NIGEL SLOAM & CO 40 YEARS
Actuaries & Consultants

Roman House
296 Golders Green Road
London
NW11 9PY

T: +44 20 8209 1222
F: +44 20 8455 3973
info@nigelsloam.co.uk
www.nigelsloam.co.uk

June 2019

Our ref: Your ref:

Dear Client

A POSSIBLE HMRC THREAT TO SSASs WITH DORMANT EMPLOYERS

A) BACKGROUND

HMRC took extended powers in Finance Act 2018 to limit both the registration of certain new pension schemes and de-register some existing schemes. This was intended, so they said, to limit the scope for pension scams and "pension liberation" schemes.

At the time many advisors, including us, warned that the powers taken were draconian and too wide ranging and could be used to justify action against legitimate pension schemes. In response, a relevant Pensions Minister gave assurances – to our MP amongst others - that HMRC would not use its power in relation to legitimate schemes. **Despite these assurances HMRC appear to have decided, for no obvious reason, to target schemes where the Employer has become dormant**. HMRC does not appear to be looking currently at schemes where the Employer has been wound up.

B) CURRENT SITUATION

1. HMRC has written in the last few days to some schemes, where a participating employer has submitted dormant accounts, threatening a future intention to commence to deregister the scheme. They have this theoretic power if the relevant employer has been dormant during a continuous period of one month falling within a year of the day on which the decision to withdraw registration is made.

2. **The consequences of deregistration are huge**. This would trigger a "deregistration charge" of 40% of the market value of assets held within the scheme. HMRC and others have been reminded of the Minister's assurances and individual notices are being challenged. **Nonetheless, we wish to warn all clients with pension schemes associated with a dormant Employer of this possibility** and to advise on steps that could be taken to prevent deregistration.

3. So far HMRC has only sent out notices advising of **an intent** to proceed with deregistration. They have not commenced the process in the cases of which we are currently aware. To be fair, the notices suggest possible courses of action which could avert deregistration.

4. We have consulted our pensions lawyers regarding the issuing of these notices. They have confirmed that, if appropriate action is possible and taken before actual deregistration commences, penalties could be avoided.

5. Our approach is to try to ensure, **where possible**, that i) the circumstances where the deregistration charge could be levied do not apply and ii) to maintain the registration of the scheme.

C) ACTION POINTS

In order to protect your scheme's assets from the consequences of deregistration we, therefore, recommend that:

1. **You check urgently whether your pension scheme is associated with a company that has been reported as "dormant".** If this is so, please advise your consultant at Nigel Sloam & Co and your accountant immediately.

2. **If you receive any correspondence from HMRC suggesting they are considering deregistration contact us immediately**. Timely action, where possible, can help avoid costly tax consequences.

3. **Ensure that your advisors and accountants are aware that any decision to file dormant company accounts could have unintended and very costly tax consequences**.

Yours sincerely

Nigel Sloam + Co

Nigel Sloam & Co