



PENSIONS – “A BRAVE NEW WORLD”

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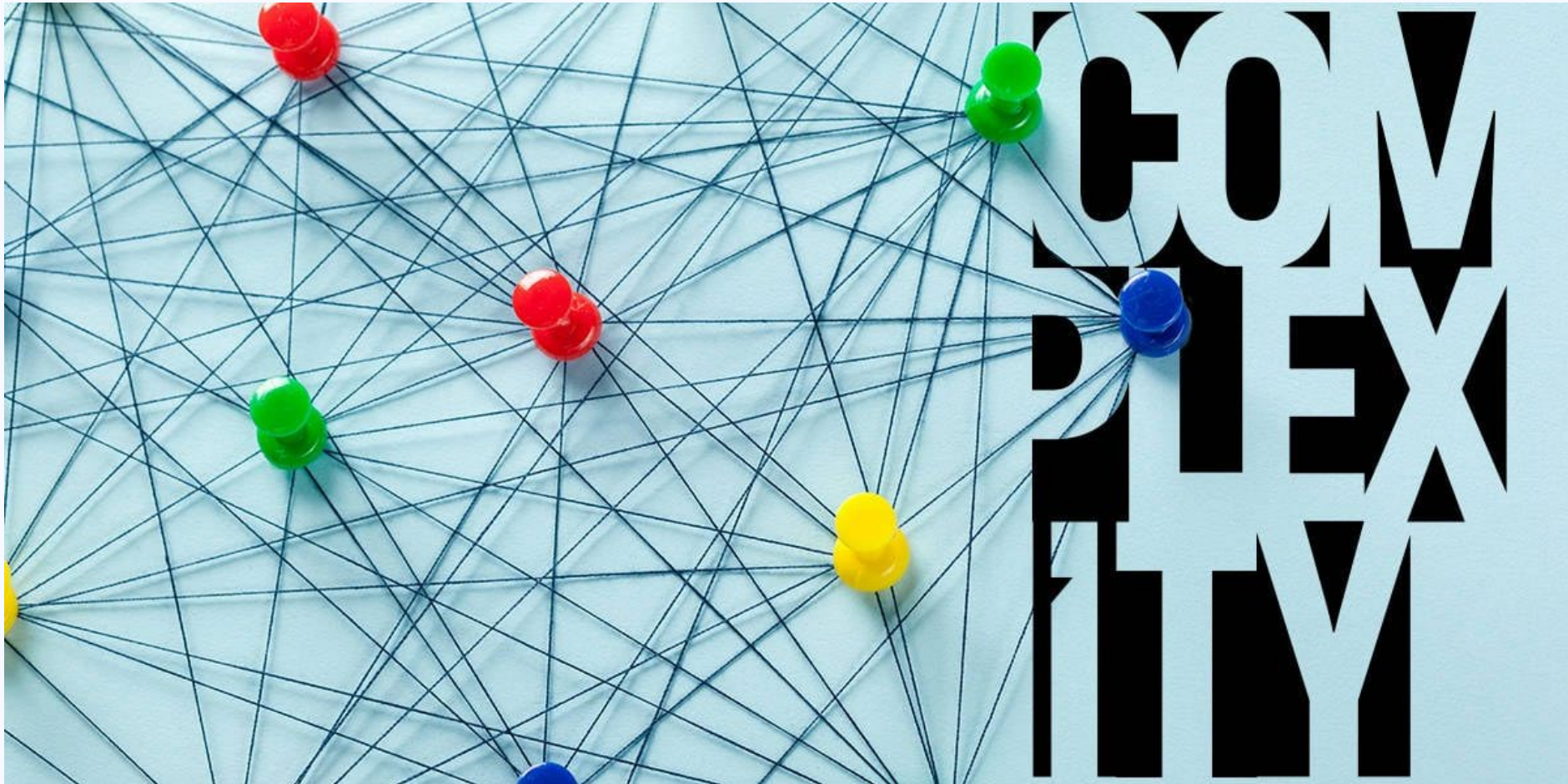
OUTLINE

1. Foreign pension lump sums.

2. PRSAs.

FOREIGN PENSION LUMP SUMS

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THE FOREIGN PENSION LUMP SUM: WHERE ARE WE NOW?

Before 1 January 2023

- Revenue view – *taxable as income*
- Practitioner view – *capital payment not subject to tax*
- Section 200 TCA 1997 exemption
- Revenue Precedent PREC/28?

Post 1 January 2023

- Section 200 TCA 1997 exemption
- Section 200A TCA 1997
- Revenue guidance - 8 May 2023
- Revenue Precedent PREC/28

SECTION 200A TCA 1997 – LUMP SUMS FROM A FOREIGN PENSION

1. “Foreign pension arrangement” means:

- A contract, an agreement, a trust deed, or other arrangement
- Established outside of Ireland under the laws of that state
- For the sole purpose of providing benefits of a kind similar to an Irish pension scheme

SECTION 200A TCA 1997 – LUMP SUMS FROM A FOREIGN PENSION

2. “Foreign lump sum” (FLS) means:

- FLS paid to an individual
- Under the rules of a foreign pension arrangement
- By means of a commutation of part of a pension or part of an annuity or otherwise



SECTION 200A TCA 1997 – LUMP SUMS FROM A FOREIGN PENSION



- Foreign lump sums (FLS) on or after 1 January 2023
- “Tax free amount” – same meaning in s.790AA TCA 1997- EUR200k
- “Standard chargeable amount” - same meaning in s.790AA TCA 1997
- “Excess lump sum” – charging section 200A(2) TCA 1997
- Aggregating Irish pension lump sums and foreign pension lump sums

KTA REVENUE EXPERIENCE TO DATE

Foreign lump sums drawn down *prior* to 1 January 2023?

- KTA 2021 foreign lump sum case
- Other KTA house cases
- Further Revenue guidance?

Foreign lump sums drawn down *after* 1 January 2023

- S.200A(7) TCA 1997 reporting
- US pension and retirement products



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PRSAS

PRSAS





PRSA – NEW LEGISLATION

- Substantial pension funding permitted
- Revenue guidance states:

“There is no limit on employer contributions to an employee’s PRSA”

- Tax issues
 - BIK charge removed
 - Employer tax relief - All contributions allowed in the accounting period in which they are paid

PRSAS

Possible Revenue challenges?

1. Salary sacrifice
2. Employee employer relationship



PRSA – NEW LEGISLATION

- Section 787J - *any sum paid by an employer...under a PRSA contract... shall... be allowed to be deducted...*
- Section 774(6)(b) - *any sum paid by an employer...by means of contribution under the scheme shall... be allowed to be deducted...*

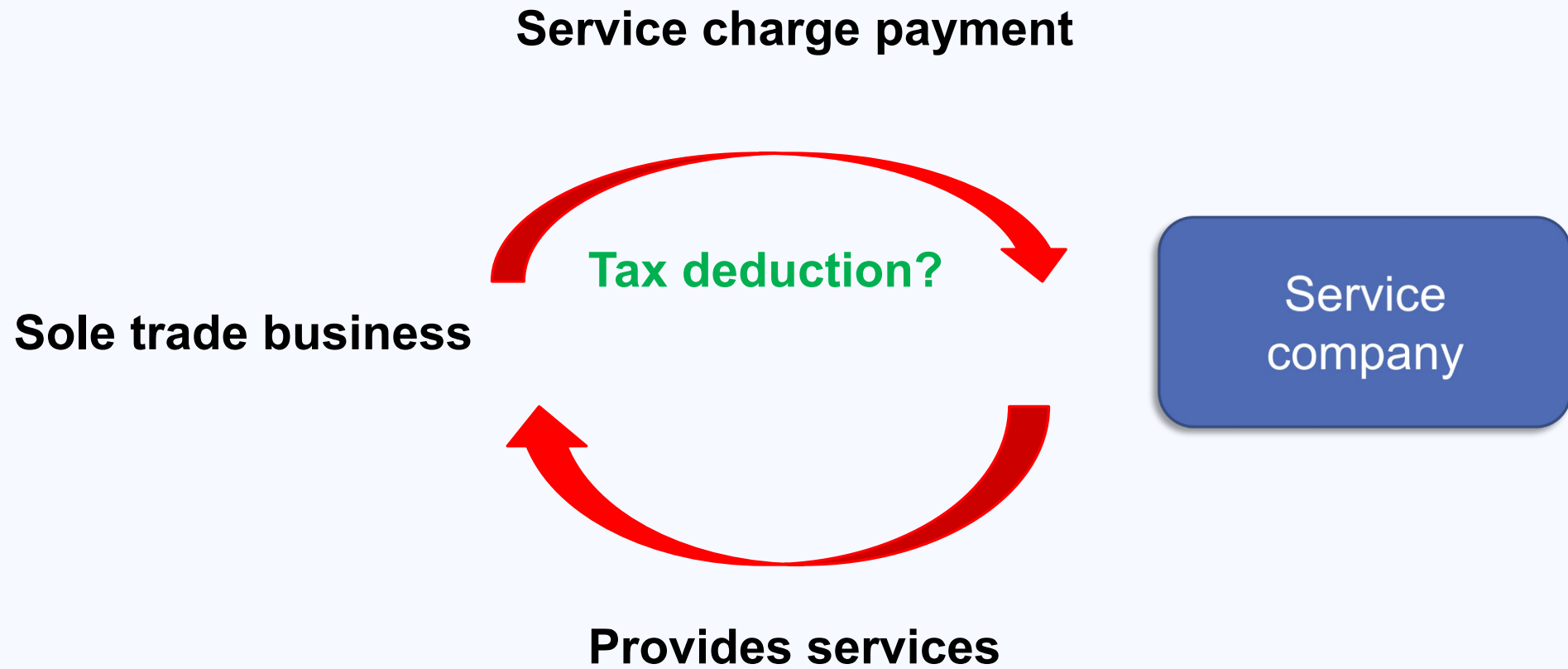


ANOTHER CHALLENGE?

3. PENSION FUNDING STRUCTURE



SERVICE COMPANY STRUCTURE



**ARE THE NEW CHANGES LESS
ATTRACTIVE FOR OVERSEAS
PENSION TRANSFERS?**



PENSIONS A BRAVE NEW WORLD

PENSIONS – A BRAVE NEW WORLD



- Pensions and non-resident planning
- Transfer of pensions overseas
- PRSAs and ARFs – tax issues

NON-RESIDENT PLANNING

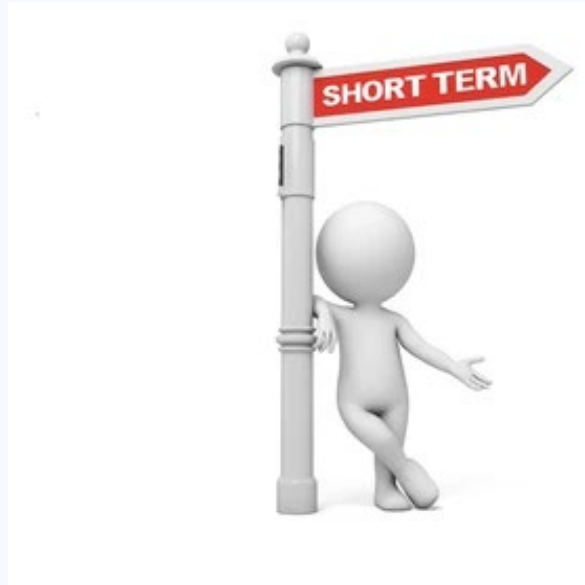
- Talk to client before retirement
- Issues with PRSAs and ARFs

NON-RESIDENT PLANNING

- Cease tax residence in Ireland
- Take up residence in good overseas location
- Ensure overseas location has taxing rights



NON-RESIDENT PLANNING



- Short term plan - “No permanent home in Ireland”



- Long term plan – 4 years

TRANSFER OF PENSIONS OVERSEAS – WHY?

PENSION STAYS IN IRELAND

- Lump sum tax free EUR200K - Good
- Balance into an ARF/vested PRSA – Not good?



PRSA

PRSA AND ARFs – TAX ISSUES

ARFs AND NON-RESIDENTS - UPDATE

- No PAYE exclusion orders
- Limited refunds
- Double taxation?
- Same treatment for vested PRSAs

ARF – ANOTHER TAX APPEALS CASE



- 28 TACD 2023
- Another defeat for taxpayer
- Resident in Portugal seeking tax refund
- TAC agreed with Revenue
- Payment capital in nature
- Not earned income or pension

ARF – 28 TACD 28

- Portuguese tax experts agreed
- “Capital” payment will be treated as pension in Portugal

Portugal

- Double taxation - yes



ARFs AND REFUNDS

- EUR1.5m transferred to ARF on retirement
- Revenue view EUR1.5m as “capital”
- ARF grows in value to EUR1.75m
- What is the growth of EUR250K?

ARFs AND REFUNDS OF PAYE

- Breakdown the distribution - capital, income, gains
- No legislation – limited guidance
- Refunds only available on certain income and gains

TRANSFER OF PENSION OVERSEAS

- Occupational pension -



- PRSA –



Tax charge

MALTA SCHEMES

- No imputed distributions
- No Maltese withholding taxes
- No Maltese estate taxes
- Pass tax free to spouse on death



STAYING IRISH RESIDENT

- Transfer pension overseas – allowed under EU law and Irish pension regulations
- Must have bona fide reasons
- Not for purpose of avoiding pension tax legislation and Revenue pension rules



IRISH RESIDENT

- Transfer pension to Malta
- Drawdown EUR500K and pay Irish tax

MALTESE SCHEMES – LUMP SUMS

- Section 200A TCA exemption?
- Section 200 TCA exemption?

NEW GOVERNMENT – FUTURE CHANGES

- Election by February 2025
- Income tax CGT, PRSI, CAT – increase for high earners
- Wealth tax 1% above EUR1m
- Pensions funds excluded?

PENSIONS – WHAT COULD CHANGE?

- Another pension levy
- Standard Fund Threshold EUR2m – reduced
- Tax relief on pension contributions restricted



THANK YOU

QUESTIONS?

