Making Pension Contributions from your company

ipse The Association of Independent Professionals and the Self-Employed

AEGON

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Generally speaking total annual pension contributions are limited to a maximum of your "relevant earnings" - which do not include dividends - or the current Annual Allowance (£40,000 in tax year 2018/19) whichever is the lower. A tapered Annual Allowance was introduced from April 2016 for those with income (including individual and employer pension contributions) of over £150,000. For every £2 of income over £150,000 the annual allowance will be reduced by £1 down to a minimum of £10,000. In general, provided that the contribution does not exceed these limits your limited company can make pension contributions and deduct them as a cost against corporation tax. Pension contributions are not taxable as a benefit-in-kind and there will be no further tax to pay from either the company or the individual.

However, and this is absolutely key, if your company makes a pension contribution on behalf of an individual that is in excess of the individual's relevant earnings (but under the Annual Allowance), this would be acceptable subject to the contribution being justifiable to HMRC relative to the individual's contribution to the business. For owner-managed businesses it is likely that HMRC would find such contributions to be acceptable, but this is somewhat subjective and not clear cut and we strongly advise IPSE members to seek advice from their accountants or independent financial advisers as to whether a company contribution would be 'justifiable' in their individual circumstances.

What are relevant UK earnings for pension purposes?

Relevant UK earnings include:

- Employment income (providing it's chargeable to tax under Section 7(2) Income Tax (Earnings and Pensions) Act 2003);
- Income derived from the carrying on or exercise of a trade, profession or vocation, whether individually or as a partner acting personally in a partnership (which is chargeable under Part 2 Income Tax (Trading and Other Income) Act 2005);
- Income arising from patent rights and treated as earned income (under Section 579 et seq of Income Tax (Trading and Other Income) Act 2005
- General earnings from an overseas Crown employment which are subject to tax in accordance with Section 28 of Income Tax (Earnings and Pensions) Act 2003.

So, in practice this means the following taxable income counts as relevant UK earnings:

- Employment income - including salary, wages, bonuses, overtime, commissions; Benefits in kind for directors or employees earning over
- Benefits in kind for directors or employees which are chargeable to tax;
- Statutory sick pay, statutory maternity pay, statutory paternity pay, and statutory adoption pay payable by the employer are all treated as remuneration derived from employment;
- Permanent health insurance paid by employer is treated as earned income;
- Emoluments received by an individual as a controlling director of an investment company;
- Self employment/partnership profits immediately derived from a trade, profession or vocation for the trading year ending in the tax year;
- Underwriting profits as a Lloyd's name - working and external;
- Patent income except income from patent rights that have been purchased;
- Redundancy and termination payments chargeable to tax;
- Taxable payments in lieu of notice;
- Taxable approved/unapproved share options;
- Taxable income from UK and EEA furnished holiday lets.

Care needs to be taken when calculating relevant UK earnings - items such as allowable expenses, professional subscriptions, loss relief and capital allowances must be excluded.

The following income does not count as relevant UK earnings:

- Dividend income
- Rental income
- Pension income
- Savings income
- Approved share options which are not taxable
- Income from patents which have been purchased
- Non-taxable redundancy and termination payments
- All benefits paid by the State
- Earnings from international organisations with no liability to income tax
- Pension benefits from EFRBS in most circumstances
- Income from woodlands no longer treated as a trade.

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