Office of the Tax Commissioner

Pension Scheme Approval for Payroll Tax Relief on the Employer Contribution
Frequently Asked Questions

1. **What is the difference between *registering* a pension scheme and getting *approval* for tax relief?**

   Schemes must be registered with the Pension Commission in accordance with the National Pension Scheme (Occupational Pensions) Act 1998 (the 1998 Act). However, if Employers wish to benefit from tax relief on Employer contributions into the scheme then an Application for Approval must be submitted to the Office of the Tax Commissioner. The Minister of Finance approves schemes for tax purposes under the authority provided in the Payroll Tax Act 1995. Application forms can be found on www.gov.bm.

2. **What is the effect of an approved scheme for tax purposes?**

   Employer contributions to approved plans are tax exempt. Employer contributions to unapproved schemes are taxable.

3. **Are Employee contributions to approved schemes subject to tax?**

   Yes. Mandated Employee contributions must be reported as part of an Employees gross remuneration on the tax return. If an Employer chooses to pay the Employee mandated portion then this amount is taxable under 'employee deductions paid by the employer.' However, additional Employee Voluntary Contributions are not subject to tax.

4. **Are Voluntary Employer contributions subject to Payroll Tax?**

   Yes. Additional Employer contributions (in excess of the mandated total contribution) which are *not locked* in under the terms of the plan rules, are taxable. This is irrespective of whether the plan is registered with the Commission. However those additional Employer voluntary contributions which are made in accordance with the plan rules, and are only available at retirement will not be subject to tax.

5. **Can a scheme be *partially* approved for tax purposes?**

   Yes. As stated all schemes registered with the Commission will be approved. However, there may be instances where tax is applicable such as 1) when an employer makes voluntary contributions to the registered plan above those required by the 1998 Act which are *not locked in until retirement* and 2) tax is applicable on the value of total employer contributions to early withdrawals not allowed under the 1998 Act where tax was not previously paid. *The onus is on the Employer to declare on the tax return contributions which fall outside of approved contributions and unsanctioned withdrawals. Penalties and additional taxes will be levied where applicable.*

6. **Are self-administered schemes subject to tax relief on the Employer contribution?**

   Yes. Schemes must be administered by administrators in accordance with section 6 of the National Pension Scheme (Occupational Pensions) Act 1998 which also allows for self-administered schemes.

7. Can a scheme be approved for tax relief if it is not registered with the Pension Commission?

No. Starting April 1, 2020 Schemes submitted for approval for tax relief on the Employer contribution must first be registered under the Pension Commission.

8. Does an employer have to be current with tax payments in order to benefit from tax relief on a registered plan?

Employers must be current or in adherence to a payment plan in the Office of the Tax Commissioner in order to be approved for tax relief on Employer contributions into the scheme.

9. Will tax be applicable in instances where an employee withdraws from a pension plan before the date of retirement?

Tax will not be applicable on withdrawals made in accordance with the National Pension Scheme (Financial Hardship) Regulations 2010 or with those allowed under the 1998 Act (e.g. for a life reducing disability). If a scheme allows for withdrawals outside of those allowed under the Hardship Regulations or the 1998 Act it is considered an unapproved plan for tax purposes. In these circumstances tax will be applicable on the value of the Employer contributions made into the scheme. (see #5)

10. Is tax applicable on pension contributions made above the $200,000 pensionable earnings cap as stipulated in section 2 of the 1998 Act?

Yes. Employer voluntary contributions made on earnings above the $200,000 pensionable earnings cap which are not locked in until retirement *are taxable*. As stated in #'s 4 & 5 locked in Employer voluntary contributions are not taxable.

11. What is the vesting period for an approved plan?

Effective March 2nd, 2020 the 1998 Act stipulates that accrued benefits for each member must vest within a period which does not exceed ***one year*** after the commencement of membership. However, Plans approved prior to this period will maintain approval status in the Office of the Tax Commissioner for tax purposes.

12. Can an employer benefit from his approved scheme?

With effect from April 1, 2020 all persons who are part of a registered scheme can benefit from tax exemption on the Employer contribution. This includes contributions made on behalf of the Employer/Self-Employed person. Payments made in excess of the pensionable earnings cap which are not locked in will be subject to tax. Note that Employers will be subject to the same stipulations made on his/her employees who are part of the plan. I.e. if the plan is contributory then the employee portion is taxable as part of gross remuneration and the employer contribution is subject to the tax relief applicable on approved plans.