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Role of a Pension Scheme Administrator

Guidance Notes

This document is provided for use by professional advisers in conjunction with products provided by Talbot & Muir. The information in this document is based on our interpretation of the relevant HMRC guidelines, which are subject to change.

Finance Act 2004

The Finance Act 2004 requires every pension scheme to have a scheme administrator. The scheme administrator must:

- be appointed under the scheme rules;
- be resident in the UK or the European Economic Area; and
- have made a “required declaration” that they understand the responsibility of discharging the functions required of the administrator and intend to discharge them at all times.

The main duties incumbent on a pension scheme administrator, although not exhaustive are listed below. A scheme administrator is permitted to appoint a practitioner to act on their behalf in relation to some of these duties if they wish.

- Registering the pension scheme with HM Revenue & Customs (HMRC).
- Operating tax relief on contributions under the relief at source system.
- Reporting events relating to the scheme and the scheme administrator to HMRC.
- Making annual returns of information to HMRC.
- Register the pension scheme with The Pensions Regulator.
- Reporting events relating to the scheme and the scheme administrator to The Pensions Regulator.
- Making annual returns of information to The Pensions Regulator.
- Providing information to scheme members, and others, regarding the lifetime allowance, benefits and transfers.
- Calculation and periodic review of pension benefits in accordance with current pension legislation.
- Ensuring the scheme complies with all current pension legislation.

Fit and proper persons requirement

New legislation was issued by HMRC on 1st September 2014 which gives HMRC the right to refuse to register, or to de-register a scheme where the scheme administrator is not deemed a fit and proper person.

Who is a fit and proper person?

There is no definition of a fit and proper person which is why HMRC have published guidance to try and clarify what is required of the scheme administrator to meet their requirements. HMRC do make it clear that they will assume the scheme administrator to be fit and proper unless they hold information, or obtain information, which causes it to question that assumption.

A scheme administrator has certain obligations by tax law and is likely to be considered a fit and proper person if they are familiar with, and capable of competently performing, the scheme administrator's responsibilities and there is nothing in their past behaviour to suggest that they should not be responsible for the financial management of the pension scheme.

Where a scheme administrator does not have a full working knowledge of the legislation, both pensions and pensions tax, they are able to employ an appropriate adviser to help them meet the fit and proper requirements.

What factors are HMRC looking for to flag that someone may not be fit and proper?

HMRC have issued a list, although not exhaustive, of factors that they would consider need further investigation. These factors are where the scheme administrator:

- does not have sufficient working knowledge of the pension and pensions tax legislation to be fully aware and capable of assuming the significant duties and liabilities of the scheme administrator, or does not employ an adviser with this knowledge;
- has previously been involved in pension liberation;
- has previously been the scheme administrator of, or otherwise involved with, a pension scheme which has been de-registered by HMRC;
- has been involved in tax fraud, abuse of tax repayment systems or other fraudulent behaviour including misrepresentation and/or identity theft;
- has a criminal conviction relating to finance, corporate bodies or dishonesty;
- has been the subject of adverse civil proceedings relating to finance, corporate bodies or dishonesty/misconduct;
- has participated in or been connected with designing and/or marketing tax avoidance schemes;
- employs as an adviser a person who has been involved in pension liberation or tax avoidance;
- has been removed from acting as a trustee of a pension scheme by the Pensions Regulator or a Court, or has otherwise seriously contravened the pensions regulatory system, or the regulatory system of any other professional/governmental regulatory body; and/or
- has been disqualified from acting as a company director or are bankrupt.

Fines and penalties

There is a range of fines and penalties which can be imposed by HMRC on the Scheme Administrator for not performing the above duties correctly. 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.

Breach	Penalty
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 and documents	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 for each ten reportable individuals
Negligent or fraudulent production of an incorrect Accounting for Tax Return	the unpaid tax due
Serious breaches of regulations resulting in penalties imposed by HMRC Tribunal	40% of the value of the fund, withdrawal of the pension scheme's Registered status and the fund becomes fully taxable

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