



Flash Bulletin-important **January 2006**

SUMMARY OF TAX/PENSION / SITUATION

**URGENTLY CONSULT YOUR ACCOUNTANT/FINANCIAL ADVISER IF YOU HAVE AN A9
CONVERSION**

The A9 issue needs urgent resolution before the end of the month. The following points give a detailed analysis of where I think we are in the state of play, after the GPC meeting of the 19th of January 2006:

- The profit and loss account of a practice has to show the employer's superannuation contribution as a profit, because the necessary changes were not made to tax legislation when our new contract was agreed.
- Employer's superannuation contributions cannot be shown as a valid "expense" in that profit and loss account.
- As such they are not a tax-allowable expense.
- A "quick fix" has been agreed, which enables all of the employer's superannuation to be recorded, and regarded for tax purposes, as an extension of personal superannuation and therefore eligible for tax relief. (Increasing the personal superannuation from 6% to 20% (plus any added years). This is a concession from the Inland Revenue. A revised certificate and completion guidance on the NHSPA website shows how this is done, as per link: - http://www.nhs.gov.uk/GPCCompletionForms/GMS_Med_Cert.pdf. The supplementary completion guidance can be found as per the following link: - http://www.nhs.gov.uk/GPCCompletionForms/Certificate_of_Medical_GP_Pensionable_Profits-Explanatory_Notes.doc
- The nature of this fix means that the apparent practice profit remains artificially high, by the amount of the employer's superannuation, in the Profit and Loss account.

What's the affect on the practice? - This has two important effects, one for the practice, and one for the profession and NHS Pensions, as indicated below:-

1. *Although the employer's element of superannuation will have been paid to the PCT, most of it in fact by direct deduction on estimates, it still appears as an "increase in practice assets" in the Profit and Loss account i.e. an increase in apparent investment in the practice, (an investment that has not actually happened). That is probably then recorded by the accountant in the practice's "Capital Accounts", giving artificially high amounts, which each partner has supposedly "invested" in the business of the partnership. The Capital Account forms the record of a partner's "holding" in the practice, which he/she would then expect to be reimbursed if they were to retire or leave the practice (Depending upon the agreement in the Partnership Deeds). It also includes such things as notional value of equipment, and payments owed to the practice, which might be reimbursed later in the next financial year, such as dispensing payments, and other quarterly reimbursed payments.*
2. *Our new GMS contract allows for GPs' pensions in future to be determined by the average increase in practice profits, which will determine the annual dynamising factor for lifetime NHS earnings upon which final pension is based. (1/80 of dynamised lifetime earnings, for each year of NHS service) i.e. if average profit increases by 30%, then the dynamising factor should be 1.3, increasing notional lifetime earnings by*

30%. There are huge implications for the Treasury if this anomaly to our superannuation payments, and the current "fix" is allowed to continue. (Current guestimates of a dynamising factor of around 1.58 for the past 3 years, rather than the originally predicted 1.3 (30% to 33%), may well in part be because of the unreasonable inclusion of employer's superannuation in the equation, and therefore the misleading projections from accountants of average practice profits). False information on our profit/income will also lead to GPs being unreasonably labelled as "fat cats" by politicians and the press, and impinge on our ability to obtain cost of living increases in pay. However, if the DoH / Inland Revenue does not rapidly accept a fair and proper solution, then the wording of our contract should enable the increase in the dynamising factor to be carried through, benefiting those many doctors who will then retire soon.

3. Many doctors will have taken advantage of the ESC A9 (Known as the A9 concession – one of many quirks or "statutory concessions" in tax law). By waiving tax relief on the personal contribution (including added years) to NHS superannuation, the whole of a GP's income can then be re-pensioned under a Personal Pension Plan (PP). Payments to such PPs made in good faith in 2004/5, and indeed already in much of 2005/6, on the basis of a 6% personal superannuation contribution to the NHS scheme, are now potentially going to cause great problems. The GPs involved may have to waive relief on 20% (up to 29% if the GP is paying added years contributions), instead of 6%. That may well make A9 economically unviable. That seems very unreasonable at this late stage, and as a consequence of an inadequate "quick fix" by the GPC. The A9 concession can be opted into or out of on a yearly basis in theory, but the payments to the PP are made "in year", whilst the tax return and balancing tax for the year are made the following year.

Advice to accountants

Andrew Dearden (Negotiator responsible for pensions), obtained advice from Thomas Young, HMRC specialist working with the Department of Health, during the GPC meeting on the 19th of January, as follows:-

"In such cases, there is nothing in ESC A9 to say that an election to waive relief on NHSPS contributions is irrevocable. So, if their income tax liability has not been finalised yet, a GP may revoke their election for 2004-5 and claim relief on what is now the 20% (6% employee and 14% employer) contribution to NHSPS. HMRC would have no objection to the PP contributions being refunded in such cases."

Caution

However, substantial payments made to PPs in 2004/5 and 5/6 may not be reimbursable from the private pension company. Even if they are, then extensive costs may be incurred. Financial advisers' fees may well have to be covered etc. A9 doctors may be trapped in A9 with horrendous cash flow consequences: - An additional 14% of income (the employer's superannuation) appears as profit for 2004/5 (and will do for 2005/6). That will be taxed, as the fix outlined above will record it all as "personal superannuation", and the tax relief on personal superannuation has all been waived by opting for A9.

For example: Lets say for illustration that the actual underlying profit for the year is £100,000 plus the 14%. A9 doctors will now be taxed on £114,000, instead of the £94,000 of a similar non-A9 doctor. The balancing tax payment for 2004/5 due in January will be increased by an extra £8000, along with an additional £4000 in January and £4000 in July "on account". In other words there is an additional in-year tax payment of £16,000.

"Tax relief" on the PP is added to the pot of money at standard rate, not given back directly to the doctor. Higher tax relief is allowed the following year. Sufficient money has to be put into the PP in order to make A9 viable and the cash flow problems will be severe given the tax increases.