

# Pensions Update

## Finance Bill 2013

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**The first draft of the Finance Bill confirmed the changes announced on Budget Day including the ability to take a taxable withdrawal of up to 30% of AVC funds. However, there were also significant changes included in the Bill to the Approved Minimum Retirement Fund (AMRF) regime not mentioned in the budget which came as a surprise to many. The main points are outlined below along with a brief commentary.**

### 1. Changes to ARF / AMRF regime

The previous levels of specified income (guaranteed pension income for life) of €12,700 p.a. or investment of €63,500 in an AMRF (or annuity), before a person can invest in an ARF or take taxable cash, are going to be temporarily reinstated. These will replace the higher amounts (€18,000 p.a. and €119,800) which were brought in by the Finance Act 2011.

These reduced limits are intended to apply for three years from the passing of the Finance Act 2013. It is expected that the Finance Act 2016 will reapply the higher amounts.

The Bill makes allowance for people who have taken retirement benefits since the higher limits were introduced in February 2011 as follows:

- if a client has specified income of €12,700 p.a. then their AMRF will become an ARF,
- if a client does not have specified income of €12,700 p.a. then any part of the original capital amount that they placed in an AMRF in excess of €63,500, immediately becomes an ARF.

Equivalent provisions apply to Vested PRSAs.

These changes have no effect at the moment and will only become effective with the passing of the Finance Act 2013.

#### Comment

There will be implementation issues for AMRF providers which will need to be considered. The Bill indicates that part or all of an AMRF will automatically become an ARF, however, many Qualifying Fund Managers (QFMs) have designed their products and systems to treat both products differently as required by the legislation, for example, imputed distributions.

AMRFs which convert to ARF status will become subject to the annual imputed distribution and tax liability. When does the imputed distribution apply to funds which convert from existing AMRFs? In our opinion, there will be no backdating of the imputed distribution on the higher ARF amount and that it will only apply from 2013 onwards to the higher amount.

ARF and PRSA providers will require clients to advise them of their current level of pension income to assess whether part or all of their AMRF / Vested PRSA needs to be converted. What if customers fail to respond?

Clients may want to delay taking their retirement benefits until this change has gone through.

It should also be noted that the Bill does not provide for annuities which were purchased to be unwound.

As you can see this poses a number of questions which still need to be answered.

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## 2. Partial Access to AVCs before retirement

For a period of three years from the passing of the Finance Act, a member of an Occupational Pension Scheme (OPS) who has made AVCs under the scheme or to a separate AVC scheme or an AVC PRSA will have the option to drawdown up to 30% of the value of their AVC fund.

### Important points to note about this option

- This is a one-off option.
- The Rules of the relevant retirement benefits scheme / AVC PRSA contract need to allow for the drawdown option.
- AVCs made for the purposes of purchasing notional service (added years) under a Defined Benefit scheme, which often occurs in public sector schemes, are specifically excluded.
- Normal employee contributions to an OPS made at the rates specified for employee contributions under the scheme rules are not regarded as AVCs. Similarly personal contributions to a PRSA (which are not AVC PRSA contributions) are excluded.
- Contributions by employers to an OPS or a PRSA are also excluded.
- Where the fund is subject to a pension adjustment order, both beneficiaries may exercise the AVC drawdown option independently of each other in respect of the AVC portion of their "share" of the pension fund.
- Amounts paid under the AVC drawdown option will be subject to income tax under PAYE. Unless the administrator has received an individual's certificate of tax credits and standard rate cut-off point, the administrator will be required to deduct tax at the higher rate (41%). These payments will be exempt from USC and PRSI.

### Comment

While recognising that the drawdown option may be of benefit to people in certain financial circumstances, using AVCs to supplement retirement income is of even more importance now than ever. A clear example of this is the shortfall in retirement income arising from the increasing state pension age.

As the AVC drawdown amount is subject to tax at an individual's marginal rate it may be more attractive to those who are liable to tax at the standard rate of tax or who are not liable to tax based on the amount of their earnings at the time of the drawdown.

The Bill also provides that the expenses of the scheme (or the contract in the case of AVC PRSAs) under the rules or the terms of the contract may be deducted from the AVC fund in establishing the amount that can be withdrawn.

AVCs withdrawn under this option are not to be treated as a Benefit Crystallisation Event. Therefore for someone who is at risk of exceeding the Standard Fund Threshold (SFT) / Personal Fund Threshold (PFT), it could make sense for them to exercise this option.

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## 3. Taxation of Vested PRSA assets on death

The Bill amends the Capital Acquisition Tax legislation to equalise the inheritance tax treatment of Vested PRSAs and ARF products. Where assets in a Vested PRSA pass to a child over age 21, the payment will be exempt from Inheritance Tax.

This change brings the legislation into line with stated Revenue practice in this area and will be effective from the date the Bill is enacted.

## 4. Revised rate of USC – income over €60,000 p.a.

As indicated in the Budget, the reduced rates of USC which previously applied for persons over age 70 and medical card holders will no longer apply to those persons, if their income is in excess of €60,000. This change was effective from 1 January 2013.

## Conclusion

The changes in the Finance Bill, in particular the AVC withdrawal option and the AMRF changes will need to be scrutinised carefully and will generate many questions. The pensions industry will look to provide feedback to the Department of Finance and Revenue Commissioners on some of the matters contained in the Bill with a view to easing the administration burden that they may cause if introduced as outlined in the Bill. We will keep you informed of any relevant changes during the passage of the Bill and of any clarifications we receive in relation to how these changes will be implemented in practice.

**For further information please contact your Momentum Broker Consultant.**

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