Dear Staff Member,
The email below and attachments **Attachment 1: Reduction in Maximum Pension Fund Circular Final.doc**
Ref: P18/065/06
& Attachment 2: Supplementary Circular on PFT re ProfAddYrs and Purchase 111116.doc
will, in general, only affect those with other pension arrangements (e.g. AVC's, PRSA's, etc.) in addition to their pension entitlements and/or those with a salary above €200,000 per annum. However, the onus is on each employee to be aware of the changes and how it may affect them.
The email below from the HEA is advising *"the arrangements for those who did not apply for PFT pending clarification of the professional added years issue. If the capital value of their pension rights (excluding professional added years) as at 7 December 2010 exceeds the SFT and he or she has not yet applied for a PFT (pending clarification of the professional added years issue) they should do so **as soon as possible and in any event not later than 31 January 2012**"*.

See the attached Supplementary Circular on PFT – in particular it advises:

"It has now been agreed with the Revenue Commissioners that a figure in respect of professional added years should not be included in PFT calculations and applications at this time. Instead, a "look-back" arrangement will apply at the point of an individual's retirement whereby an individual awarded professional added years on retirement will have his or her service as at 7 December 2010 enhanced by the number of professional added years awarded which could result in such an individual obtaining either an increased PFT (where they already have one) or qualifying for a PFT by way of a late application (where they had not qualified as at 7 December 2010)".

Kind regards,

Triona Lydon
Pensions & Investments Officer
Extn 2145
Phone: 091 492145 Extn 2145
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Email: triona.lydon@nuigalway.ie
Web: Pensions & Investment Office, NUI Galway

From: Neil McDermott [mailto:nmcdermott@hea.ie]
Sent: 24 November 2011 12:38
To: Lydon, Triona;
Cc:
Subject: FW: Supplement to Circular of 18 February 2011 re. Personal Fund Threshold

Dear all,

I refer to previous correspondence in relation to the reduction in the maximum allowable pension fund on retirement for tax purposes and in particular in relation to the treatment of added years.

I refer to the below clarification from the Department of Education and Skills as well as the attached Supplementary circular.

Regards
Neil

Neil McDermott - Recurrent Funding Unit

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www.hea.ie

From: Mulcahy, Ide [mailto:Ide_Mulcahy@education.gov.ie]
Sent: 24 November 2011 11:30
To: Neil McDermott
Cc:
Subject: Supplement to Circular of 18 February 2011 re. Personal Fund Threshold

Neil,

I refer to the circular of 18 February, 2011 regarding the reduction in the maximum allowable pension fund on retirement for tax purposes and the supplementary circular of 16 November. I wish to confirm the arrangements for those who did not apply for PFT pending clarification of the professional added years issue. If the capital value of their pension rights (excluding professional added years) as at 7 December 2010 exceeeds the SFT and he or she has not yet applied for a PFT (pending clarification of the professional added years issue) they should do so as soon as possible and in any event not later than 31 January 2012.

Regards

Íde Mulcahy,
Pensions Section.

Attachment 1: Reduction in Maximum Pension Fund Circular Final.doc
Ref: P18/065/06

To: All Personnel Officers

Cc: Secretaries General/ All Heads of Departments/Offices

18 February 2011

Budget and Finance Act 2011:
Reduction in the maximum allowable pension fund on retirement for tax purposes (the Standard Fund Threshold or SFT)
– Implications for Civil / Public Service Officials and Administrators

Introduction

1. The purpose of this letter is to highlight the potential implications of the Budget and Finance Act 2011 amendments, outlined in paragraph 2 following, for certain civil/public servants and also for Departments/Offices in their role as pension administrators. In general, the amendments will not have implications for persons who earn less than €200,000 and have no other pension benefits additional to and independent of their civil/public service occupational pension.

2. Chapter 2C of Part 30 of the Taxes Consolidation Act 1997 (TCA) and Schedule 23B TCA provide for a maximum allowable pension fund on retirement for tax purposes. This legislation was amended in this year's Finance Act on foot of changes announced on Budget Day 2011 (7 December 2010) and legislated for by way of Financial Resolution on that day. This Department's previous letter of 27 October 2006 in this general matter (reference P18/065/06) also refers.

3. Paragraphs 7 to 13 below and Appendix 1 outline the potential implications of the changes for certain individuals, the actions they may need to take at this time and generic examples describing the possible impacts. Some relevant Questions and Answers are set out at Appendix 3. These details should be brought to the attention of relevant staff in your Department and in the agencies under its aegis. Paragraphs 14 to 30 set out the implications for and requirements on Departments.

General position

4. The maximum allowable pension fund on retirement for tax purposes, known as the Standard Fund Threshold (SFT), is set at €2.3 million as on and from Budget Day 2011 (7 December 2010). This compares with an SFT of €5,418,085 that applied before the Budget. The new lower SFT will apply to all individuals the capital value of whose pension rights on Budget Day 2011 is equal to or less than €2.3 million. Individuals with accrued pension rights whose capital value exceeds €2.3 million on Budget Day will be able to avail of that higher capital value by claiming a Personal Fund Threshold (PFT) from the Revenue Commissioners.

5. The PFT is the aggregate of the capital value of pension benefits which the individual has already become entitled to on or after 7 December 2005 and prior to 7 December 2010, if any, (i.e. "crystallised" pension rights) plus the capital value of any ''uncrystallised'' pension rights which the individual had on 7 December 2010 (in other words, pension rights which the individual was building up but had not drawn down on that date). Where this capital value amount exceeds the SFT amount of €2.3 million, that higher amount will be the individual's PFT, subject to the PFT not exceeding the previous SFT of €5,418,085. An individual who already claimed a PFT arising from the introduction of the maximum allowable pension fund provisions from Budget Day 2006 (7 December 2005) may retain it.

6. On each occasion, on or after 7 December 2005, that an individual becomes entitled to receive a benefit (e.g. a pension, retirement lump sum etc.) under a pension arrangement (referred to in the legislation as a "benefit crystallisation event" or BCE) they use up part of their SFT or PFT. When the capital value of a BCE (either on its own or when added to BCEs that have been taken earlier) exceeds an individual's SFT or PFT, as appropriate, a "chargeable excess" arises equal to the amount by which the fund threshold is exceeded. The whole of the amount of the chargeable excess is subject to an upfront income tax charge of 41%. This charge is without prejudice to any other income tax charge that might arise on the balance of the chargeable excess as and when benefits are actually taken from the pension arrangement e.g. by way of regular pension payments.

Implications for certain civil/public servants

7. While the Budget and Finance Act 2011 changes will not affect the majority of public servants, they may impact on certain public servants, in particular those whose pensionable remuneration amounts to or exceeds €200,000 per annum <u>and/or</u> who have pension arrangements additional to and independent of their public service occupational pensions. Such individuals should establish if they may need to apply to Revenue for a PFT certificate.

8. Tax legislation (paragraph 1 (2) of Schedule 23B to the TCA) provides a formula for calculating the capital value of uncrystallised pension rights under Defined Benefit pension schemes as on Budget Day, in order to establish entitlement to a PFT. Basically, the formula provides for a capital value to be determined by establishing the annual pension entitlement that would arise to an individual on the assumption that he/she retired on Budget Day (7 December 2010) having reached normal retirement age and on the basis of their service and salary levels as on that date. The annual pension entitlement so established is multiplied by a factor of 20 to arrive at the capital value. In the case of public sector Defined Benefit schemes, the value of the retirement lump sum entitlement on 7 December 2010 (calculated on the same assumptions) would also be added. The capital value on 7 December 2010 of any Additional Voluntary Contributions (AVCs) to pension saving for the purpose of supplementing pension benefits <u>may</u> be added. AVCs are generally defined contribution (DC) type arrangements and the legislation provides that the capital value of pension rights in DC arrangements is established by simply taking the value

of the fund on Budget Day.[1] AVCs made for the purposes of enhancing death-in-service benefits should not be included.

9. The capital value of pension rights which had come into payment to the individual since 7 December 2005 (i.e. crystallised rights), if any, would also have to be calculated and added in order to establish if a PFT arises.

10. A PFT has to be claimed by way of notification to, and certification by, the Revenue Commissioners. In general, individuals will have a period of 6 months from Budget Day to send details of their pension schemes and the calculation of their PFT to the Revenue Commissioners. Where retirement takes place within that 6 month period, the PFT application should be made in advance of retirement taking place. There is provision, however, for a late notification. The Revenue Commissioners will then certify the PFT as appropriate. A PFT Notification form along with general guidance is available from the Revenue website at www.revenue.ie.

11. **Post-cut rates of pay** should be used as the basis for pensionable remuneration in calculating PFTs, except where a decision to retire before 1 March 2012[2] has already been taken at the time of application for a PFT and the decision has been formally intimated by the individual concerned to the Personnel Officer in his/her Department or Office. In all other cases, if it transpires that an individual subsequently decides to retire before 1 March 2012, a revised PFT may be sought from Revenue at least one month before retirement or before 31 January 2012, whichever is the earlier.

12. Once a PFT is granted, if the capital value of the individual's pension rights grows, for example, within a Defined Benefit scheme on foot of increased pensionable income or service, then a chargeable excess will arise on drawdown of those rights equal to the amount by which the value of those rights exceeds the PFT. Any excess will be subject to the one-off up-front income tax charge of 41%.

13. Examples of the impacts of the changes are set out at Appendix 1 to this letter together with some Questions and Answers at Appendix 3.

Implications of changes for Departments/Offices as Pension Administrators

14. As already set out above, where the relevant SFT or PFT threshold is exceeded when a BCE takes place, an up-front income tax charge of 41% on the "chargeable excess" arises. Under the legislation, the pension administrator of the relevant pension scheme and the individual are jointly and severally liable for the tax charge. It is, therefore, essential that the pension administrator is aware of, and accounts to the Collector General of Revenue for, any tax due from the individual. Such tax is due at the time by which the return is due to be made to the Collector General, i.e. within three months of the end of the month in which the BCE occurs. The pension administrator is the person normally tasked with administration of the scheme and, in the case of Civil Service schemes, will be the trustee of the scheme.

[1] The assets in a DC fund may be cash or non-cash, and if the latter, the market value of the assets on the relevant date must be established. The AVC fund administrator will provide this information

[2] The Government decided in Budget 2011 to extend from end-December 2011 to end-February 2012 the period over which pensions could be calculated by reference to pre-cut rates of pay. This change will be made by Statutory Instrument.

15. Given the joint liability, it is vital that Government Departments and Offices and public service employers take full account of the relevant legislative provisions in dealing with all staff retiring, and make them aware of these provisions.

The Process

16. In order to assess if any potential liability to the tax arises, <u>**every officer**</u>, or former officer claiming retirement benefits from the Civil/Public Service, must complete the attached declaration form (Appendix 2).

17. **No pension payments can be approved unless a properly completed declaration form is on file.**

Tax Computation:

18. Once the completed declaration form has been received, it will be necessary to establish a capital value for the retirement benefits an individual is entitled to from the Civil/Public Service scheme and to add this to the capital value of any other retirement benefits the officer has declared in the relevant declaration form.

19. The legislation (paragraph 3 of Schedule 23B of the TCA) gives details as to how the capital value is to be calculated in respect of differing types of pension benefits. In general, in the case of Defined Benefit schemes (the most usual model in the public service), the capital value is calculated by multiplying the person's annual pension on retirement by 20 and then adding that figure to the actual value of the lump sum (before any tax that might be payable on the lump sum).

20. The tax due, if any, is 41% of the amount by which the total capital value of <u>all</u> retirement benefits in payment/paid at the time the Civil/Public Service benefits fall due for payment exceeds €2.3 million or, if the individual has a PFT, the value on the PFT Certificate issued by the Revenue Commissioners.

21. An important point for pension administrators to bear in mind is that in a situation where an individual becomes entitled to receive a benefit under a pension arrangement (e.g. a BCE takes place) and the capital value of that BCE, on its own or when added to previous BCEs, exceeds €2.3m, then <u>unless the individual produces a PFT certificate to the pension administrator,</u> the pension administrator is obliged under legislation to apply the tax charge of 41% on the "chargeable excess" over the standard SFT of €2.3m. The legislation also permits the pension administrator to appropriate all or part of an individual's pension entitlements to reimburse for any tax paid by the pension administrator.

The Tax

22. Once it is established that a tax liability exists, the pension administrator should inform the individual and request immediate payment of the tax due. In the normal course, payment would be expected to be made out of the lump sum.

23. In the event that the individual does not pay the tax due, the pension administrator, being jointly liable with the individual for the tax, must pay the full amount to the Revenue Commissioners.

24. In such circumstances pension administrators should deduct the amount of tax due from any pension entitlements the officer may have. In that regard, the legislation (section 787Q(6)(b) TCA) requires the individual to allow such an "appropriation" of his or her benefits. If the amount of lump-sum[3] is not sufficient to meet the tax liability arising (or if there is no lump sum), pension administrators should make arrangements with the person liable so that recoupment is made over a reasonable period. Should the individual die before the tax paid is fully recovered, the relevant Department/Office should assess the situation and, if warranted, seek to recover the balance outstanding from the estate.

25. Further detailed guidance will issue in due course from the Office of the Revenue Commissioners in relation to the records to be kept and the returns to be made to the Revenue Commissioners.

The Accounting: (Civil Service pensions – Superannuation Vote etc.)

26. If it is necessary for the pension administrator to discharge tax liability on behalf of an individual, the amount should be accounted for on a gross basis, i.e. the total amount should be paid from Vote 7, and any off-set or recovery of monies directly from the individual or from his or her lump-sum or pension, or from the estate of the individual if deceased, should be treated as an Appropriation-in-Aid to Vote 7. Separate records should be maintained for each individual case which will provide a clear audit trail.

27. Similar arrangements to those at the preceding paragraph should be put in place for areas of the Public Service not covered by the Superannuation & Retired Allowances Vote for the Civil Service superannuation schemes.

Circulation:

28. Please bring the contents of this minute to the attention of all officers of your Department or Office, and of all relevant public service bodies under the aegis of your Department for dissemination to their staff. You should alert this Department of ongoing problems relating to the implementation of these changes, and advise the Department of the measures you intend to take to resolve those problems.

29. Queries relating to this Circular about accrual of service should be addressed in the first instance to the relevant personnel officer. Queries about tax aspects of the

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[3] Note that section 790AA TCA already places a lifetime limit on the amount of a tax-free retirement lump sum that can be taken by an individual from 7 December 2005. This limit was set at 25% of the old SFT and amounted to about €1.35 million. Budget and Finance Act 2011 provides that the maximum lifetime retirement tax-free lump sum is €200,000 as on and from 1 January 2011. Amounts in excess of this tax-free limit are subject to tax in two stages (except for specified exclusions). The portion between €200,000 and €575,000 is taxed at the standard rate of 20% while any portion above that is taxed at the individual's marginal rate of tax. The figure of €575,000 represents 25% of the new lower SFT of €2.3 million.

Circular (e.g. what qualifies for PFT) should be addressed to the relevant office of the Revenue Commissioners.

30. Questions and Answers have been made available to help provide elaboration and further clarification on these Finance Act changes. Further Q&As will be provided as necessary.

31. This minute does not purport to be a legal interpretation of the changes referred to, which are fully set out in the relevant legislation.

Yours sincerely,

Tony Jordan
Principal
Budget, Economic and Pensions Section

Appendix 1

The following hypothetical cases may help to illustrate the foregoing:

Reduction in Standard Fund Threshold (SFT) in Budget and Finance Act 2011 Examples of impact (all examples are based on individuals on modified –pre-95 – rates of pay)

Example 1

Secretary-General A is at level I and has 38 years service on 7 December 2010. S/he is thinking of retiring on 7 December 2011 but has not formally indicated that s/he will do so and could continue in service until 7 December 2012. S/he has had no crystallised pension benefits arising since 7 December 2005 and makes no AVCs. The capital value of her/his uncrystallised pension rights as on 7 December 2010 is calculated as follows:

Pensionable remuneration:	€228,466[4]
Annual Pension entitlement:	€108,521 (€228,466 x 38/80)
Capital value of pension entitlement:	€2,170,420 (€108,521 x 20)
+Retirement Lump Sum:	€325,563 (€108,521 x 3[5])
Capital value of pension rights at 7/12/10:	**€2,495,983**

Since the capital value of A's pension rights as at 7 December 2010 is above the SFT of €2.3 million, then A should notify the Revenue Commissioners and seek a certified PFT for €2,495,983.

A actually retires on 7 December 2012. Assuming no increase in pensionable remuneration and no indexation in the level of the SFT or PFT (which indexation is at the discretion of the Minister for Finance), the capital value of A's crystallised pension rights at the point of retirement would be as follows:

Pensionable remuneration:	€228,466
Annual Pension entitlement:	€114,233 (€228,466 x 40/80)
Capital value of pension entitlement:	€2,284,660 (€114,233 x 20)
+Retirement Lump Sum:	€342,699[6] (€114,233 x 3)
Capital value of pension rights on retirement at 7/12/12:	**€2,627,359**

[4] If a Secretary General at any level retires after the 29 February 2012 their pension will be based on 1 January 2010 rates of pay which in the case of Secretary General Level I would be €228,466 If a Secretary General at Level I, II or III retires between now and 29 February 2012, their pension will be based on the pre-cut rate of pay (i.e. as at 1 September 2008). In the case of Secretary General A in the example, the rate of pay would amount to €285,341. <u>If Secretary General A decided during 2011 to retire before 1 March 2012, a revised PFT based on the pre-cut rate of pay may be sought from Revenue at least one month before retirement or before 31 January 2012, whichever is the earlier.</u>

[5] Equivalent to 3/80ths of pensionable remuneration for each year of service.

[6] Assuming no other retirement lump sum has been or will be paid, the excess of this retirement lump sum over €200,000 will be taxed at the standard income tax rate. In addition, in the normal course, the tax charge at 41% on any "chargeable excess" arising over the value of the SFT or a PFT will also be deducted by the pension administrator from the remaining lump sum.

Since the capital value of A’s pension rights on retirement exceeds the value of her/his PFT on Budget Day 2011, a “chargeable excess” amounting to the difference arises (€131,376) which will be subject to an immediate tax charge at 41%.

Example 2

Secretary General B is at level II and has 39 years service on 7 December 2010. S/he has decided to retire on 7 December 2011 (e.g. prior to 1 March 2012) and has formally notified her/his intention to do so. S/he has had no crystallised pension benefits arising since 7 December 2005 and makes no AVCs. The capital value of her/his uncrystallised pension rights as on 7 December 2010 is calculated as follows:

Pensionable remuneration:	€253,635[7]
Annual Pension entitlement:	€123,647 (€253,635 x 39/80)
Capital value of pension entitlement:	€2,472,940 (€123,647 x 20)
+Retirement Lump Sum:	€370,941 (€123,647 x 3)
Capital value of pension rights at 7/12/10:	**€2,843,881**

Since the capital value of B’s pension rights as at 7 December 2010 is above the SFT of €2.3 million, then B should notify the Revenue Commissioners and seek a certified PFT for €2,843,881

B retires on 7 December 2011. Assuming no increase in pensionable remuneration and no indexation in the level of the SFT or PFT, the capital value of B’s crystallised pension rights at the point of retirement would be as follows:

Pensionable remuneration:	€253,635
Annual Pension entitlement:	€126,818 (€253,635 x 40/80)
Capital value of pension entitlement:	€2,296,800(€126,818 less 11,978[8] x 20)
+Retirement Lump Sum:	€380,454[9] (€126,818 x 3)
Capital value of pension rights on retirement at 7/12/11:	**€2,677,254**

Since the capital value of B’s pension rights on retirement (€2,677,254) does not exceed the PFT of €2,843,881, no “chargeable excess” arises.

[7] Pre-cut rate of pay as at 1 September 2008.

[8] An average reduction of 4% in pension paid to certain existing public servants and to those retiring before 1 March 2012 was introduced in Budget 2011 with effect from 1 January 2011. As the reduction was introduced with effect from a date after 7 December 2010, it has no impact on the calculation of an individual’s PFT. The amount of the reduction (calculated in the example at €11,978) should be taken into account, however, in calculating the capital value of the individual’s pension rights at retirement, as the actual value of the pension paid to the individual has been reduced.

[9] See footnote 6

Example 3

Secretary General C is at level III and has 33 years service on 7 December 2010. S/he proposes to retire in 7 years time on 7 December 2017. S/he has had no crystallised pension benefits arising since 7 December 2005 and makes no AVCs. The capital value of her/his crystallised pension rights as on 7 December 2010 is calculated as follows:

Pensionable remuneration:	€188,640[10]
Annual Pension entitlement:	€77,814 (€188,640 x 33/80)
Capital value of pension entitlement:	€1,556,280 (€77,814 x 20)
+Retirement Lump Sum:	€233,442 (€77,814 x 3)
Capital value of pension rights at 7/12/10:	**€1,789,722**

Since the capital value of C's pension rights is less than the SFT of €2.3m, the maximum lifetime pension benefit available to her/him from tax-relieved sources is €2.3m and no PFT arises.

C retires on 7 December 2017. Assuming no increase in pensionable remuneration and no indexation in the level of the SFT or PFT, the capital value of C's crystallised pension rights at the point of retirement would be as follows:

Pensionable remuneration:	€188,640
Annual Pension entitlement:	€94,320 (€188,640 x 40/80)
Capital value of pension entitlement:	€1,886,400 (€94,320 x 20)
+Retirement Lump Sum:	€ 282,960[11] (€94,320 x 3)
Capital value of pension rights on retirement at 7/12/17:	**€2,169,360**

Since the capital value of C's pension rights on retirement do not exceed the SFT of €2.3m, no "chargeable excess" arises.

[10] Reduced rate of pay as at 1 January 2010.

[11] See footnote 6

Appendix 2

PENSIONS DECLARATION

REQUIRED UNDER SECTION 787R(4) OF THE TAXES CONSOLIDATION ACT 1997.

1. On or after 7 December 2005:

   Did you become entitled to any pension[12], lump sum or any other pension related benefit, other than your pension entitlements from the civil service (or public service) currently being claimed?

   YES / NO

   Did you direct that a payment or transfer be made to an overseas pension arrangement?

   YES / NO

2. Prior to the date of your retirement from the civil service (or public service), or the date of commencement of pension payment:

   Do you expect to become entitled to any pension, lump sum or any other pension related benefit (other than the benefits arising from this civil service/public service pension)

   YES / NO

   Do you intend to direct that a payment or transfer be made to an overseas pension arrangement?

   YES / NO

3. If you have an entitlement to any relevant pension benefit, other than the civil service/public service pension entitlement now being claimed, please provide the following details as appropriate in a separate document

   a) the type of pension arrangement (e.g. defined benefit/defined contribution occupational pension scheme, retirement annuity contract, PRSA, Additional Voluntary Contributions (AVC) for the purpose of supplementing retirement benefits etc)
   b) the date you became (or expect to become) entitled to the benefit(s) under the arrangement,
   c) the nature of the benefit(s) (e.g. pension, annuity, tax-free lump sum, taxable lump-sum, transfer to an Approved Retirement Fund etc),
   d) the name of the scheme/arrangement,
   e) the contact details for the scheme administrator,
   f) your reference number under the scheme/arrangement,
   g) in the case of a transfer made (or to be made) to an overseas pension arrangement, the amount or value (or expected amount or value) of the

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[12] This does not include i) social welfare benefits, such as the State Pension or ii) private pension benefits which you received or which came into payment before 7 December 2005.

payment or transfer and the name of the scheme to which the transfer was (or is to be) made,

h) in the case of each <u>defined contribution</u> arrangement, the value of the fund (or the expected value of the fund) on the date you became (or expect to become) entitled to the benefit(s) under the arrangement,

i) in the case of each <u>defined benefit</u> arrangement:

(i) where you have taken (or intend to take) a pension under the arrangement, the <u>annual amount</u> of pension payable (or expected to be payable) to you when the pension commenced (or commences),

(ii) the amount of any separate lump sum benefit taken or to be taken (i.e. other than by way of commutation of a pension),

(iii) where you have exercised an option (or intend to) in accordance with section 772(3A), 784(2A) or 787H(1) of the Taxes Consolidation Act 1997 (i.e. an "ARF" option), the amount or market value of the cash or other assets as were (or are expected to be) transferred either to you, to an ARF and/or an AMRF, following the exercise of the option.

(iv) where you have not exercised an option (or do not intend to do so) in accordance with section 787H(1) of the Taxes Consolidation Act 1997 and instead have retained (or intend to retain) the assets of the PRSA in that or any other PRSA, the amount or market value of the cash or other assets as are retained in the PRSA.

4. Do you have a certificate from the Revenue Commissioners stating the amount of your *Personal Fund Threshold* in accordance with section 787P of the Taxes Consolidation Act 1997?

YES/NO

5. **If the answer to question 4 is YES – please enclose a copy of the certificate issued by the Revenue Commissioners.**

6. May we contact the scheme administrator(s) on your behalf for the purposes of clarifying if necessary, any aspect of the information provided by you under this declaration?

YES/NO

Be aware that that there is provision in the legislation that, where capital value of one's pension benefits exceeds the SFT/PFT, tax due on any chargeable excess may be deducted from the pensioner's lump sum or ongoing pension.

I DECLARE THAT THE INFORMATION PROVIDED BY ME IN THIS FORM IS COMPLETE AND CORRECT

FULL NAME_____________________________

ADDRESS________________________________

____

____

____

PPS NUMBER ___________________________

SIGNATURE: ___________________________

DATE: ___________________________________

Appendix 3

Questions and Answers

Q1. How do I establish the capital value of my Defined Benefit pension on 7 December 2010?

A. First of all you should establish from your pension fund administrator(s) what gross annual pension(s) you would have been entitled to under the rules of the defined benefit arrangement(s) if you had retired on 7 December 2010 at your pensionable <u>remuneration</u> and <u>service</u> on that date and on the assumption that you had attained normal retirement age on that date. The gross annual pension is then multiplied by 20 (the standard capitalisation factor) to arrive at the capital value of your defined benefit pension(s) on 7 December 2010.

If the defined benefit arrangement provides a <u>separate</u> lump sum entitlement (otherwise than by way of commutation of part of the pension) e.g. civil service schemes, the value of the lump sum entitlement (calculated on the same assumptions as above) is added to the capital value of the defined benefit pension to arrive at the overall capital value. Again, the pension scheme administrator will be able to advise you of the value of the lump sum that would be payable under the scheme rules on 7 December 2010.

Q2. How do I take account of a pension benefit that came into payment since 7 December 2005 in my current PFT Notification?

A. You need to include in the calculation of the PFT the capital value of pension benefits taken by you on or after 7 December 2005, if any. These are known as “benefit crystallisation events” (BCEs) and could arise by way of, for example, a pension or annuity coming into payment, the receipt of a pension lump sum or the proceeds of a pension fund being placed in an Approved Retirement Fund (ARF) or Approved Minimum Retirement Fund (AMRF).

In the case of pension benefits that arose from defined contribution arrangements, you need to contact the pension fund administrator to establish the value of the cash/assets that were used to, say, purchase your annuity or that were transferred to an ARF for you. In the case of a pension lump sum the value will simply be the amount of the lump sum paid to you.

In the case of a pension paid under a defined benefit arrangement the capital value of the pension is the amount of pension paid to you in the first 12 months (ignoring any increases over that period) from the date you became entitled to it, multiplied by 20 (the standard capitalisation factor). Note it is not the <u>current annual rate</u> of the pension being paid to you. You will also have to add the value of any separate pension lump sum paid to you at that time.

Q3. Do severance payments count as retirement benefits for the purpose of calculating an SFT or PFT?

A. No. Severance payments would not be regarded as pension benefits from a tax perspective.

Q4. I am in the middle of my contract as a Secretary- General. If "added years" service is credited to me at the end of my contract, are those "added years" included in the calculation of my PFT as at 7 December 2010?

A. Unlike pension and retirement lump sum entitlements that accrue to individuals over time at specified rates, "added years" in this context are discretionary benefit enhancements available only if certain conditions are met and Government decisions are made. In these circumstances, "added years" cannot form part of the accrued pension rights that have been built up at 7 December 2010 for the purpose of calculating a PFT.

Q5. If, as a Secretary-General Level II, I intend to retire by end-February 2012, at what level of pensionable remuneration should the capital value of my uncrystallised pension rights be calculated on Budget Day 2011 for the purpose of my PFT?

A. **Post-cut rates of pay** should be used as the basis for pensionable remuneration in calculating PFTs, **except** where a decision to retire before 1 March 2012 has already been taken at the time of application for a PFT and has been formally intimated by the individual concerned to the Personnel Officer in his/her Department or Office, in which case the pre-cut rate of pay may be used.

If it is the case that an individual, after applying for a PFT on the basis of a post-February 2012 retirement date and using the post-cut rate of pay in the calculation, decides instead to retire before 1 March 2012 and formally notifies this intention to his/her Personnel Officer, a revised PFT using the pre-cut rate of pay may be sought from Revenue at least one month before retirement or before 31 January 2012, whichever is the earlier.

Q6. As I intend to retire by end February 2012, my public service pension will be subject to the "pension reduction", is that reduction taken into account in any way in the calculation of the PFT?

A. No. An average reduction of 4% in the pensions paid to certain existing public servants and to those retiring on or before 29 February 2012 was introduced in Budget 2011 with effect from 1 January 2011. As the pension reduction measure was introduced with effect from a date after 7 December 2010, it has no impact on the calculation of an individual's PFT. The amount of the reduction should be taken into account, however, in calculating the capital value of the individual's pension rights at retirement (see example 2 in Appendix 1).

Q7. I am making AVCs to maximise death-in-service benefits. Can the current value of these AVCs be included in the calculation of my pension rights for PFT purposes and at the point of retirement?

A. No. AVCs being made purely and exclusively to provide for enhanced death-in-service benefits should not be included in the calculation of uncrystallised pension rights used to establish the value of a PFT or the capital value of pension rights at retirement. Only AVCs made to supplement retirement benefits should be included. These are generally defined contribution type arrangements whose capital value is essentially the value of the AVC fund on 7 December 2010 and at the date of retirement. .

Q8. I have plans for my retirement lump sum. What if the tax due on the excess of my retirement lump sum over €200,000 and the tax charge on any chargeable excess arising over my PFT take up a considerable amount of the lump sum? Is there any possible alternative to paying the chargeable excess tax due from my lump sum – can it be paid over a period?

A. From the Exchequer's point of view it is important that any tax due on a chargeable excess be discharged as quickly as possible and the retirement lump sum is the most obvious means of doing this. There may be circumstances where alternative arrangements including recovering the tax over a short period from the pension in payment can be considered – but this will be the exception rather than the rule.

Q9. I am on modified PRSI (a pre-1995 recruit to the public service) while my colleague in the same grade is in the "integrated" pension scheme having joined post-1995. His entitlement to a State Pension (Contributory) does not count towards the SFT or PFT, yet he may end up with the same overall pension benefits as me and I may exceed the SFT and be faced with tax on a chargeable excess and he may not. Is that equitable?

A. The SFT or PFT, as appropriate, are thresholds that apply to pension benefits derived from tax-relieved pension arrangements. The State Pension (Contributory) does not fall into this category and the SFT or PFT are not relevant insofar as the State Pension is concerned.

Q10. If pension benefits (BCEs) from more than one pension scheme come into payment on the same date, which pension administrator will have to account for tax if a chargeable excess arises?

A. The legislation provides that where more than one pension benefit (BCE) arises on the same day in relation to an individual, the individual must decide which is deemed to arise first and inform the administrators accordingly. Each pension fund administrator is then required to operate independently to establish if the capital value of the pension benefit (BCE) that he is responsible for, either on its own or when added to prior BCEs in respect of the individual, gives rise to a chargeable excess and to deduct tax accordingly. So the pension fund administrator dealing with the BCE that is deemed to arise second in the sequence will have to take account of all prior BCEs (including the one dealt with by the administrator of the BCE deemed to arise first) to establish if a chargeable excess arises as respects the second BCE. Depending on the circumstances each might have to account for tax on a chargeable excess e.g. if the capital value of the first BCE either on its own or when added to prior BCEs exceeds the SFT or PFT a chargeable excess will arise on the amount by which the SFT/PFT is exceeded and the administrator will have to apply tax at 41% on the excess. By definition, if the first BCE has given rise to a chargeable excess then the second BCE will be fully exposed to the 41% charge and the administrator of the second BCE will have to account for that tax.

Q11. Can I change the capitalisation factor because I am age 75?

A. No. The legislation only provides for the standard capitalisation factor of 20 to be used.

Q12. What happens in the case of an individual whose pension is subject to a pension adjustment order? Does the portion of the pension being allocated to the other party form part of the latter's SFT/PFT?

A. No. Under the requirements of the legislation where an individual is a member of a relevant pension arrangement which is, or becomes, subject to a pension adjustment order (PAO), then in calculating the capital value of the PFT or any subsequent Benefit Crystallisation Event (BCE) the benefits designated to the other party under the PAO are to be included in the calculations as if the PAO had not been made. This is the case whether the benefits under the PAO are to be paid, in due course, by way of a designated benefit from the individual's pension scheme or whether a transfer amount has been applied to provide the other party with an independent benefit in accordance with the Family Laws Acts. The corollary is that the PAO benefits are not included in any PFT/BCE calculations in respect of the other party.

These Q&As may be supplemented from time to time, and will be posted on the internet at www.revenue.ie.

Attachment 2: Supplementary Circular on PFT re ProfAddYrs and Purchase 111116.doc

Reduction in Standard Fund Threshold (SFT) in Budget and Finance Act 2011

PROFESSIONAL ADDED YEARS AND PURCHASE OF NOTIONAL SERVICE

1. PROFESSIONAL ADDED YEARS

The issue of the inclusion of professional added years in the calculation of and application for a Personal Fund Threshold (PFT) has been considered again by the Revenue Commissioners following issues raised with them by this Department. The arrangements in respect of the treatment of professional added years for PFT purposes, as agreed, are set out below.

It has now been agreed with the Revenue Commissioners that a figure in respect of professional added years should not be included in PFT calculations and applications at this time. Instead, a "look-back" arrangement will apply at the point of an individual's retirement whereby an individual awarded professional added years on retirement will have his or her service as at 7 December 2010 enhanced by the number of professional added years awarded which could result in such an individual obtaining either an increased PFT (where they already have one) or qualifying for a PFT by way of a late application (where they had not qualified as at 7 December 2010).

It may be that individuals who qualify for a PFT as at 7 December 2010 and who are awarded professional added years on retirement or who may qualify for a PFT on foot of such an award on retirement but who are some years from that position may not recall the above arrangement in the future. It would be appropriate, therefore, for you to make arrangements for the person to be informed that a PFT or a revised PFT may be available in these circumstances. This could be done by the inclusion in the Pension Declaration Form, which has to be signed by the pension beneficiary, of an appropriate note to that effect. The following wording is suggested:

"It has been agreed with the Revenue Commissioners that, where professional added years have been awarded as part of your pension benefits on retirement, they will be used to enhance your Personal Fund Threshold, if you already have one, or will render you eligible to make a late application for a PFT at that stage. In either case, your public sector pension fund administrator can advise you of what the capital value of your public sector pension would have been at 7 December 2010 at your salary and service levels at that date, when revised to take account of your actual professional added years award. You can then apply to Revenue for a PFT, if the additional service on foot of professional added years awarded brings the capital value of your overall pension benefits at 7 December 2010 above €2.3m, or for a revised PFT to reflect the increased service.

2. PURCHASE OF NOTIONAL SERVICE

The following deals with the treatment of the purchase of notional service in the context of the PFT.

The formula to be used for the purpose of including notional service which is being purchased under a periodic purchase agreement is set out immediately below. It is based on the formula contained in the purchase of notional service scheme.

The formula is A x B / C, where -

A is the number of years of service which the officer opted to purchase;

B is the period from the date of commencement of the purchase agreement up to 7 December 2010; and

C is the period during which periodic contributions would have been paid if the officer had continued to pay such contributions up to the relevant retirement age.

Where notional service has been purchased by lump sum prior to 7 December 2010, the full amount of that service purchased should be included in the PFT. Service purchased by lump sum after that date should not be included.

Queries relating to this additional information for PFT purposes should be addressed to the relevant Personnel Officer in the first instance.

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EXAMPLE

Reduction in Standard Fund Threshold (SFT) in Budget and Finance Act 2011

Example of impact on hospital and academic consultants with claim for professional added years

1. **Consultant A** is aged 57 with 27 years service on 7 December 2010. He has Type B contract and an annual salary at 7 December 2010 of €176,000. He has a claim to professional added years of one-third of service up to a maximum of 10 years and a contract permitting retirement at age 60. Apart from his membership of the public service pension scheme, he has separate private pension savings with a market value of €500,000 to which he has now ceased contributing. He has no crystallised pension rights since 7 December 2005. The capital value of his uncrystallised pension rights as on 7 December 2010 is calculated as follows:

   Pensionable remuneration: €176,000

   Annual Pension entitlement: €59,400 (€176,000 * 27[13] /80)

   Capital value of pension entitlement: €1,188,000 (€59,400* 20)

   + Retirement Lump Sum: €178,200 (€59,400*3)

   + market value of personal pension savings: €500,000

   Capital value of pension rights **at 7/12/10**: **€1,866,200**

2. Since the capital value of **A's** pension rights as at 7 December 2010 is below the level of the reduced SFT of €2.3 million, the maximum lifetime pension benefit available to him for tax purposes (in the absence of an actual award of professional added years) is €2.3million. There are no grounds on which **A** needs to apply to Revenue for a PFT at this point.

[13] No figure in respect of professional added years should be included in PFT calculations and applications at this time. Instead, a "look-back" arrangement will apply at the point of an individual's retirement whereby an individual awarded professional added years on retirement will have his or her service as at 7 December 2010 enhanced by the number of years awarded which could result in such an individual obtaining either an increased PFT (where they already have one) or qualifying for a PFT by way of a late application (where they had not qualified as at 7 December 2010).

3. **A** is due to retire at age 60 on 7 December 2013. Just prior to retirement he is awarded 10 years professional added years by his employer. Together with actual years' service, this would bring total service at retirement for pension purposes to 40 years. Under the "look back" arrangement agreed with Revenue, **A** should at that time obtain from his public sector pension fund administrator details of the capital value of his public service pension as at 7 December 2010 based on his salary and service at that date and taking account of the actual professional added years awarded at retirement. If the capital value of A's public service pension when added to his/her personal pension savings (of €500,000) at 7 December 2010 exceeds €2.3m, **A** can then apply to Revenue for a PFT. In this example, the number of years' service for pension purposes would increase to 37 as at 7 December 2010. All other things being equal, the capital value of **A's** overall retirement benefits at that date with the inclusion of the professional added years would amount to **€2,372,200** [14] and **A** should apply to Revenue for a PFT of this amount.

4. Assuming no increase in pensionable remuneration in the period from 7 December 2010, no change in the market value of the personal pension savings and no indexation in the level of the SFT or PFT (which indexation is at the Minister's discretion), the capital value of **A**'s crystallised pension rights at the point of retirement would be as follows:

   Pensionable remuneration: €176,000
   Annual Pension entitlement: €88,000 (€176,000* 40/80)

   Capital value of pension entitlement: € 1,760,000 (€88,000 * 20)
   \+ Retirement Lump Sum : €264,000[15] (€88,000* 3)
   \+ market value of personal pension savings: €500,000
   Capital value of pension rights **on retirement at 7/12/2013**: **€2,524,000**

5. Since the capital value of **A's** pension rights on retirement (€2,524,000) exceeds the value of his PFT (€2,372,200) as at 7 December 2010, a "chargeable excess" amounting to the difference (€151,800) will be subject to an immediate tax charge at 41%. The chargeable excess in this instance arises largely as a result of the capital value of the 3 years additional actual service and pension benefit accrued beyond 7 December 2010.

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[14] Capital value of pension (€176,000***37**/80)(*20) + Retirement lump sum (€176,000* 37/80 *3) + personal pension savings(€500,000)

[15] Assuming no other retirement lump sum has been or will be paid, the excess of this retirement lump sum over €200,000 will be taxed at the standard income tax rate. In addition, in the normal course, the tax charge at 41% on any "chargeable excess" arising over the value of the SFT or a PFT will also be deducted by the pension administrator from the remaining lump sum.