1240/5(9342)

WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY THE DEPUTY OF GROUVILLE ANSWER TO BE TABLED ON TUESDAY 12TH APRIL 2016

Question

Given that the Government is looking to achieve economic growth to provide greater opportunities within the community, why have rules and restrictions been placed upon access to private pension schemes?

Can the Minister explain why the majority capital sum of a person’s private pension, once deposited into a scheme, is rendered unobtainable or has restrictions placed on it to render access unobtainable during that person’s lifetime?

What is the purpose of imposing restrictions in this way and who does it benefit?

Who does the Minister consult with to receive advice on pension policy?

Has the Minister considered whether restricting a person’s access to their own monies and rendering them unobtainable especially when other opportunities may present themselves, is human rights compliant?

Answer

To encourage people to save for their later years the Island’s tax system provides generous tax relief for the contributions that working age people make into pension schemes, together with access to a 30% tax free lump sum payable from the age of 50. Pensions are tax advantaged in this way because the pensioner receives a stream of income from the pension scheme throughout their later years. It is this continuous stream of income which means that the pensioner is better able to plan for their retirement and is less likely to require financial support from the States and hence restrictions are placed on pension schemes regarding how funds can be paid out.

This approach is used in jurisdictions across the globe to encourage savings which produce an income stream for retirement and has been in operation in Jersey for many years (for example the use of tax relief to encourage people to save into personal pension schemes with restrictions commenced in 1987). In recent years the income tax legislation has been updated to introduce a much more simple, modern, flexible and accessible pension system. The key steps in this process being:

- 2003: the introduction of approved drawdown contracts – giving the pensioner access to 100% of their pension fund in certain circumstances
- 2014: greater flexibility in the payment of annuity equivalents from retirement trust schemes
- 2015: significant simplification of the income tax rules and additional flexibility over access to tax free lump sums and approved drawdown contracts

This modern, flexible approach can be seen, for example, in the context of retirement trust schemes where under current rules:

1. A 30% tax free lump sum can be paid out by the retirement trust scheme once the pension holder reaches the age of 50.
2. There is no obligation to purchase an annuity from an insurance company – the retirement trust scheme holds the pension fund throughout the retirement phase and whatever remains can be paid out as a lump sum to anyone following the death of the pension holder.

3. There is much greater flexibility over the quantum of the annuity equivalent paid by the retirement trust scheme – with the scheme being able to pay out 150% of the “basis calculation
4. The whole of the pension fund can be commuted on the diagnosis of serious ill health.
5. From the age of 50, provided that the pension holder can demonstrate that they have minimum retirement income, the whole of the pension fund can be transferred into an approved drawdown contract whereupon up to 100% of the pension fund can be accessed.

In connection to the changes introduced in 2015, the Minister issued a public consultation paper alongside the 2014 Budget which received a broad spectrum of responses from across the pensions industry and other interested parties which helped to shape the final legislative changes (a summary of the responses to that consultation is available at: http://www.gov.je/government/consultations/pages/taxrulespensions.aspx). The Minister also receives correspondence from individuals and businesses with an interest in pensions. The Tax Policy Unit meets periodically with the Jersey Pensions Association (see: http://www.jerseypensions.org/about/).

The Minister understands that the restrictions on accessing private pensions do not interfere with the property rights outlined in the Human Rights Convention; the restrictions on pensions under the Income Tax (Jersey) Law prescribe when an investment vehicle qualifies for the tax advantages given to pension schemes. Individuals use their property rights when they choose to invest in private pension schemes knowing they are regulated by law and contain certain restrictions. After making such a choice, the individual’s Convention right is to the return prescribed by the pension scheme rules.