Concurrency or should I change my FSAVC/AVC For a Stakeholder Pension

Recent legislative changes have opened up the choices available by which member's of occupational pension schemes can boost their benefits. This briefing note sets out the various points but does not make a recommendation.

What is "Concurrency"
"Concurrency" is the jargon word to describe the situation were a member of an occupational pension scheme (OPS) can also be a member of a Personal Pension/Stakeholder Pension (PP/SHP) scheme. This "concurrent" membership is subject to certain rules.

Under What Cases can I do this?
There are four main cases when an individual can be a member of both an OPS and a PP/SHP. These are:

i) The OPS only provides death-in-service benefits.
ii) The PP/SHP is a rebate only contract used for contracting out purposes.
iii) The membership of the PP/SHP is in respect of a separate source of earnings from the OPS.
iv) Contributing no more than the "earnings threshold" of £3,600 per annum gross into a PP/SHP.

This briefing note is only concerned with case (iv).

So What are the Rules?

It is possible for a member of an OPS to make a concurrent contribution to a PP/SHP if;

i) they have not been a controlling director in the year chosen for concurrency purposes or in any of the previous five tax years;
ii) they have no net relevant earnings;
iii) they have had P60 earnings during any of the previous five tax years (years before 2000/2001 do not count) which did not exceed the remuneration limit of £30,000 per annum.

Importantly benefits secured within the PP/SHP will <u>not</u> count towards the member's maximum retirement benefits under his OPS in respect of his current employment.

It is important to remember that the remuneration limit set is the P60 earnings that do not include taxable P11D benefits. Also, the P60 earnings are calculated after deduction of any employee contributions to an occupational scheme or AVC. For example, consider an individual whose earnings exceed the £30,000 limit, but who has made an AVC contribution prior to the end of tax year 2001/2002. Deducting the AVC contribution from their earnings may reduce their P60 earnings to within the £30,000 limit. This would enable them to make contributions up to the earnings threshold for each year until the end of the 2006/2007 tax year, even if their earnings subsequently rise above £30,000.

So how do I do this?

Before a member can make a concurrency contribution he/she must provide the scheme administrator of the PP/SHP with a Section 632B certificate which:-

- Identifies the 'qualifying year'. This is the tax year that the member is selecting where his/her earnings are no more than the 'remuneration limit'.
- Confirms that his/her earnings in the 'qualifying year' are no more than the 'remuneration limit'.
- Confirms that his/her total contributions will not exceed £3,600 per annum gross.
- Confirms that he/she has not been a controlling director in the qualifying year or any of the preceding five years.
- Details the full name and address of the employer under which the individual is also a member of an OPS.

Once a qualifying year has been established, contributions up to the earnings threshold (currently £3,600 per annum gross) can be made for the five tax years that immediately succeed the qualifying year. These are known as the 'certificated years'. There will be no requirement to certify a new qualifying year until the end of the five certificated years.

It is not possible to have concurrency starting part the way through a tax year. For example, if an individual joins an occupational pension scheme in July 2001, then concurrency must start at the beginning of the following tax year, 6 April 2002.

Also, if an individual has concurrent membership of a PPS or stakeholder and becomes a controlling director part-way through a tax year, they are no longer eligible to make contributions as a concurrent member for that whole year. Even if the person is a controlling director for one day this would disqualify them from making contributions as a concurrent member for the whole tax year. Any contributions already made in that year would have to be refunded.

Note that doctors and dentists who have National Health Service Scheme membership under the A9 concession cannot have a PPS or stakeholder under concurrency. This is because they are self-employed individuals, taxed under Schedule D, rather than employed, taxed under Schedule E.

Why Should I do this?

We think that this liberation of the pensions regime is of particular interest to those clients who:-

- want to boost their OPS benefit <u>or</u>
- are members of a free standing AVC scheme or
- are members of an employer AVC scheme <u>and</u>
- are not controlling directors and/or
- are not earning more than £30,000

The primary benefit in our view is that the PP/SHP allows up to 25% of the fund to be taken as cash, whereas this is not the case under AVC rules. There is also more flexibility with retirement ages, and the charges may well be lower than even scheme sponsored AVC.

This concession would also be of interest to spouses of controlling directors and various planning opportunities present themselves.

Williams Farrall Woodward
5 Friars Courtyard
Princes Street
Ipswich IP1 1RJ

Acknowledgements
Standard Life Pensions Technical/Services
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Inland Revenue – Various Bulletins

The foregoing is Williams Farrall Woodward's current understanding of Pensions regulations and Inland Revenue Law and Practice and the regulations associated with them. These are subject to change and whilst every effort is made to keep the information accurate it cannot be guaranteed. Clients must not act on the information given without obtaining professional advice. E & O excepted.

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5 Friars Courtyard
Princes Street
Ipswich IP1 1RJ