or loses control of scheme assets
  - Where a multi-employer scheme changes its rules
  - A change in the legal structure of a pension scheme from single trust, buy-out contract, overall trust, or body corporate to another legal structure
  - The number of scheme members at the end of a tax year falls into a different band from the previous year
  - A member commences Alternatively Secured Pension
  - A transfer lump sum death benefit is paid
  - A change in Administrator – the deadline is 30 days
- c) Accounting for Tax returns – A quarterly tax return must be sent for each quarter date: 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September and 31<sup>st</sup> December to report certain taxable events. The return and the tax must be submitted no later than 45 days after the quarter date. Reportable events are:
- Lifetime Allowance charges
  - Payment to an employer of a scheme surplus
  - A 35% lump sum death benefit charge for death before age 75 whilst in receipt of unsecured pension
  - A de-registration charge
  - A short service refund
- d) Pension scheme return – HM Revenue & Customs require self-administered pension schemes to complete a Pension Scheme Return, with details of fund values, fund investments, membership numbers and fund movements. These must be submitted no later than the 31<sup>st</sup> January in the following tax year.
- e) Pension Scheme Audits – HM Revenue & Customs will select pension schemes for full audits. **They have indicated that this will be a risk based approach particularly focusing on pension schemes without a professional Administrator.**
- f) Information to scheme members – Certain information must be provided within set time periods:
- Unauthorised payments and taxable benefits-in-kind by the 19<sup>th</sup> July following the tax year end
  - Copy accounting for tax returns at the time they are issued to HM Revenue & Customs
  - Annual statements giving details of the percentage of the Annual Allowance used up by contributions to the pension scheme in the last “pension input period”

- Annual statements for members in receipt of Unsecured Pension or Alternatively Secured pension giving details of the percentage of the Lifetime Allowance which has been crystallised by benefits paid from the pension scheme
  - On commencement of retirement benefits, members must be informed of the percentage of the Lifetime Allowance they are crystallising, and if the Lifetime Allowance is being exceeded, within three months of commencement of benefits they must be informed of the chargeable amount, how it was calculated, the tax due and how it will be paid.
  - In addition the Administrator must collect from the member confirmation of the percentage of the Lifetime Allowance which is available to be paid as retirement benefits from the pension scheme and whether other benefit crystallisation events are occurring on the same day.
- g) Information to legal personal representatives – On the death of a member their legal personal representatives must be informed of any lump sum death benefit payments made from the pension scheme, and of any other benefit crystallisation event details requested by the legal personal representatives within two months.

### 3. Fines and Penalties

Where the duties and responsibilities outlined above are not performed correctly, there is a range of fines and penalties which can be imposed on the pension scheme Administrator. The following list is by no means definitive, but helps to explain the importance of being confident that your pension scheme administration is being handled effectively.

#### a) HM Revenue & Customs fines:

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| • Failure to provide information requested                                 | £300 plus £60 a day |
| • Negligent or fraudulent provision of incorrect information               | up to £3,000        |
| • Failure to keep records  | up to £3,000        |
| • Failure to submit a Pension Scheme Return                                | £100 plus £60 a day |
| • Negligent or fraudulent submission of an incorrect Pension Scheme Return | up to £3,000        |
| • Failure to produce documents requested                                   | £300 plus £60 a day |

- Negligent or fraudulent production of incorrect documents up to £3,000
- Failure to submit an accounting for tax form £100 per quarter
- Negligent or fraudulent production of an incorrect accounting for tax form the unpaid tax due
- Serious breaches of regulations resulting in withdrawal of the pension scheme's Registered status 40% of the value of the fund plus the fund becomes fully taxable

- b) Money Laundering – a fine from The Financial Services Authority (FSA) of up to £5,000 per breach of regulations and a possible jail term.
- c) Data Protection – on the making of a complaint to the Information Commissioner regarding the pension scheme Administrator as "Data Controller", the Information Commissioner will reach a decision on how the situation should be rectified. This can include compensation for any loss or suffering caused.
- d) The Pensions Regulator – has power to impose fines at its discretion where breach of regulations has occurred. In addition, The Regulator has powers to request other action to rectify a breach.

Fines and penalties are payable from the pension fund unless they are imposed as a result of IPS acting either negligently or fraudulently.