

SAYE change: an update from HMRC

Thanks to everyone who took the time to provide feedback on HMRC's draft prospectus and guidance notes, which ProShare submitted.

We have some commentary from HMRC to share regarding some of the key questions (*italics*) raised by members:

1. HMRC statement on pre-existing contracts

"As you know, there is a particular query around the basis for changes to be made to existing SAYE savings contracts without any amendment to primary legislation. Can we confirm whether HMRC will make a public statement on this which goes beyond just guidance, so that there is a clear and certain basis upon which companies will feel comfortable in self-certifying their SAYE plans?"

- The draft guidance is clear that employees with pre-existing savings contracts can delay payment of up to 12 monthly contributions from 1 Sep 2018
- The basis for this was explained to Graeme in my email of 9 Feb 2018 (attached)
- Updated guidance and the new Prospectus will be made available on GOV.UK from 1 Sep 2018
- HMRC will not be making any further public statement on this.

2. New saving contracts

"On the basis that HMRC is assuming a new contractual provision which would take effect as the contract for the purposes of s706(3)(b) ITTOIA, it is not clear to us whether the new provision can take effect without the participant entering into that new contract. Could HMRC expand on this part of the advice?"

- We expect existing Prospectuses will need to be amended (replacement of para.20) prospectively from 1 Sep 2018
- The way in which the amendment is made binding on parties to a savings contract will depend on the terms and its relationship with the Prospectus – it is, therefore, a matter for scheme administrators
 - It may be that amendment to the Prospectus is all that is required
 - Otherwise, a simple procedure can be adopted such as the "opt out" option suggested.

3. 12 consecutive months?

"The draft prospectus wording makes it clear that the 12 missed contributions need not be consecutive, by using the term "occasion". But the draft ETASSUM 34140 is ambiguous on this, ...I suggest they add that these missed contributions need not be consecutive."

- We have no objection to this recommendation and will amend the draft guidance accordingly.

We (HMRC) will share final drafts of the Prospectus and guidance with ProShare as soon as possible. The new Prospectus and updated guidance will be made available on GOV.UK on 1 Sep 2018, to

coincide with the start of the new 12 month contributions pause. This will be explained in the next ERS bulletin.