27 October 2026

Feedback to the Department of Finance on Section 10 of Finance Bill (No.2) 2026

Introduction

Section 10 of Finance Bill (No.2) 2026 (as initiated) amends Schedule 3 TCA 1997, which provides for income tax relief on termination payments which are subject to tax under section 123 TCA 1997, by extending the definition of 'relevant capital sum' for the purposes of calculating available tax relief on receipt of an ex-gratia termination payment under the Increased Basic Exemption or Standard Capital Superannuation Benefit (SCSB) to now include any relevant pension arrangement, as defined (e.g. PRSAs, PEPPs, and MyFuture Fund under Auto-Enrolment).

Our members are concerned that the proposed amendment in section 10 of the Bill may result in an inequitable treatment of individuals who have made retirement provision through a PRSA. These concerns were raised with Revenue at a joint meeting of Main TALC and the TALC Direct/Capital Taxes Sub-committee on 22 October.

Potential for inequitable treatment of individuals who have made retirement provision through a PRSA

We recognise that pension benefits attributable to the employment or office being terminated should appropriately be considered in the calculation of the relevant capital sum. The concern which has been raised by our members is that in the case of a PRSA, the proposed wording of section 10 may result in pension provision accumulated during previous and entirely separate employments reducing the relief available on termination of the employee's current employment. This can produce a materially

different result for a PRSA holder compared with an individual who made equivalent pension provision through an occupational pension scheme.

Example:

Consider two employees with identical employment histories:

- Employee A and Employee B are employed by Company B from 1 January 2002 to 31 December 2021, a period of 20 years.
- Both leave Company B and commence employment with Company A on 1 January 2022.
- Both are made redundant by Company A on 31 December 2026, following five years' service.
- Assume their circumstances are otherwise identical. The only relevant difference is the form in which they made pension provision during the previous employment with Company B.

Employee A: Occupational Pension Scheme

Employee A was a member of Company B's occupational pension scheme throughout the period from 1 January 2002 to 31 December 2021. The pension benefits accrued under the employment within Company B are not transferred into the Company A pension scheme. On the subsequent termination of their employment with Company A on 31 December 2026, the pension benefit accumulated under Company B's occupational pension scheme is not linked to the current employment with Company A and does not impact the calculation of the relevant capital sum from the office or employment. Instead, the relevant capital sum is calculated solely with reference to pension benefits relating to the current employment (i.e. 5 years).

Employee B: PRSA

Employee B made pension provision through a PRSA throughout the same 20-year period with Company B and continued to hold that PRSA after joining Company A.

Under the proposed approach, the calculation of the relevant capital sum would take into account the PRSA containing 25 years of pension provision, even though only five years correspond to the employment being terminated.

The distinction in treatment between Employee A and Employee B in the above example is particularly difficult to reconcile with the existing concept of the "*relevant capital sum in relation to an office or employment*". The proposed amendment should not, in our view, result in pension provision relating to a separate, historic employment or period of self-employment reducing the exemption available on termination of the current employment merely because that historic pension provision is held in a PRSA.

PRSAs are portable arrangements which can follow an individual as they change employment. Applying the proposed provisions to the overall PRSA could place PRSA holders at a significant disadvantage compared with occupational scheme members who are less likely to consolidate their pensions and could penalise individuals who consolidate their pension provision via a PRSA.

In effect, the proposed treatment risks turning the portability of a PRSA from one of its key advantages into a tax disadvantage on a subsequent termination of employment. We believe the legislation as proposed would leave employees with no option but to maintain a separate pension fund for each employment. Such an outcome would be contrary to the policy objective of PRSAs as it effectively penalises employees who choose to consolidate their pensions.

Other practical issues

In addition, there are a number of practical issues arising from the legislation, as proposed, which we outline below:

- The proposed wording envisages that an employee can waive their entitlement to the lump sum. However, under current legislation there does not appear to be any

ability to waive entitlement to a lump sum from a PRSA. The PRSA legislation requires the PRSA product to allow a lump sum when the holder first accesses their benefits.

- Lump sums under foreign pensions would come within scope of the proposed amendment. In practice, it would be very onerous to require an employee to obtain details of the Net-Present Value of a future tax-free lump sum from such a fund. We assume that the valuation would be based on the rules of the foreign pension which means that the employee would be required to obtain advice locally adding greater confusion to an already complicated area of pensions.

- Lump sums under MyFuture Fund appear to be in scope but our understanding is that the mechanism for drawdown of such funds has not yet been developed.

- The proposed legislation significantly increases the administrative burden for employers, employees and pension fund managers. Consideration should be given as to whether it would be more appropriate to introduce more targeted provisions rather than imposing broad requirements on all pension holders. For example, purely personal pension arrangements that are not employer sponsored should be excluded from the scope of the provision.

- Detailed Revenue guidance would be needed to help identify who is responsible for obtaining the relevant capital sum details from the assurance provider, if the product is not operated by the employer and on the details to be provided to the product holder when seeking this information. Guidance would also be required for employers and employees on the best practice to follow when calculating the tax-free element of an ex-gratia payment where the above details are not obtainable by the employer.

Conclusion

Given the serious concerns which we have outlined in this submission regarding the proposed changes, we strongly urge that the legislation is made subject to a commencement order to allow sufficient time for consultation with relevant stakeholders before it becomes effective.