

Tax guidance notes for pension scheme administrators

VERSION 3.3:

**This version is effective from 1 January 2022
Amendments made to Appendix 10 on 23 March 2022.**

**Please use the e-mail link below to feedback comments or questions
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**Please find below the links to the relevant legislation relevant to this
publication:**

[Income Tax \(Jersey\) Law 1961](#)

[Income Tax \(Jersey Occupational Pension Schemes\) \(Jersey\) Order 2014](#)

[Income Tax \(Actuarial Equivalents\) \(Jersey\) Order 2017](#)

[Income Tax \(Minimum Retirement Capital\) \(Jersey\) Order 2017](#)

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Section 1 – Background

- 1.1 This information has been prepared primarily for the use and assistance of persons who provide advice on or manage pension schemes in Jersey.
- 1.2 These guidance notes reflect changes which have effect from 1st January 2018 and supersede all other guidance notes previously published. These notes are intended to provide some background information in respect of the pension schemes covered. They should not, however, be taken as a definitive statement of the law on any particular aspect, or in any particular case. Part 19 of the Income Tax (Jersey) Law 1961 prevails. Part 19 of the legislation has not been reproduced in full in these guidance notes. Full interpretations of the terms used in these guidance notes can be found in Article 130.
- 1.3 Any reference to a particular Article within these guidance notes means in reference to the Income Tax (Jersey) Law 1961 (“Income Tax Law”), unless otherwise stated¹.
- 1.4 In the terms of the benefits payable by pension schemes, the tax rules set out the boundaries of what is acceptable in order for a pension scheme to be “approved” by the Comptroller of Taxes (“the Comptroller”). However there is no obligation on pension schemes to offer the maximum flexibility offered by the tax rules in order to be approved. Therefore pension holders should always make reference to the pension scheme rules (or equivalent documentation) in order to understand the benefits that may be paid from their particular pension scheme.
- 1.5 Under Article 131(16), Article 131A(5), Article 131B(9), Article 131C(5) and Article 131CA(8) schemes and scheme managers must comply with any prescribed conditions and requirements; and any additional conditions and requirements imposed in its case for all schemes by the Comptroller. These guidance notes outline a number of prescribed conditions and requirements which must be complied with in order for a scheme to be approved by the Comptroller under the relevant Article and for that approval to be maintained.
- 1.6 Pension Schemes should review their documentation to ensure that the definitions contained in their scheme rules comply with the legal definitions set out at Appendix 8 of this document.

¹ See [Click here to go to the Income Tax \(Jersey\) Law 1961 on JE Law website](#)
[Click here to go to laws in force on JE Law website](#)

Section 2 – Approval of Jersey occupational pension schemes under Article 131 of the Income Tax Law

- 2.1. A scheme must comply with the provisions of Article 131 of the Income Tax Law to be approved as Jersey occupational pension scheme.
- 2.2. The scheme must be established in connection with a trade or undertaking that has employees in Jersey, in order to provide an income for life for those employees. The scheme must be a superannuation fund bona fide established under irrevocable trust or an otherwise bona fide established scheme.
- 2.3. If only part of the scheme has the purpose of being established in connection with a trade or undertaking that has employees in Jersey, the approval would be for that part of the scheme only. The Income Tax (Jersey Occupational Pension Schemes) (Jersey) Order 2014, makes provision for the manner in which applications for approval of a scheme shall be made, and provides that details of subsequent amendments and alterations to the rules of an approved scheme shall be notified to the Comptroller.
- 2.4. If the scheme rules provide an income for life and in addition provide to a death in service payment, that scheme is capable of approval under Article 131. However if the scheme provides only for a death in service payment for an individual, then that scheme or that part of the scheme will not be capable of approval under Article 131².
- 2.5. The employer must contribute to the scheme. However should the scheme close and the employer cease to contribute, approval of the scheme will not be automatically withdrawn.

Membership of Jersey occupational pension schemes

- 2.6. Membership must be confined to employees of the particular employer(s) but need not be open to all employees. A scheme may relate to an individual employee or to employees selected on a discretionary basis. The scheme may include part time or temporary employees as members.
- 2.7. An employer may participate in a centralised or multi-employer scheme on the condition that the scheme is established under a master trust. Any participating

² See Appendix 10.

employer with less than 12 members remains subject to the additional conditions applying to “small self-administered occupational pension schemes”³.

- 2.8. Only full-time working directors may be included in a scheme, whether or not they have a controlling interest in the business⁴.
- 2.9. A proprietary director or proprietary employee may be admitted to a “small self-administered occupational pension schemes” subject to the prescribed conditions and requirements set out in Section 3 of these guidance notes.
- 2.10. Proprietor(s) of a business (e.g. partners in a partnership, sole traders) are not employees and neither they nor their spouse(s) or civil partner(s) can be included in the membership of the scheme. Should an employee become a proprietor of a business, he/she must be treated as having withdrawn from the scheme.

Pension benefits payable by a Jersey occupational pension scheme

- 2.11. The scheme must provide for the payment of an income for life to members, which must commence when the member is between the ages of 50 – 75. Other payments may only otherwise be made as provided for in Part 19 of the Income Tax Law.
- 2.12. The payment of income for life may commence before the age of 50 where either:
 - (i) The member is in “ill health”; or
 - (ii) The member’s employment in the trade or undertaking is one in which persons customarily cease work before attaining the age of 50
- 2.13. There is no requirement for the member to retire, or change their employment duties in anyway, before the scheme is able to commence the payment of an income for life. This change which applies from 1 January 2015 provides schemes with the opportunity to introduce flexible retirement where members are able to mix continuing employment with pension income from a Jersey occupational pension scheme.
- 2.14. From 1 January 2015 there are no tax rules regarding the amount of pension income that may be paid by an approved Jersey occupational pension scheme (often referred to as “benefit limits”).

³ See Section 3 of these guidance notes.

⁴ A full time working director is a director who spends a minimum of 35 hours per week solely on the business of that company

However, in the case of an approved Jersey occupational pension scheme which was subject to an approval under Article 131 as at 31 December 2014 and whose rules, constitution, objects or conditions:

- (a) contain provisions which have the effect of restricting the amount of pension income that the scheme can provide by reference to the maximum amount that would be permissible without prejudicing approval of the scheme under Article 131; and
- (b) do not contain a power of variation, alteration or amendment which would in the particular circumstances of the scheme be exercisable so as to incorporate into the terms of the Scheme the Former Benefit Rules,

The Former Benefit Limit Rules shall continue to apply save to the extent that the scheme manager notifies the Comptroller in writing to the contrary.

2.15. In addition from 1 January 2015 schemes will have the option of introducing a number of new “pension flexibilities”, for example the relaxation of limits on access to lump sums, limits on access to drawdown contracts and limits on pension fund transfers.

2.16. Revenue Jersey has been made aware that a number of existing approved Jersey occupational pension schemes determine the payments (including pension fund transfers) that they can or will make by reference (either explicitly or implied) to the framework of applicable tax rules (e.g. the scheme rules might contain a term along the lines of: “...members are entitled to take payments in all the circumstances permitted by the applicable legislation...”). This situation was appropriate up to 31 December 2014, when, for example, there were limits on access to lump sums and on access to drawdown contracts, but following the changes applicable from 1 January 2015 there is a concern that these schemes could be required to make payments that were never intended/anticipated. In addition the rules of pension schemes may limit benefits by reference to the pre-existing benefits limits, whereas these no longer apply.

2.17. Throughout the process of introducing the rules applicable from 1 January 2015 it has been made clear that the adoption of the new flexibilities available as a consequence of the changes is not compulsory, and it will be for each individual pension scheme to choose whether it wishes to adopt the new flexibilities. Therefore to give effect to this policy intention the following transitional arrangement will apply.

2.18. Deleted

2.19. Deleted

- 2.20. A deferred or frozen pension can be payable by the scheme in which the benefits were secured no earlier than the minimum pension age of 50, and no later than the maximum pension age of 75.
- 2.21. If the rules of the scheme provide for a deferred or frozen pension it cannot be assigned or surrendered.
- 2.22. The scheme may provide for the payment following the death of a member of:
- (i) An income for life to one or more of the member's dependants; or
 - (ii) A lump sum to the member's estate; or
 - (iii) A lump sum to any other person
- 2.23. The scheme may provide for the income payable to a member to continue for a term certain not exceeding 10 years, starting with the commencement of payment of the income for life, notwithstanding the member's death during that term certain. In the event the member dies, such income shall be capable of assignment to a dependant of the member either by:
- (i) Testamentary disposition by the member; or
 - (ii) If the member dies intestate, by the member's personal representatives in accordance with the laws of intestacy

Repayment of member contributions

- 2.24. A scheme may allow a member to elect to be paid a sum representing a return of the member's contributions to the scheme, if at the time of the election the member fulfils the following conditions:
- (i) He/she has been a member of the scheme for less than 5 years;
 - (ii) He/she has ceased to be employed by the employer; and
 - (iii) He/she has not commenced benefits from the scheme
- 2.25. A refund of contributions in the context of a defined benefits scheme may include a reasonable element of interest on the member's contributions. For a defined contributions scheme the refund may include the actual investment return achieved on the member's contributions.
- 2.26. If the rules of the scheme give an option to a member withdrawing from employment either to take a refund of his own contributions or to take other benefits, the exercise by the member of the option to take a refund of contributions must prohibit him/her from receiving any other benefits.

- 2.27. The one aspect of the rules applying from the 1 January 2015 that is more restrictive than the rules applying prior to that date is member's access to a return of his/her contributions to an occupational pension scheme. Under the rules applying up to 31 December 2014 the tax rules placed no cap on the period of time that an individual could be a member of an occupational pension scheme before requesting a return of their contributions. It is acknowledged that many occupational pension schemes already provide for a cap on this period of time within their scheme rules.
- 2.28. From 1 January 2015 Article 131(12) applies and outlines the conditions that must be met before an occupational pension scheme is permitted to return a member's contributions. One of these conditions state that an individual cannot request a repayment of their contributions once they have been a member of the scheme for a period of 5 years or longer.

Transitional rule

- 2.29. To assist occupational pension schemes which, as at 31 December 2014, have been approved by Revenue Jersey and allow the repayment of member contributions where an individual has been a member of the scheme for a period of 5 years or longer, the following transitional treatment will be applied by Revenue Jersey:
- 2.30. The condition outlined in Article 131(12)(a) (i.e. the 5 year condition) will not need to be met until 1st January 2020.
- 2.31. For the avoidance of doubt, the remaining conditions in Article 131(12) must be met in order to make a repayment of contributions to the individual.
- 2.32. Furthermore this transitional rule does not apply to occupational pension schemes first seeking approval on or after 1 January 2015. The scheme rules of occupational pension schemes in this situation will have to prevent the repayment of contributions once an individual has been a member of the scheme for a period of 5 years or longer.

Tax treatment

- 2.33. For the avoidance of doubt, where an occupational pension scheme utilises this transitional rule in order to repay contributions to a member, the scheme manager will be obliged to apply the tax treatment outlined in Article 131J(2)⁵, namely that the

⁵ See paragraphs 14.11-14.13 of these guidance notes.

scheme manager will be obliged to pay tax at 10% on the amount repaid, deducting that tax from the repayment before it is paid.

2.34. Deleted

2.35. Deleted

Pension fund transfers

2.36. The scheme may allow for the transfer of the whole of the fund value, or part of the fund value (subject to prior written approval of the Comptroller) in accordance with Article 131CG. The scheme may provide that if the employee ceases to be a member of the scheme, but continues in the service of the employer his benefits to the date of ceasing to be a member may be held under the scheme until he retires or leaves the employer's service, or transferred to an annuity contract approved under Article 131B or retirement trust approved under Article 131CA.

The scheme may therefore permit the payment of a transfer value to an approved Jersey occupational pension scheme of a subsequent employer, and receive a transfer value from an approved Jersey occupational pension scheme of a previous employer.

2.37. The receiving scheme may regard the transfer payment as representing the employee's contributions for the purposes of determining how much could be returned to the employee under paragraph 2.25 only to the extent that it is certified as such by the administrator of the transferring scheme.

Repayment of employer contributions

2.38. Where an employee leaves service and a surplus of his benefits representing the employer's contributions and interest remains, the scheme may provide that the surplus should be retained to reduce future contributions or to augment benefits or to provide a reserve. Exceptionally, where the surplus cannot be so utilised, or in the case of an individual pension arrangement, the rules must provide for the return of the surplus to the employer and the surplus will then be treated as a receipt of the employer's trade or undertaking.

2.39. The scheme may only allow all or part of the employer's contributions to be returned to the employer, with or without interest, with the prior written approval of the Comptroller. An actuary's report may be required in support of a request in certain circumstances.

Where the scheme rules permit a refund of the employer's contributions and the employer's refund of contribution solely relates to an employee who has left employment of the employer who has completed less than 2 years' service and did not meet the scheme's required 2 year vesting period for deferred benefits and the member has opted to take a refund of their own contributions, this refund can be made without the Comptroller's specific approval in each case.

Discontinuance of schemes

- 2.40. The rules of a scheme may provide for its discontinuance because of the bankruptcy or liquidation of the employer or, at the discretion of the employer. However, the rules must also provide that on discontinuance the benefits then accrued by members of the scheme will be preserved.
- 2.41. Discontinuance can be achieved by making the scheme "frozen" or "paid-up". In these circumstances, all contributions must cease and the assets must be held by or on behalf of the scheme manager to be applied to provide benefits according to the rules when the existing members retire, die or withdraw from service. The scheme will be eventually wound-up when all benefits have been paid.
- 2.42. Alternatively, the scheme may be immediately wound up and the assets realised and applied to provide the respective benefits. The benefits may be transferred by means of:
- (i) Transfer payments to approved Jersey occupational pension schemes of the new employers of the members; or
 - (ii) Secured by the purchase of immediate or deferred non-assignable annuity contracts duly endorsed with the appropriate restrictions; or
 - (iii) Transferred to an annuity contract approved under Article 131B; or
 - (iv) Transferred to a Jersey RTS approved under Article 131CA
- 2.43. If the scheme is operated by means of policies securing benefits for particular employees, the policies suitably endorsed, may be assigned to the employees.
- 2.44. If a scheme is wound-up it may permit a member to elect to commute the whole of their fund value if the rules regarding the commutation of very small pension funds set out in Appendix 4 are met.

Section 3 – Additional conditions and requirements in context of “small self-administered occupational pension schemes”

Introduction

- 3.1. As the term suggests, a “small self-administered scheme” (“SSAS”) is a self-administered scheme with a small number of members. In this context “small” means fewer than 12 members. In this context “member” includes active members, deferred members and those in receipt of a pension from the scheme.
- 3.2. In schemes such as these it is often the case that some of the members also control the employer company and are also trustees. This multiplicity of roles can present a trustee with a conflict of interests and could result in decisions being taken for reasons other than those connected solely with the provision of retirement benefits. For that reason there are additional conditions attaching to the approval of schemes of this nature.
- 3.3. The Comptroller’s power to apply these additional conditions is provided for in Article 131(16).

Additional conditions

- 3.4. An independent trustee, acceptable to the Comptroller, must be appointed, subject to meeting the following conditions:
 - (i) A professional with financial experience, or a corporate trustee regulated by the Jersey Financial Services Commission under the Financial Services (Jersey) Law 1998 for the conduct of trust company business;
 - (ii) Be resident in Jersey; and
 - (iii) Not connected with the other trustee(s)
- 3.5. The independent trustee must also be incapable of being removed by the other trustee(s) without the express permission of the Comptroller.
- 3.6. The trustees must be prohibited from entering into any transactions with:
 - (i) The members of the scheme or any person connected with the members of the scheme;
 - (ii) The employer or participating employers; and
 - (iii) The directors and employees of the employer and participating employers and anyone connected with them
- 3.7. Assets of the scheme may not be used for the personal benefit or enjoyment of the trustees or the scheme members.

- 3.8. Annual accounts must be prepared by a qualified accountant acceptable to the Comptroller and must be filed within 6 months of each year end.
- 3.9. The trustees of the scheme must be prohibited from paying any pension income or annuity directly. Pension benefits must be secured by the purchase of non-assignable annuity contracts duly endorsed.
- 3.10. The scheme must be wound up in accordance with its rules at the same time as the employer goes into liquidation or otherwise ceases to exist.

Exclusions from the above conditions

- 3.11. Where a SSAS invests the whole of its assets in insurance policies written by an authorised insurance company, the Comptroller may allow some of the above conditions to be relaxed.
- 3.12. Monies held on current account, whether interest bearing or not, and held only for incidental purposes will be disregarded in determining whether the whole of the scheme's assets are invested in such insurance policies.
- 3.13. The additional requirements for SSASs apply to all schemes established on or after 1st January 1994.
- 3.14. Schemes established before that date are not subject to these conditions unless their existing rules are materially amended. In that event, the above conditions should be incorporated in the amendments. It is, however, expected, that the trustees of all pre-1 January 1994 schemes will adopt these principles as best practice, bearing in mind that deviation from strategies designed to produce retirement benefits will result in the scheme failing the fundamental condition for approval (i.e. that the scheme must have for its sole purpose the provision of an income for life for one or more persons who are or have been employed in Jersey in the trade or undertaking), with the resultant withdrawal of that approval.

Section 4 – Approval of occupational schemes for overseas employees under Article 131A of the Income Tax Law

- 4.1. A scheme seeking approval must comply with the provisions of Article 131A of the Income Tax Law to be an approved occupational pension scheme for overseas employees. The scheme must be a superannuation fund bona fide established under irrevocable trust in connection with a trade or undertaking that is carried on outside Jersey by a person non-resident in Jersey and have as its sole purpose the provision of superannuation benefits in respect of persons' employment in that trade or undertaking wholly outside Jersey.
- An exception to this is where a scheme is a multi-jurisdictional occupational pension scheme specifically referred to in Section 5.
- 4.2. If only part of the scheme has the purpose described above, then it is only that part of the scheme which can be approved under Article 131A and which must comply with the conditions laid down in Article 131A.
- 4.3. The Comptroller's interpretation of the phrase: "the scheme must have for its sole purpose the provision of superannuation benefits" is that the scheme must:
- (i) Prevent pension benefits being paid before the age of 50;
 - (ii) Require that pension benefits commence before the age of 75, and
 - (iii) Expressly prohibit loans (or discretionary distributions prior to the age of 50) to members (or to any person connected (as defined in Article 3A of the Income Tax Law) with a member)
- 4.4. Consistent with approved Jersey occupational pension schemes, the minimum pension age of 50 may be relaxed on two grounds:
- (i) If the member's employment in the trade or undertaking is one in which persons customarily cease work before the age of 50; or
 - (ii) Ill health prevents the member from carrying on his/her occupation
- 4.5. Pension income or a lump sum paid from an occupational pension scheme for overseas employees approved under Article 131A to a person who is not resident in Jersey shall be exempt from Jersey income tax under Article 131O.
- 4.6. Income derived from the investments and deposits of an occupational pension scheme for overseas employees that is approved under Article 131A shall be exempt from income tax under Article 131O(2).

- 4.7. Transfers to and from an Article 131A scheme are governed by their own scheme rules (note: Article 131CG only applies to transfers involving “approved Jersey schemes” –an approved occupational pension scheme for overseas employees is not an “approved Jersey scheme” for these purposes).

- 4.8. The rules of a scheme may provide for its discontinuance because of the bankruptcy or liquidation of the employer or, at the discretion of the employer. However, the rules must also provide that on discontinuance the benefits then accrued by members of the scheme will be preserved. Discontinuance can be achieved by making the scheme “frozen” or “paid-up”. In these circumstances, all contributions must cease and the assets must be held by or on behalf of the scheme manager to be applied to provide benefits according to the rules when the existing members retire, die or withdraw from service. The scheme will be eventually wound-up when all benefits have been paid.

- 4.9. In the context of small pots a scheme may follow the provisions available to an approved Jersey scheme under Article 131CE(3).

Section 5 – Additional notes relating to multi-jurisdictional occupational pension schemes

Introduction

5.1. It is acknowledged that some occupational pension schemes are set up on a multi-jurisdictional basis (i.e. an employer – or group of employers within the same corporate group – sets up one scheme which includes Jersey members and members from one, or more, other jurisdictions). In this situation the scheme can be either established in Jersey or established outside of Jersey.



5.2. For the purposes of this section of the guidance notes, a “Jersey member” of a multi-jurisdictional occupational pension scheme is:

- (i) A member of the scheme whose employment is being carried on in Jersey;
- (ii) A member of the scheme who, when they left the employment of the sponsoring employer (or group of employers within the same corporate group), was carrying on that employment in Jersey; or
- (iii) Any dependant of a member described in (i) or (ii) above

5.3. For the avoidance of doubt, if a member of the scheme leaves the employment of employer at a time when they remain with the scope of the Article 131 approval (i.e. they are Jersey resident), they remain within the scope of Article 131 approval even if they subsequently become tax resident outside the Island. As such, whenever benefits are paid to the individual the scheme manager is required to meet the tax obligations outlined in Article 131 and Part 19 of the Income Tax Law.

5.4. For the purposes of this section of the guidance notes, a “non-Jersey member” is any member of a multi-jurisdictional occupational pension scheme who is not a “Jersey member”.

Part approval under Article 131

- 5.5. Under the tax rules applying from 1 January 2015 it is statutorily possible to obtain approval under Article 131 for “part” of an occupational pension scheme, namely that part of the scheme relating to the Jersey members. Part approval under Article 131 can be sought by multi-jurisdictional occupational pension schemes established in Jersey or established outside of Jersey.
- 5.6. In order to obtain part approval under Article 131 the scheme rules, conditions, etc. applying to the Jersey members must meet the conditions outlined in Article 131 of the Income Tax Law and the scheme manager will be required to comply with the tax obligations that fall on a scheme manager under Part 19 of the Income Tax Law. Where the scheme is established outside of Jersey, the scheme manager must provide a written undertaking to comply with the tax obligations that fall on a scheme manager under Part 19 of the Income Tax Law.

Further guidance relating to multi-jurisdictional occupational pension schemes established in Jersey

Jersey members

- 5.7. As noted above, a multi-jurisdictional occupational pension scheme established in Jersey can obtain approval under Article 131 for the part of the scheme relating to the Jersey members. In order to obtain part approval under Article 131 the scheme rules, conditions, etc. applying to the Jersey members must meet the conditions outlined in Article 131 of the Income Tax Law and the scheme manager will be required to comply with the tax obligations outlined in Part 19 of the Income Tax Law.

Non-Jersey members

- 5.8. *Prima facie* pension benefits paid by a pension scheme established in Jersey are Jersey source payments on which the recipient is subject to Jersey tax irrespective of where the recipient is tax resident.
- 5.9. Where a multi-jurisdictional occupational pension scheme is established in Jersey it can choose to seek approval under Article 131A⁶ for the part of the scheme relating to the non-Jersey members. The advantage of seeking part of approval in this context is that the payment of benefits to the non-Jersey members who fall within the scope of the Article 131A approval is statutorily exempt from Jersey tax under Article 131O(1), provided that the recipient is non-Jersey tax resident.

⁶ See Section 4 of these guidance notes.

Jersey member becomes a non-Jersey member

5.10. Where there is:

- (i) A Jersey member of a multi-jurisdictional occupational scheme, which has approval under Article 131 for the part of the scheme relating to the Jersey members;
- (ii) Who remains within the employment of the sponsoring employer;
- (iii) But leaves Jersey and moves to another jurisdiction from which their employment is carried on; and
- (iv) Continues to save for their retirement within the same pension scheme

No pension fund transfer, within the meaning of Article 131CG, has taken place. The reality being that the member continues to save in the same pension scheme.

5.11. However, provided the following conditions are met, the member will automatically be treated as having transferred their pension fund from the part of the scheme to which the Article 131 approval applies to the part of the scheme outside the scope of the Article 131 approval (“an outward internal transfer”):

- (i) The member leaves Jersey and moves to another jurisdiction from which their employment is carried on;
- (ii) Both immediately before and immediately after the member leaves Jersey he/she remains in the employment of the sponsoring employer (or group of employers within the same corporate group);
- (iii) The scheme has approval under Article 131 for the part of the scheme relating to the Jersey members; and
- (iv) Both immediately before and immediately after the individual continues to be a member of the same scheme

5.12. An employee who is seconded to another employer may remain in full membership of the scheme even if no remuneration or reduced remuneration is paid during this absence provided that:

- ✓ there is a definite expectation of return to service
- ✓ the period of absence is not expected to exceed 3 years
- ✓ the employee does not become a member of any other occupational pension scheme during the period of absence

5.13. Ordinarily an individual is not permitted to transfer a pension fund from an approved Jersey scheme into an occupational pension scheme for overseas employees approved under Article 131A (i.e. it is not a permitted transfer under Article 131CG). However, provided the conditions above are met, an outward internal transfer between the part of a scheme approved under Article 131 and the part of the same scheme approved under Article 131A will take place.

- 5.14. Where an outward internal transfer to the part of a scheme approved under Article 131A occurs, unless the member returns to Jersey (see paragraphs 5.16-5.19 below), the tax treatment applying to benefits payable by the scheme to the member (his/her dependants) will be governed by Article 131O, irrespective of the fact that some of the member's employment duties were carried on in Jersey.
- 5.15. The Comptroller reserves the right to disregard the outward internal transfer, with the result that the member remains in the part of the scheme subject to the Article 131 approval and the corresponding tax treatment outlined in Articles 131J to 131L, where the Comptroller considers that the availability of this treatment is being abused (e.g. the member changes employment or retires shortly after moving to the other jurisdiction).
- 5.16. For the avoidance of doubt, if a member of a scheme leaves the employment of the employer (or group of employers within the same corporate group) at a time when they remain within the scope of the Article 131 approval, they (and their dependants) remain within the scope of that approval for perpetuity and hence the tax treatment outlined in Articles 131J to 131L apply to all payments made to the member.

Non-Jersey member becomes a Jersey member

- 5.17. Where there is:
- (i) A non-Jersey member of a multi-jurisdictional occupational scheme, which has approval under Article 131 for the part of the scheme relating to the Jersey members;
 - (ii) Who remains within the employment of the sponsoring employer;
 - (iii) But leaves another jurisdiction and moves to Jersey from which their employment is carried on; and
 - (iv) Continues to save for their retirement within the same pension scheme
- No pension fund transfer, within the meaning of Article 131CG, has taken place. The reality being that the member continues to save in the same pension scheme.
- 5.18. However, where the following conditions are met, the member will automatically be deemed to have transferred their pension fund from the part of the scheme outside the scope of the Article 131 approval to the part of the scheme to which the Article 131 approval applies ("an inward internal transfer"):
- (i) The member moves to Jersey from where their employment is carried on;
 - (ii) Both immediately before and immediately after the member arrives in Jersey he/she remains in the employment of the sponsoring employer (or group of employers within the same corporate group);

- (iii) The scheme has approval under Article 131 for the part of the scheme relating to the Jersey members; and
- (iv) Both immediately before and immediately after the individual continues to be a member of the same scheme

5.19. Ordinarily an individual is not permitted to transfer a pension fund from an occupational pension scheme for overseas employees approved under Article 131A into an approved Jersey scheme (i.e. it is not a permitted transfer under Article 131CG). However, where the conditions above are met, an inward internal transfer between the part of the same scheme approved under Article 131A and the part of a scheme approved under Article 131 will be deemed to take place.

5.20. The tax treatment applying to benefits payable by the scheme to the member (his/her dependants) will be governed by Articles 131J to 131L, irrespective of the fact that some of the member's employment duties were carried on outside of Jersey.

5.21. For the avoidance of doubt, if a member of a scheme leaves the employment of the employer (or group of employers within the same corporate group) at a time when they remain within the scope of the Article 131 approval, they (and their dependants) remain within the scope of that approval for perpetuity and hence the tax treatment outlined in Articles 131J to 131L apply to all payments made to the member.

Further guidance relating to multi-jurisdictional occupational pension schemes established outside of Jersey

Jersey members

5.22. As noted above, a multi-jurisdictional occupational pension scheme established outside of Jersey can obtain approval under Article 131 for the part of the scheme relating to the Jersey members. In order to obtain part approval under Article 131 the scheme rules, conditions, etc. applying to the Jersey members must meet the conditions outlined in Article 131 of the Income Tax Law and the scheme manager must provide a written undertaking to the Comptroller that they will comply with the tax obligations that fall on a scheme manager under Part 19 of the Income Tax Law.

Non-Jersey members

5.23. Schemes established outside of Jersey paying benefits to non-Jersey members are irrelevant for Jersey tax purposes and hence are not subject to any form of approval by Revenue Jersey in respect of the non-Jersey members.

Jersey member becomes a non-Jersey member

5.24. Where there is:

- (i) A Jersey member of a multi-jurisdictional occupational scheme, which has approval under Article 131 for the part of the scheme relating to the Jersey members;
- (ii) Who remains within the employment of the sponsoring employer;
- (iii) But leaves Jersey and moves to another jurisdiction from which their employment is carried on; and
- (iv) Continues to save for their retirement within the same pension scheme

No pension fund transfer, within the meaning of Article 131CG, has taken place. The reality being that the member continues to save in the same pension scheme.

5.25. However, provided the following conditions are met, the member will automatically be treated as having transferred their pension fund from the part of the scheme to which the Article 131 approval applies to the part of the scheme outside the scope of the Article 131 approval (“an outward internal transfer”):

- (i) The member leaves Jersey and moves to another jurisdiction from which their employment is carried on;
- (ii) Both immediately before and immediately after the member leaves Jersey he/she remains in the employment of the sponsoring employer (or group of employers within the same corporate group);
- (iii) The scheme has approval under Article 131 for the part of the scheme relating to the Jersey members; and
- (iv) Both immediately before and immediately after the individual continues to be a member of the same scheme

5.26. The Comptroller reserves the right to disregard the outward internal transfer, with the result that the member remains in the part of the scheme subject to the Article 131 approval and the corresponding tax treatment outlined in Articles 131J to 131L, where the Comptroller considers that the availability of this treatment is being abused (e.g. the member changes employment or retires shortly after moving to the other jurisdiction).

5.27. For the avoidance of doubt, if a member of a scheme leaves the employment of the employer (or group of employers within the same corporate group) at a time when they remain within the scope of the Article 131 approval, they (and their dependants) remain within the scope of that approval for perpetuity and hence the tax treatment outlined in Articles 131J to 131L apply to all payments made to the member.

Non-Jersey member becomes a Jersey member

5.28. Where there is:

- (i) A non-Jersey member of a multi-jurisdictional occupational scheme, which has approval under Article 131 for the part of the scheme relating to the Jersey members;
 - (ii) Who remains within the employment of the sponsoring employer;
 - (iii) But leaves another jurisdiction and moves to Jersey from which their employment is carried on; and
 - (iv) Continues to save for their retirement within the same pension scheme
- No pension fund transfer, within the meaning of Article 131CG, has taken place. The reality being that the member continues to save in the same pension scheme.

5.29. However, where the following conditions are met, the member will automatically be deemed to have transferred their pension fund from the part of the scheme outside the scope of the Article 131 approval to the part of the scheme to which the Article 131 approval applies (“an inward internal transfer”):

- (i) The member moves to Jersey from where their employment is carried on;
- (ii) Both immediately before and immediately after the member arrives in Jersey he/she remains in the employment of the sponsoring employer (or group of employers within the same corporate group);
- (iii) The scheme has approval under Article 131 for the part of the scheme relating to the Jersey members; and
- (iv) Both immediately before and immediately after the individual continues to be a member of the same scheme

5.30. The tax treatment applying to benefits payable by the scheme to the member (his/her dependants) will be governed by Articles 131J to 131L, irrespective of the fact that some of the member’s employment duties were carried on outside of Jersey.

5.31. For the avoidance of doubt, if a member of a scheme leaves the employment of the employer (or group of employers within the same corporate group) at a time when they remain within the scope of the Article 131 approval, they (and their dependants) remain within the scope of that approval for perpetuity and hence the tax treatment outlined in Articles 131J to 131L apply to all payments made to the member.

Transitional rule

5.32. It is acknowledged that the fact that statutory part approval was not available prior to 1 January 2015 means that the scope of approval given to multi-jurisdictional occupational pension schemes before this date is not clear in all cases.

5.33. To allow multi-jurisdictional occupational pension schemes approved as at 31 December 2014 the opportunity to approach Revenue Jersey and clarify their approval position the following transitional rule will apply:

Multi-jurisdictional occupational pension scheme established in Jersey

5.34. The following text is archived:-A multi-jurisdictional occupational pension scheme established in Jersey which had approval under Article 131 as at 31 December 2014 will be treated from 1 January 2015 to 31 December 2017 as having approval under Article 131 for the part of the scheme relating to the Jersey members and approval under Article 131A for the part of the scheme relating to the non-Jersey members.

5.35. The following text is archived: The automatic part approval under Article 131A will cease to take effect on 1 January 2018. Therefore in order for the part of the scheme relating to the non-Jersey members to continue to be subject to Article 131A approval, and the corresponding tax treatment outlined in Article 131O, the scheme will need to seek specific approval from the Taxes Office before 1 January 2018.

Multi-jurisdictional occupational pension scheme established outside of Jersey

5.36. A multi-jurisdictional occupational pension scheme established outside Jersey which had approval under Article 131 as at 31 December 2014 will be treated from 1 January 2015 as having part approval under Article 131 for the part of the scheme relating to the Jersey members only.

5.37. There is no requirement for the scheme to approach Revenue Jersey in order for this treatment to apply.

5.38. For the avoidance of doubt these transitional rules do not apply to multi-jurisdictional occupational pension schemes first seeking approval from Revenue Jersey on or after 1 January 2015.

Section 6 – Approval of Jersey Retirement Annuity Contracts under Article 131B of the Income Tax Law

General

- 6.1. A contract shall be capable of approval as a Jersey retirement annuity contract if it complies with the following conditions:
- (i) The contract is made by an individual ordinarily resident in Jersey;
 - (ii) The contract is made with a company carrying on the business of granting annuities on human life in Jersey or Guernsey;
 - (iii) The contract complies with Article 131B of the Income Tax (Jersey) Law 1961
 - (iv) That company must be:
 - ✓ A company resident in Jersey; or
 - ✓ An authorized insurance company; or
 - ✓ A person or institution authorised in accordance with the laws of the UK to carry on the business of granting Annuities on human life and carrying on through a branch or agency in Jersey or Guernsey
- 6.2. Among those who may obtain approval of annuity contracts under Article 131B are insurance companies, banks and other financial institutions carrying on business in Jersey or in Guernsey through a branch or agency.
- 6.3. The word “agency” is not defined. In general, an overseas company that otherwise qualifies will not be prohibited from obtaining approval of an annuity contract provided that it has, for example, a subsidiary or associated company operating in Jersey.
- 6.4. In the case of an insurance company the “agency” must ensure that, as and when required, tax is deducted from the payment of an annuity or lump sum payment and accounted for to the Comptroller.
- 6.5. The contract must not provide for contributions to be made by any person apart from:
- (i) The individual who made the contract; and
 - (ii) The person from whom that individual receives relevant earnings
- 6.6. The contract must provide for the payment of an annuity to the individual for the life of the individual. Any annuity payable must be paid by an authorised insurance company (carrying on in Jersey or Guernsey the business of granting annuities on human life)

- 6.7. The contract may provide for the payment following the death of the individual of either or both of:
- (i) An annuity to one or more of the individual's dependants for the life of the dependant;
 - (ii) A lump sum commuting the whole of the fund value to be paid to the individual's estate or to any person
- 6.8. Notwithstanding the above, the scheme may provide for the income payable to a member to continue for a term certain not exceeding 10 years, starting with the commencement of payment of the annuity (notwithstanding the member's death during that term certain). In the event the member dies such income shall be capable of assignment to a dependant of the member either by:
- (i) Testamentary disposition by the individual; or
 - (ii) If the individual dies intestate, by the member's personal representatives in accordance with the laws of intestacy
- 6.9. No payments can be made to the individual other than those provided for in legislation.
- 6.10. Where an Article 131B contract is divided into "segments", each contract must have an independent legal existence. In addition the scheme manager must be able to identify the fund value of each individual segment/contract at all times.

[Additional conditions applying to self-administered retirement annuity contracts](#)

- 6.11. A company is not normally able to carry on insurance business in Jersey without a permit from the Jersey Financial Services Commission. However, a company that is incorporated by or on behalf of an individual and carries on annuity business solely for that individual and his/her dependants is exempted from the requirement to obtain a permit by virtue of Article 1(2) of the Insurance Business (General Provisions) (Jersey) Order 1996.
- 6.12. The effect of this legislation is that an individual can set up their own annuity company and enter into an annuity contract, with that company, approvable under the provisions of Article 131B. This type of arrangement is known as a self-administered retirement annuity contract. The company must be established for the sole purpose of holding an annuity contract and cannot be used for any other purpose in addition to holding the annuity contract.

6.13. The following are totally prohibited and must be written into the contract:

- (i) The person having control of the annuity fund borrowing funds on its behalf;
- (ii) The pension scheme loaning funds to the individual or to any person or company connected with the individual;
- (iii) Transactions between the individual (or any person or company connected with them) and the annuity fund – other than those transactions permitted by Law;
- (iv) *In specie* transfer of assets between the individual and the retirement annuity company;
- (v) Using the assets of the fund for the personal benefit or enjoyment of the individual or any person connected with the individual;
- (vi) Investment in a purchased life annuity; and
- (vii) Any refund of contributions from the annuity fund to the individual

6.14. The contract must provide for the payment of an annuity to the individual, but the annuity company itself is not permitted to pay an annuity. At the retirement date the annuity fund, net of any permissible lump-sum, is to be applied in the purchase of an annuity from the Jersey or Guernsey office of an authorised insurance company.

6.15. Where in addition to a contract with the individual, the individual's spouse or civil partner also enters into a contract with the same annuity company, before approval can be granted each contract must include the provision that the two funds will be kept in separate accounts. From 1st January 2015 there is an absolute prohibition on the intermingling of the funds between the contracts held by the two individuals. Furthermore transactions between the two separate funds are not allowed.

6.16. Where a fund transfer into a self-administered retirement annuity contracts which is segmented takes place, the fund which is being transferred can only be split between the segments if it originates from a scheme which was itself segmented. The aim of this condition is to prevent pension funds being segmented through the act of completing a fund transfer.

6.17. Contributions paid to a Jersey retirement annuity contract in a year of assessment qualify for tax relief, subject to limits. The term paid means that the contributions must be of a monetary amount, for example in cash, or by cheque, direct debit or bank transfer. The payment must actually be paid to the scheme by the pension holder.

6.18. A transfer of funds from another pension scheme is not treated as a contribution paid by or on behalf of the individual.

6.19. Accounts of the company, incorporating the annuity fund, must be made up to 31 December each year and must be prepared and signed by an independent qualified accountant, not connected to the annuitant and acceptable to the Comptroller. The annual accounts must be filed as soon as possible following the relevant year end.

Section 7 – Approval of Retirement Annuity Contracts for overseas employees under Article 131C of the Income Tax Law

- 7.1. A scheme must comply with the provisions of Article 131C to be an approved retirement annuity contract for overseas residents.
- 7.2. The contract must be made by an individual:
 - (i) Who is not resident in Jersey; and
 - (ii) Whose employment, trade or profession (if any) is exercised outside Jersey (performance of duties in Jersey which is merely incidental to the performance of other duties outside Jersey shall be treated as performed outside Jersey)
- 7.3. The contract must be made:
 - (i) With a company carrying on business through a branch in Jersey, and carrying on in Jersey the business of granting annuities on human life; or
 - (ii) Under an irrevocable trust established under the law of Jersey and administered in Jersey and having for its sole purpose the provision of retirement benefits for the individual
- 7.4. In this context “administered” takes its ordinary meaning which is essentially to “manage” or more specifically “to manage as a steward”. The Comptroller’s view is that this would encompass all activities relating to the oversight, control, management and decision making of and in respect of the scheme, and it would follow that all such activities should be carried on in Jersey in order to meet the terms of approval.
- 7.5. The contract may provide for the right to receive, by way of commutation, a lump sum representing the fund value.
- 7.6. The Comptroller’s interpretation of the term “retirement annuity contract” is that the contract must:
 - (i) Prevent pension benefits being paid before the age of 50; and
 - (ii) Require that pension benefits commence before the age of 75, and
 - (iii) Expressly prohibit loans (or discretionary distributions prior to the age of 50) to the individual (or to any person connected (as defined in Article 3A of the Income Tax Law) with him/her).

- 7.7. Consistent with approved Jersey schemes, the minimum pension age of 50 may be relaxed on two grounds:
- (i) If the individual's occupation is one in which it is customary to retire before the age of 50; or
 - (ii) Ill health prevents the individual from carrying on his/her occupation
- 7.8. Pension income or a lump sum paid from a retirement annuity contract for overseas residents approved under Article 131C to a person who is not resident in Jersey shall be exempt from Jersey income tax under Article 131O(1).
- 7.9. Income derived from the investments and deposits of an annuity fund created by a retirement annuity contract for an overseas resident that is approved under Article 131C shall be exempt from Jersey income tax under Article 131O(3).
- 7.10. Transfers to and from an Article 131C scheme are governed by their own scheme rules (note: Article 131CG only applies to transfers involving "approved Jersey schemes" –an approved retirement annuity contract for an overseas resident is not an "approved Jersey scheme" for these purposes).

Section 8 – Approval of Jersey Retirement Trust Schemes under Article 131CA of the Income Tax Law

- 8.1. A scheme may be capable of approval as a Jersey Retirement Trust Scheme (Jersey RTS) if it is:
- (i) Established under irrevocable trust under Jersey law and is administered in Jersey;
 - (ii) Complies with all the provisions of Article 131CA of the Income Tax (Jersey) Law 1961
 - (iii) Has as its sole purpose the provision of benefits in accordance with Article 131CA; and
 - (iv) Has two or more trustees or a corporate trustee who are subject to regulation by the Jersey Financial Services Commission under an enactment in respect of the carrying on of the business of the trustee of that trust

- 8.2. In this context “administered” takes its ordinary meaning which is essentially to “manage” or more specifically “to manage as a steward”. The Comptroller’s view is that this would encompass all activities relating to the oversight, control, management and decision making of and in respect of the scheme, and it would follow that all such activities should be carried on in Jersey in order to meet the terms of approval. In the context of a Jersey RTS this would mean that all activities in relation to the administration of the scheme which require a decision (e.g. in determining the benefits due to an individual) should be carried on in Jersey. In other words, there must be real and significant substance in Jersey in order to satisfy the test.

In summary therefore, the Comptroller’s view is that, as a default position, all activity relating to the administration (in its broadest sense) of a Jersey RTS should be carried on in Jersey unless it can be shown that it is an activity which is purely incidental or is one that could reasonably be expected to be carried on by a third party. The Comptroller would not wish to see a Jersey RTS being used simply as a façade where the real activity is carried on outside Jersey.

- 8.3. Contributions may only be paid into the scheme by the primary beneficiary and the person from whom the primary beneficiary receives relevant earnings.
- 8.4. Primary beneficiaries may not be trustees of the scheme, nor may their spouse, civil partner, or any other connected person.

- 8.5. The scheme must provide for the payment of an annuity equivalent to the primary beneficiary. The scheme may only otherwise provide for payments as permitted by Part 19 of the Law.
- 8.6. As an alternative to the payment of an annuity equivalent, a Jersey RTS may use the whole of the fund value to purchase a traditional lifetime annuity from an authorised insurance company.
- 8.7. The annuity equivalent must be calculated with reference to Appendix 6 “Calculation of Annuity Equivalent”. The calculation must be completed before payment of an annuity equivalent commences and from time to time, in accordance with calculation at Appendix 6, after payment has commenced. The Trustees and or the Administrator must keep a record of the annuity equivalent calculation and pay an annuity equivalent whether to a primary or secondary beneficiary in accordance with the calculation published by the Comptroller.
- 8.8. The following are totally prohibited and must be written in to the trust deed:
- (i) Funds may not be loaned to the primary beneficiary or any person connected to the primary beneficiary;
 - (ii) Investment transactions between the primary beneficiary (or any person connected with him/her) and the fund are prohibited;
 - (iii) Assets of the fund are not to be used for the personal benefit or enjoyment of the primary beneficiary or any connected party; and
 - (iv) The fund must not invest in a purchased life annuity
- 8.9. Following the death of the primary beneficiary the scheme may provide for, either or both of, the payment of annuity equivalent to one or more of the secondary beneficiaries or for the payment of a lump sum commuting the whole of the fund value to the primary beneficiary’s estate or to any person.
- 8.10. The calculation of the annuity equivalent to the secondary beneficiary must be based on the age of that dependant when the annuity becomes payable to them.
- 8.11. The annuity equivalent can be paid to the secondary beneficiary prior to the age of 50.

Section 9 – Approved drawdown contract – Article 131D

- 9.1. The contract must be made between an individual and the drawdown manager. To obtain approval for a drawdown contract the manager must certify to the satisfaction of the Comptroller that:
- (i) On the day the contract is made the individual is in receipt of Minimum Retirement Income or Minimum Retirement Capital; and
 - (ii) The contract complies with all the provisions of Article 131D of the Income Tax (Jersey) Law 1961
 - (iii) The contract prohibits the transfer to the contract funds other than the individual's fund value in an approved Jersey scheme and funds being returned from an approved trust

For the avoidance of doubt the tax free cash commutation cannot be taken directly from the drawdown contract it must be taken before entering into the contract.

- 9.2. Where on the day the contract is made, the individual is not in receipt of Minimum Retirement Income (whether as determined in accordance with Article 131F or with that Article as applied by Article 131FB) or to Minimum Retirement Capital the contract must require the manager to:
- (i) Purchase from an authorised insurance company which is unconnected with the individual a lifetime annuity payable to the individual which is sufficient to secure that, on that day, the individual is entitled to Minimum Retirement Income (whether as determined in accordance with Article 131F or with that Article as applied by Article 131FB); or
 - (ii) Subject to the requirements of Article 131E, transfer sufficient funds to a trustee for the establishment of an approved trust
- 9.3. The manager must show to the satisfaction of the Comptroller that the contract requires the manager to invest the remaining funds, after any such annuity purchase or transfer to an approved trust, in:
- (i) Cash deposits with any bank, building society or other institution carrying on deposit taking business in the jurisdiction in which it is authorised to carry on such business;
 - (ii) Securities or financial instruments traded on a recognised stock exchange;
 - (iii) Units in collective investment funds within the meaning of the Collective Investment Funds (Jersey) Law 1988; or
 - (iv) Investments falling within paragraph 9 of Schedule 1 of the Financial Services (Jersey) Law 1998

- 9.4. The contract must prohibit any payments to any person other than the individual or the individual's personal representative apart from:
- (i) Sums applied to purchase from an authorised insurance company (which is unconnected with the individual) of a lifetime annuity payable to the individual, or, on the individual's death to a dependant of the individual; or
 - (ii) Fees and commission properly incurred in the administration of the contract and tax payable to the Comptroller
- 9.5. The Manager must be:
- (i) Resident in Jersey;
 - (ii) Unconnected with the individual; and
 - (iii) Regulated under one of the provisions set out in Article 131D(4)(c)⁷
- 9.6. The contract may only be assigned from one manager to another with the consent of the individual and with the prior written approval of the Comptroller and subject to any conditions the Comptroller thinks proper to impose.
- 9.7. The pension holder, or following the pension holder's death, his or her dependent cannot transfer the fund value from an approved Jersey scheme to an approved drawdown contract before the first day on which the payment of pension income could have commenced out of the approved Jersey scheme.
- 9.8. Payments made to an individual under a drawdown contract must be paid in cash and not in the form of a transfer of assets in-specie
- 9.9. The contract and the manager must comply with
- a. Any prescribed conditions and requirements, and
 - b. Any additional conditions and requirements imposed in its case by the Comptroller

⁷ (i) The holder of a permit under the CIF (Jersey) Law 1988; (ii) Registered under the Banking Business (Jersey) Law 1991 (iii) The holder of a permit under the Insurance Business (Jersey) Law 1996; or (iv) Registered under the Financial Services (Jersey) Law 1998.

Section 10 – Approved trust – Article 131E

- 10.1. The trust must be established and the approved drawdown contract to which it relates made, before the individual reaches pensionable age.
- 10.2. The manager of the approved drawdown contract and the trustee of the trust must certify to the satisfaction of the Comptroller that:
- (i) Disregarding the investments held by the trust, the individual will be entitled to Minimum Retirement Income on the “relevant day” (that day must not be later than when the individual reaches pensionable age); and
 - (ii) When the approved drawdown contract is made, the manager will transfer to the trustee at least sufficient funds to fulfil the purpose for which the trust has been established
- 10.3. The trustee must show, to the satisfaction of the Comptroller, that the trust requires the trustee to:
- (i) Purchase sufficient securities issued by the UK Government yielding an income having an actuarial equivalent as will secure that, on the day the trust is established, the individual is entitled to an income which, taking the actuarial equivalent of the income from those securities into account and disregarding the fact that the income from them ceases on or after the relevant day, is Minimum Retirement Income;
 - (ii) Hold the securities purchased upon trust for the individual until the relevant day; and
 - (iii) Receive the income from the securities and pay it to the individual
- 10.4. The actuarial equivalent of any income shall be determined in accordance with the Income Tax (Actuarial Equivalents) (Jersey) Order 2017
- 10.5. The trustee must show to the satisfaction of the Comptroller that:
- (i) The trust prohibits any payments out of the trust to any person other than the individual or his personal representative (apart from any tax which needs to be paid to the Comptroller);
 - (ii) The trust prohibits any payment out of the trust to the individual other than income accrued on the funds invested by the trustee; and
 - (iii) On the “relevant day” requires the trustee to certify to the satisfaction of the Comptroller whether or not on that day the individual is entitled to Minimum Retirement Income

- 10.6. Where on the relevant day the individual is entitled to Minimum Retirement Income the trustee must show to the satisfaction of the Comptroller that the funds may be withdrawn for the following purposes only:
- (i) The transfer to an approved drawdown contract; or
 - (ii) The purchase from an authorised insurance company which is unconnected with the individual of a lifetime annuity payable to the individual
- 10.7. Where on the relevant day the individual is not entitled to Minimum Retirement Income, the trust shall continue on the same terms for the life of the individual, however the trustee shall be required to:
- (i) Purchase from an authorised insurance company which is unconnected with the individual a lifetime annuity payable to the individual or purchase securities issued by the UK Government or convert the securities previously purchased, so as to secure that, on the “relevant day”, the individual is entitled to Minimum Retirement Income;
 - (ii) To hold the securities (if any) for the life of the individual; and
 - (iii) Where securities are held, to pay to the individual the income arising from them
- 10.8. Where on the death of the individual there remain any funds invested or income accrued on them, the trustees within a period of three months following the date of death must pay to the individual’s personal representative those funds and all such income.
- 10.9. The Trustee must be:
- (i) Resident in Jersey;
 - (ii) Unconnected with the individual; and
 - (iii) Registered under the Financial Services (Jersey) Law 1998

Section 11 – Minimum Retirement Income and Minimum Retirement Capital

Detailed Guidance Notes for Drawdown Managers regarding the calculation of Minimum Retirement Capital can be located in [Appendix 11](#).

Minimum Retirement Income

- 11.1. An individual's entitlement to Minimum Retirement Income shall be determined in accordance with Article 131F.
- 11.2. An individual is entitled to Minimum Retirement Income if, on the day for which the entitlement is to be determined, the individual is in receipt of "relevant income" which is not less than the amount of the old age pension specified in paragraph 3(1) of Part 1A of Schedule 1 to the Social Security (Jersey) Law 1974.
- 11.3. "Relevant income" means any one or more of the following:
- (i) The amount of the old age pension payable to the individual in accordance with Article 25 of the Social Security (Jersey) Law 1974;
 - (ii) An old age pension payable by another Government, other than a pension for which the income is fixed for the life of the individual;
 - (iii) Any income not described above which:
 - ✓ Shall be paid for the remainder of the life of the individual; and
 - ✓ Is guaranteed to increase by not less than 3% p.a. and
 - (iv) The actuarial equivalent of any income not described in (i)-(iii) above which shall be paid for the remainder of the individual's life.

The actuarial equivalent of any income shall be determined in accordance with the Income Tax (Actuarial Equivalents) (Jersey) Order 2017.

Minimum Retirement Capital (131FA)

11.4

- (i) An individual's minimum retirement capital shall be determined in accordance with Article 131FA.
- (ii) An individual is entitled to minimum retirement capital if, on the day for which the entitlement is to be determined, the individual is entitled to relevant capital in excess of such threshold as may be prescribed.
- (iii) For the purposes of this Article and Article 131FB, "relevant capital" means capital of such amount and nature, determined in such a manner, as may be prescribed.

The minimum retirement capital shall be determined in accordance with the Income Tax (Minimum Retirement Capital) (Jersey) Order 2017.

Application of relevant Capital factor in calculation of minimum retirement income

1. Article 131FB applies where, on the day for which such entitlement is to be determined, the individual is entitled neither to minimum retirement income, nor to minimum retirement capital.

2. Article 131FB applies where –
 - (a) there shall be subtracted, from the amount of the old age pension specified in paragraph 3(1) of Part 1A of Schedule 1 to the Social Security (Jersey) Law 1974[637], the amount of the relevant capital factor in the individual’s case; and
 - (b) the individual’s entitlement to minimum retirement income shall be determined, and Article 131F shall apply, as though the reference in paragraph (2) of that Article to the amount of the old age pension so specified, were to that amount reduced as described in sub-paragraph (a).

3. For the purposes of this Article the “relevant capital factor” shall be such amount, determined in such a manner, as may be prescribed

Section 12 – Payments from approved Jersey schemes

Requirement to pay pension income (Article 131CB)

12.1. Except as detailed below, the payment of a pension to a pension holder from an approved Jersey scheme must not start before the individual reaches the age of 50, but must start before the individual reaches the age of 75.

Permitted early payment of pension income (Article 131CC)

12.2. A scheme may provide for the payment of pension income to an individual before that individual reaches the age of 50 if:

- (i) The individual is in “ill health”; or
- (ii) In the case of an approved Jersey occupational scheme the individual’s employment in the trade or undertaking is one in which persons customarily cease work before attaining that age
- (iii) In the case of an individual in any other approved Jersey scheme, the individual’s occupation is one in which persons customarily cease work before attaining that age

12.3. “Ill health” is where a medical practitioner has, in writing, provided evidence to the scheme manager that the pension holder is, and will continue to be, incapable of carrying on his or her occupation because of physical or mental impairment and the pension holder has in fact ceased to carry on his or her occupation.

12.4. In respect of (ii) and (iii) above, in each case where this treatment is claimed the request will need to be agreed with the Comptroller.

Permitted commutation – serious ill health (Article 131CD)

12.5. An approved Jersey scheme may permit the individual to elect to commute the whole of the fund value if that individual is in “serious ill health” whether or not s/he has attained the age of 50 and whether or not the scheme has commenced paying benefits to the individual.

12.6. A pension holder is in “serious ill health” if a medical practitioner has, in writing, provided evidence to the scheme manager that the pension holder is expected to live for less than one year.

Permitted commutation – trivial pension (Article 131CE)⁸

12.7. An approved Jersey scheme may permit the pension holder to elect (under Article 131CE (1)) to commute the whole of the fund value if, at the time the election is made:

- (i) The individual has reached the age of 60; and
- (ii) The aggregate of the following amounts does not exceed £35,000:
 - ✓ The fund value
 - ✓ All lump sums that the individual has previously commuted (either under the present or under the previous legislation relating to trivial pension commutation provisions).

The taxation provisions relating to trivial commutations are detailed in Section 14: Taxation

Small pots commutation.(Article 131CE(3))

- (a) An approved Jersey scheme may permit the pension holder to elect to commute the whole of the fund value, if, at the time the election is made –
The fund value to be commuted does not exceed £19,000; and
- (b) The aggregate of all lump sums that the pension holder has previously commuted under Article 131CE(3) does not exceed £50,000

The taxation provisions relating to the commutation of a fund value as a small pot are different to a trivial commutation election under Article 131CE(1). The fund value from a small pot commutation is to be treated as income under Article 131K (see section 14) and must be reported to the Comptroller by the Scheme Manager. The recipient must declare the sum received as normal taxable income and must include the sum in their annual tax return.

Permitted commutation – 30% of the net fund value (Article 131CF)

12.8. An approved Jersey scheme may permit the pension holder to elect to commute up to 30% of the net fund value in one or more tranches if, on the day the election is made, the pension holder has attained the age of 50 and has not attained the age of 75. The lump sum payment must be in cash and not a transfer of assets in-specie

12.9. There is no restriction on the number of elections/commutations that a pension holder can make under Article 131CF. In particular the fact that a pension holder has commenced receipt of an income for life does not, in itself, prevent a pension holder from making an election under Article 131CF. Furthermore a pension holder is not obliged to make an election/ commutation under Article 131CF.

12.10. Article 131CF outlines the maximum amount that a pension holder is permitted to commute at the time of each election. For the avoidance of doubt, a pension holder is

⁸ Also see Appendix 4 to these guidance notes.

not obliged to commute the maximum possible amount, but the amount commuted must not exceed the maximum amount calculated under the relevant legislation.

12.11. The legislation contains a calculation which seeks to allow pension holders to elect to commute 30% of their entire pension savings in a tax free lump sum, irrespective of when pension contributions were made and whether previous commutations have been taken under Article 131CF. This is achieved through the calculation of what is known as the pension holder's "net fund value" (Article 131CF(2)).

12.12. Step-by-step examples of how to calculate the 30% tax free commutation are outlined in Appendix 5.

Section 13 – Transfers (Article 131CG)

Permitted transfers out – domestic

- 13.1. An approved Jersey scheme may only permit the pension holder (or, following the pension holder's death, his or her dependant) to elect to transfer:
- (i) The whole of the fund value to another approved Jersey scheme or
 - (ii) Part of a fund value to another approved Jersey scheme subject to the prior written approval of the Comptroller.
 - (iii) Or the whole of the fund to an approved drawdown contract.

Permitted transfers out – international

- 13.2. An approved Jersey scheme may, subject to the prior written approval of the Comptroller, permit the pension holder (or, following the pension holder's death, his or her dependant) to elect to transfer the whole of the fund value to an "equivalent scheme" established outside Jersey provided that at the time of the election:
- (i) The pension holder is not resident in Jersey, or
 - (ii) Following the pension holder's death, his or her dependant is not resident in Jersey.
- 13.3. To obtain the Comptroller's approval the following information must be provided:
- (i) The member/individual's full name;
 - (ii) Any previous name of the member
 - (iii) The member's date of birth
 - (iv) the member's tax reference number (if known)
 - (v) The member/individuals' permanent residential address;
 - (vi) The fund value;
 - (vii) The full name of the scheme that the fund is being transferred from;
 - (viii) The full name of the scheme that the fund is being transferred to;
 - (ix) The jurisdiction in which that scheme is established; and
 - (x) Evidence that the scheme is an equivalent scheme⁹

⁹ The information required to support the equivalent status test would need to include evidence if the following factors in order for the Comptroller to consider the request:

- Restricted access until at least 50 years of age
- Benefits to commence prior to 75 years of age
- Inability to commute more than 30% of the fund value to a lump sum
- The majority of the fund value is used to pay an income for life
- Tax charged on the income tax life
- Tax is charged when value is transferred following death
- The scheme to which the funds are being transferred following death
- The scheme to which the funds are being transferred is approved by the local tax authority

The submission of the schemes' registration with a third party jurisdiction is not sufficient for the equivalent test for Jersey tax purposes. Also the submission of the destination scheme's documentation is not sufficient for this purpose and should not be submitted unless requested by the Comptroller

13.4. For the purposes of Article 131CG a scheme established outside Jersey is an “equivalent scheme” if the Comptroller agrees that it is an “equivalent scheme”. The Comptroller may agree that a scheme established outside Jersey is an “equivalent scheme” if, in the Comptroller’s opinion, the scheme has characteristics which are consistent with the characteristics of an approved Jersey scheme.

A request for the Comptroller to approve a transfer to an equivalent scheme established outside of Jersey must be submitted on the template provided.

[Pension fund transfer request form](#)

13.5. An approved transfer of the fund value of a pension holder in an approved Jersey scheme to an equivalent scheme established outside Jersey is exempt from income tax.

[Permitted transfers in – international](#)

13.6. An approved Jersey scheme may permit the pension holder (or, following the pension holder’s death, his or her dependant) to elect to transfer into an approved Jersey scheme the whole of the fund value from an “equivalent scheme” established outside Jersey.

13.7. Transfers in from an equivalent scheme established outside of Jersey must be reported on the annual return by the Scheme Manager and must include the following:-

- (i) The full name of the pension holder
- (ii) The date the transfer was received
- (iii) The amount of the transfer
- (iv) The name of the scheme from which it was transferred
- (v) The jurisdiction in which that scheme is established and
- (vi) Whether benefits have commenced from that scheme

[Transfers - General](#)

13.8. In the context of all transfers the transferring scheme manager must notify the receiving scheme manager of the status of the pension fund (i.e. has a tax free commutation been taken (if yes, providing all relevant details) and whether the payment of income for life has commenced from the scheme).

[Bulk transfers](#)

13.9. The scheme manager of an approved Jersey occupational pension scheme may, where notification is given (in accordance with the points below) and subject to the prior written approval of the Comptroller, transfer the whole or part of the fund to another

approved Jersey occupational pension scheme. The scheme manager of the approved Jersey occupational pension scheme must notify the Comptroller, in writing, of:

- (a) The date of the proposed transfer
- (b) The name of the scheme from which the transfer is proposed to be made
- (c) The name of the scheme to which the transfer is proposed to be made
- (d) The name of each member of the scheme whose fund value is proposed to be transferred (an included member)
- (e) The name of each member of the scheme (if any) who is not to be an included member
- (f) In relation to each included member:
 - i. The amount to be transferred, and whether the amount represents the whole or part (and if so what part) of the member's fund value, and
 - ii. Whether benefits have commenced from the scheme from which the transfer is to be made.

The reference to the "fund" is to the aggregate of the fund values of all the pension holders in the scheme from which the transfer is to be made.

Rule against legal avoidance – Permitted transfers overseas

13.10 This applies where:

- a) a permitted transfer of fund value has taken place pursuant to an election under Article 131CG(4);
- b) after that transfer, the pension holder becomes resident in Jersey –
 - i) in the same year of assessment as that in which the transfer took place, or
 - ii) in any of the ensuing 3 years of assessment; and
- c) after that transfer, but before the pension holder becomes resident in Jersey as described in sub-paragraph (b), a lump sum payment is made to the pension holder of the whole or part of the fund value transferred by that transfer.

Where this Article applies, the amount of the payment mentioned in paragraph (1)(c) shall be treated as the recipient's income and chargeable to tax under Case III(d)(ii) of Schedule D.

This rule against legal avoidance- permitted transfers overseas will only apply to transfers under Article 131CG(4) which occur on or after 1 January 2018

Section 14 – Taxation

Taxation of approved Jersey schemes, drawdown contracts and trusts (Article 131G)

- 14.1. Income derived from the investments and deposits of approved Jersey schemes, drawdown contracts and approved trusts is exempt from income tax.
- 14.2. The exemption to tax does not cover income from the following sources which must be notified to the Comptroller:
- (i) Trading, including from the trade of investment dealing;
 - (ii) Fees from stock lending;
 - (iii) Underwriting commissions; and
 - (iv) Gains from transactions in certificates of deposit

Contributions by employer to approved Jersey occupation pension scheme (Article 131H)

- 14.3. The employer's contribution is deductible from its trading profits in the year in which the contribution is paid provided it is an "ordinary annual contribution". An "ordinary annual contribution" is regarded as a fixed amount, or a varying one calculated on some definite basis by reference to the earnings, contributions or numbers of members of the scheme.
- 14.4. Where a contribution is not an "ordinary annual contribution" it shall be treated as the Comptroller shall direct, either:
- (i) As an expense incurred in the year in which the sum is paid; or
 - (ii) As an expense to be spread over such period of years as the Comptroller thinks proper

Contributions by pension holder (Article 131I)

- 14.5. There is no limit on the amount a pension holder can pay into his/her pension scheme nor is there any provision for refund of contributions from a pension scheme¹⁰.
- 14.6. However the amount of a pension holder's contributions paid to an approved Jersey scheme which is allowed to be deducted for tax purposes for a year of assessment cannot exceed whichever is the lower of:
- (i) £50,000 less the pension holder's "excess income" if any; and

¹⁰ With the exception of paragraphs 2.25-2.33 which apply in the context of approved Jersey occupational pension schemes.

- (ii) The pension holder's "relevant earnings" in the year of assessment less the pension holder's "excess income" ,if any

14.7. The deductible contributions shall be deducted from the pension holder's relevant earning as an expense for the year of assessment in which they were paid.

14.8. In this context "excess income" means the amount by which a pension holder's "income" for a year of assessment exceeds £150,000. "Income" means the pension holder's total income for a year of assessment before the deduction of any of the following:

- (i) Interest in respect of which the pension holder is entitled to a marginal income deduction under Article 90AA; and
- (ii) The pension holder's total approved pension contributions

14.9. The term paid means that the contributions must be of a monetary amount, for example in cash, or by cheque, direct debit or bank transfer.

[Repayment of contributions made by employer \(only available in the context of occupational schemes\) – Article 131J](#)

14.10. Where contributions to an approved Jersey occupational pension scheme (including interest on contributions) are repaid to the employer – that amount shall be treated as a receipt of the trade, profession or vocation carried on by the employer upon whichever is the earlier of:

- (i) When the repayment falls due; or
- (ii) The last day on which the trade, profession or vocation is carried on by the employer

[Repayment of contributions made by pension holder \(only available in the context of occupational schemes\) – Article 131J](#)

14.11. Where contributions to an approved Jersey occupational pension scheme (including interest on contributions) are repaid to the pension holder during his or her lifetime then:

- (i) Income tax shall be charged at the rate of 10% under Case VI of Schedule D on the scheme manager in respect of the amount repaid; and
- (ii) The scheme manager shall deduct the income tax charged from the amount repaid to the pension holder

14.12. The scheme manager must deduct the tax before paying the lump sum and the tax so deducted must be paid to the Comptroller within a reasonable time frame.

14.13. Where a repayment of contributions (including interest) on contributions is made to a pension holder from an approved Jersey occupational scheme as described above:

- (i) The amount repaid, after deduction of income tax, shall not be treated as income of the pension holder for any other purpose of the Income Tax Law; and
- (ii) The pension holder shall not be entitled to any deduction, allowance or relief under the Income Tax Law in respect of the income tax charged on and deducted by the scheme manager on the amount repaid

Taxation of pension income paid from an approved Jersey scheme (Article 131K)

14.14. For the purposes of the Income Tax Law the following payments shall be treated as the recipient's earned income:

- (i) An income for life paid out of an approved Jersey occupational scheme to the member or his dependant;
- (ii) An annuity paid under an approved Jersey retirement annuity contract to the individual who made the contract or his or her dependant;
- (iii) An annuity equivalent paid under an approved Jersey retirement trust scheme to a primary or secondary beneficiary.
- (iv) An amount paid to the pension holder following an election to commute the fund value under the small pots provisions at Article 131CE(3)

14.15. When making a payment referred to above in 14.14 a scheme manager shall:

- (i) Deduct tax at the standard rate from payments made to individuals who are non-Jersey resident individuals (unless the Comptroller directs that the income tax deducted is at a rate that is less than the standard rate); and
- (ii) Deliver to the Comptroller an account of the payment and the tax deducted from it.

14.16. Text deleted

Taxation of lump sums paid from approved Jersey schemes to the pension holder or his / her dependant (Article 131L)

14.17. Subject to specific exceptions, and where the lump sum is specifically taxed under separate taxation provisions, Income tax shall be charged under Case VI of Schedule D at the rate of 10% on a scheme manager of an approved Jersey scheme where a lump sum is paid in commutation of or in lieu of pension income under the scheme to:

- (i) The pension holder during his or her lifetime; or

- (ii) Following the death of the pension holder, the pension holder's estate or any other person

Trivial commutations under Article 131CE(1) are taxed under the provisions of Article 131L and it must be noted that commutations of fund values commuted under the small pots provisions are not taxed under Article 131L, but are treated as income of the member, as income paid from an approved Jersey scheme (see section 14.14)

14.18. The scheme manager must deduct the tax before paying the lump sum and the tax so deducted must be paid to the Comptroller within a reasonable time frame.

14.19. Notwithstanding paragraph 14.17 above, the following payments to a pension holder from an approved Jersey scheme shall be exempt from income tax:

- (i) Lump sums commuted by the pension holder as permitted by the legislation in cases of serious ill health provided the election is made before the commencement of benefits;
- (ii) In cases of trivial pensions under Article 131CE (1), 30% of commutation of the trivial pension can be commuted tax free and
- (iii) Lump sums commuted by the pension holder as permitted commutations (tax free cash) under Article 131CF, where an individual accesses up to 30% of net fund value.

14.20. Where the pension holder in an approved Jersey scheme dies before the commencement of benefits i.e. before any amount from the pension fund has been accessed lump sums commuted as permitted by Article 131(9)(b), 131B(7)(b) or 131CA(6)(b) shall also be exempt from income tax.

14.21. Irrespective of whether a lump sum is taxed or is exempt from tax:

- (i) The amount paid, after deduction of tax (if any) shall not be treated as income of the recipient for any other purpose of this Law; and
- (ii) The recipient shall not be entitled to any deduction, allowance or relief in respect of any income tax charged on and deducted by the scheme manager from the amount paid.

Taxation of sums paid from approved drawdown contracts and approved trusts (Article 131M)

14.22. A scheme manager of an approved drawdown contract or approved trust, when paying any sum that is charged to tax under Case VII of Schedule D to an individual or an individual's personal representative shall:

- (i) Deduct income tax at the standard rate; and

- (ii) Deliver to the Comptroller an account of the payment and the tax deducted from it

14.23. Any sum that is paid to an individual (other than an individual to whom it is paid in his or her capacity as a personal representative) shall be treated as “earned income” of the individual.

Taxation of approved overseas schemes

14.24. Pension income or a lump sum paid from an occupational pension scheme for overseas employees approved under Article 131A or a retirement annuity contract for overseas residents approved under Article 131C to a person who is not resident in Jersey shall be exempt from income tax.

14.25. Income derived from investments and deposits of an occupational pension scheme for overseas employees that is approved under Article 131A shall be exempt from income tax.

14.26. Income derived from investments and deposits of an annuity fund created by a retirement annuity contract for overseas residents that is approved under Article 131C shall be exempt from income tax.

Rule against legal avoidance – Permitted transfers overseas

14.27 This applies where –

- (a) a permitted transfer of fund value has taken place pursuant to an election under Article 131CG(4);
- (b) after that transfer, the pension holder becomes resident in Jersey –
 - i. in the same year of assessment as that in which the transfer took place,
 - or
 - ii. in any of the ensuing 3 years of assessment; and
- (c) after that transfer, but before the pension holder becomes resident in Jersey as described in sub-paragraph (b), a lump sum payment is made to the pension holder of the whole or part of the fund value transferred by that transfer.

Where this Article applies, the amount of the payment mentioned in paragraph (1)(c) shall be treated as the recipient’s income and chargeable to tax under Case III(d)(ii) of Schedule D.

This rule against legal avoidance- permitted transfers overseas will only apply to transfers under Article 131CG(4) which occur on or after 1 January 2018.

Section 15 – Assignment

The fund of a Jersey approved scheme must not be assignable or capable of surrender unless provided for in Part 19 of the Legislation or specifically provided for within these guidance notes.

Section 16 – Anti-avoidance

Any transaction or series of transactions made wholly or mainly for the purpose of avoiding tax may lead to the anti-avoidance provisions of Article 134A being invoked.

Section 17 – Appeals

Any person aggrieved by a decision of the Comptroller, to refuse to approve a scheme, to impose a condition or requirement on the approval, or to withdraw approval, may appeal to the Commissioners of Appeal on giving 40 days' notice to the Comptroller.

Section 18 – Withdrawal of approval

18.1. If the facts concerning an approved scheme, contract or trust (or its administration) do not warrant continuing approval, the Comptroller will give notice in writing on the date on which the approval is withdrawn to:

- (i) The scheme manager and any person connected with the scheme manager
- (ii) Any person(s) whose acts or omissions are a reason for the withdrawal
- (iii) Any person(s) who has benefitted from the acts or omissions which are a reason for the withdrawal and any person connected with them.

18.2. If the Comptroller gives a notice to a person other than the scheme manager he will inform the scheme manager that the notice of withdrawal has been given.

18.3. A withdrawal of approval may take effect on a day that is earlier than the day the notice is given, but shall not be earlier than the day on which the grounds for withdrawal appear to the Comptroller to have arisen.

18.4. Upon the withdrawal of approval taking effect, a person given notice shall be liable to income tax at the rate of 50% on an amount equal to whichever (on the day on which the withdrawal takes effect) is the greater of –

- (a) the market value of the assets held for the purposes of the scheme, contract or trust; or
- (b) the aggregate of –
 - (i) contributions to the scheme, contract or trust, including transfers from other schemes, contracts or trusts, and
 - (ii) income accrued from investments or deposits of the scheme, contract or trust.

18.5. Where the Comptroller is unable to ascertain either or both of the amounts described above the Comptroller may, for the purposes of raising an assessment of the liability to tax estimate the amount that he is unable to ascertain.

18.6. The Comptroller may decide to abate the liability to tax by an amount which is, having regard to the relevant circumstances, just and reasonable. A Guide on the level of abatement can be viewed at Appendix 9.

18.7. Where all or any of the tax charged remains unpaid – the Comptroller may give a further notice to any of the persons there mentioned in 18.1 who has not previously been given notice; and to the person to whom the further notice is given shall be liable to pay any of the tax charged which remains unpaid.

[Genuine Mistake](#)

The Comptroller may consider the facts and circumstances where a genuine error has taken place. The Comptroller must be satisfied that there is sufficient evidence to demonstrate that a genuine mistake has been made. There must be a full disclosure of the facts and there is no other available remedy. Most typically these will be payments made as a result of an inadvertent administrative failure or beyond the control of the approved Jersey scheme making the payment, or beyond the control of the person making an inadvertent payment to the scheme.

[Attaining the age of 75](#)

A pension holder is required to commence benefits from an approved Jersey scheme prior to attaining the age of 75. However in exceptional circumstances where the scheme manager/ administrator has made all reasonable efforts to contact the pension holder and has been unable to contact the pension holder the details should be submitted to the Comptroller .

Appendix 1: Application for approval

Application for approval of a Jersey occupational pension scheme (Article 131 Scheme)

In order to obtain approval of a Jersey occupational pension scheme, or part of such a scheme, the scheme manager must make an application to the Comptroller.

The application must be:

- (i) In writing
- (ii) Made before the end of the year of assessment for which approval of the scheme is sought; and
- (iii) Accompanied by-
 - a copy of the instrument under which the scheme is established
 - a copy of the rules of the scheme
 - a copy of the most recent annual accounts of the scheme (if available)
 - an undertaking by the scheme manager that they will comply and administer the scheme in accordance with all of the following:-
 - the provisions of Part 19 of the Income Tax (Jersey) Law 1961,
 - the Income Tax (Jersey Occupational Pension Schemes) (Jersey) Order 2014
 - the tax guidance notes for pension scheme administrators

If a scheme has been established outside of Jersey and approved by that jurisdiction, an application for approval can be made for part of the scheme that relates to the Jersey members. This may be by either:

- (i) By deed to reflect separate rules for Jersey members, and/or
- (ii) By the trustees signing an undertaking confirming that they will comply and administer the scheme in accordance with the provisions of Part 19 of the Income Tax (Jersey) Law 1961, the Income Tax (Jersey Occupational Pension Schemes)(Jersey) Order 2014 and the tax Guidance Notes for pension scheme administrators in respect of the Jersey members.

It will be a requirement that the scheme manager complies with Article 131.

In addition the following information should be provided:

- (i) The principal employer;
- (ii) Details of any participating employers; and
- (iii) Name of the Administrator to which the annual tax returns should be issued

If the application is in respect of a centralised or multi-employer scheme, established under a master trust then the master trust must submit the trust deed and rules for approval and

each participating employer must obtain approval by submission of an executed deed of adherence to the master trust.

If the Comptroller decides to approve the scheme, or part of a scheme, a notification of the approval will be issued in writing. That approval may contain additional conditions or requirements imposed on the scheme and the reason for the imposition.

If the Comptroller decides not to approve the scheme a notification will be issued in writing of the decision and the reason for it.

Any subsequent changes in the rules, constitution, objects or conditions of the scheme must be notified to the Comptroller by the scheme manager immediately in writing. The notification must also include confirmation that following the changes the scheme manager will continue to comply with Part 19 of the Income Tax (Jersey) Law 1961 and will continue to administer the scheme in accordance with Part 19 of the Income Tax (Jersey) Law 1961, the Income Tax (Jersey Occupational Pension schemes) (Jersey) Order 2014 and the tax guidance notes for pension scheme administrators

The amending scheme documentation should not be submitted with the application to the Comptroller, but must be available to the Comptroller if requested

[Application for approval of a Jersey retirement annuity contract \(Article 131B contract\)](#)

An application for approval of a retirement annuity contract must be submitted to the Comptroller in writing. The application must be accompanied by:

- (i) The Contract or certified true copy of the contract; and
- (ii) A declaration made by the scheme manager and the company holding the annuity fund that they have read, understood and will comply with and administer the scheme in accordance with:
 - ✓ The relevant sections of part 19 of the Income Tax (Jersey) Law 1961
 - ✓ These tax guidance notes for pension scheme administrators

Any changes to the contract must be agreed in advance by the Comptroller.

[Application for approval of a retirement trust scheme \(Article 131CA scheme\)](#)

An application for approval of a retirement trust scheme must be made in writing to the Comptroller by the scheme manager accompanied by:

- (i) A copy or certified true copy of the trust deed and rules;
- (ii) A declaration made by the scheme manager that they have read, understood and will comply with and administer the scheme in accordance with the applicable

- sections of Part 19 of the Income Tax (Jersey) Law 1961 and these tax guidance notes for pension scheme administrators; and
- (iii) The name and address of the Jersey administrator of the scheme

Any subsequent amendments to the trust deed or rules must be notified to the Comptroller to confirm ongoing approval.

Application for approval of a drawdown contract (Article 131D Contract)

An application for approval of a drawdown contract must be made in writing by the drawdown manager who must submit a copy of the contract to the Comptroller together with a statement in which he certifies that:

- (i) The scheme manager;
- (ii) The individual; and
- (iii) The contract

satisfy all the conditions laid down in Article 131D of the Income Tax Law.

The certificate must also include a section in which the scheme manager identifies the source of the funds to be transferred into the contract

Finally, the certificate must include a section in which the scheme manager identifies the source and amount of Minimum Retirement Income (“MRI”) or Minimum Retirement Capital (MRC) and in which he certifies that he has evidence to that effect.

Evidence should not be submitted with the application for approval to the Comptroller, but must be available to the Comptroller if requested

The certificate must be signed by the manager.

Application for approval of an Approved Trust (Article 131E)

In seeking approval of a trust, the trustee must submit a copy of the trust instrument to the Comptroller together with a statement in which he certifies that:

- (i) The trustee;
- (ii) The individual; and
- (iii) The trust deed

satisfy all the conditions laid down in Article 131E of the Income Tax Law.

The statement will include a section in which the trustee certifies that he has seen evidence from the drawdown manager to show that on the relevant day there is every likelihood that

the individual will possess, from other sources, Minimum Retirement Income (“MRI”). The statement must show the expected source of MRI, and its amount, together with the identity of the drawdown manager involved.

Before the funds may be released back to the drawdown manager at the expiration of the trust period, a further certificate is required from the trustee. In it the trustee must certify that he has seen evidence of the existence of MRI, and its source and amount should be identified.

Both the drawdown manager and the trustee are required to supply annual certificates to the pensioner showing the gross amounts paid to him and the tax deducted.

[Application for approval of an occupational pension scheme for overseas employees \(Article 131A\)](#)

An application for the approval of, or part of, an occupational pension scheme for overseas employees will be made in writing to the Comptroller accompanied by a declaration from the scheme manager that the scheme:

- (i) Meets the requirements of Article 131A of the Income Tax (Jersey) Law 1961; and
- (ii) It is in accordance with the relevant sections of these tax guidance notes for pension scheme administrators on the approval of occupational pension schemes for overseas employees

An application will include:

- (i) The name and address of the sponsoring employer; and
- (ii) The name and address of the scheme manager
- (iii) The scheme manager will comply and administer the scheme in accordance with the relevant sections in Part 19 of the Income Tax (Jersey) Law 1961 and these tax guidance notes for pension scheme administrators
- (iv) Confirmation that any changes to the scheme will be notified to the Comptroller in writing

The scheme documentation should not be submitted with the application to the Comptroller, but must be available to the Comptroller if requested.

[Application for approval of a retirement annuity contract for overseas residents \(Article 131C\)](#)

An application for the approval of a retirement annuity contract for an overseas resident under the provisions of Article 131C must be made in writing to the Comptroller by the scheme manager, accompanied by a declaration that the scheme:

- (i) Meets the requirements of Article 131C of the Income Tax (Jersey) Law 1961; and
- (ii) Is in accordance with the relevant sections of these tax guidance notes for pension scheme administrators on the approval of retirement annuity contracts for overseas residents
- (iii) Is effected through a local financial intermediary

An application must include:

- (i) The name and address of the individual to which the contract applies
- (ii) State how the individual qualifies under Article 131C
- (iii) Confirmation of the name and address of the Jersey administrator
- (iv) The scheme manager will comply and administer the scheme in accordance with the relevant sections in Part 19 of the Income Tax (Jersey) Law 1961 and these tax guidance notes for pension scheme administrators
- (v) Confirmation that any changes to the contract will be notified to the Comptroller in writing

The scheme documentation should not be submitted with the application to the Comptroller, but must be available to the Comptroller if requested.

Appendix 2: Investments

These rules apply from 1st January 2015 where the scheme may allow for one or more of the pension holders, or persons connected to the pension holders, to be able to direct, influence or advise the investment decisions made by the scheme. These rules therefore apply in the context of:

- Approved Jersey retirement annuity contracts;
- Approved Jersey retirement trust schemes; and
- Small self-administered approved Jersey occupational pension schemes (SSAS)

When deciding the scheme's investment policy, the administrator/trustee will need to take into account the need to have sufficient liquid funds to pay pension benefits.

If a pension scheme acquires assets on the list of prohibited investments, then the scheme may be subject to withdrawal of approval from the scheme or part of the scheme.

The prohibitions apply to assets that are held directly and indirectly by the scheme.

Direct holdings

Direct holdings apply to interests that are held jointly, alone or in common. It covers where the asset or property is held by the scheme and not for example via a holding company:

- (i) It holds the asset or property or any rights interest or power over; or
- (ii) It has a right to use, or participate in arrangements relating to the use of the property; or
- (iii) It has the benefit of any obligation, restriction or condition affecting the value of the property, interest, right or power in or over the property; or
- (iv) It has an entitlement to receive payments derived directly or indirectly from it

Indirect holdings

In this context an indirect holding is where an asset is held through another 'vehicle', such as via a separate company. For example, if a scheme holds 100% of a share capital of company which itself owns residential property then the company through which the pension scheme owns the property is the 'vehicle'.

A person indirectly holds an interest in a vehicle if the person:

- (i) Holds an interest in a person who holds an interest in the vehicle; or
- (ii) Holds an interest in a person who holds an interest in another person who holds the interest in the vehicle and so on through any length of chain of interests held

It includes the scenario where one person makes a loan to another to purchase property.

If the scheme has a direct or indirect interest in a trust and that trust owns the asset the scheme will be deemed to have an indirect holding in that asset.

The holding of shares in companies directly controlled or indirectly controlled by a scheme member or someone connected to the scheme member are not permitted.

Indirect investments in prohibited assets through genuinely diverse commercial vehicles will not be subject to these restrictions.

Prohibited Investments – Residential Property

A residential property is:-

- (i) A building or structure that is used or is suitable for use as a dwelling;
- (ii) Any related land that is wholly or partly the garden for the building or structure;
- (iii) Any related land that is wholly or partly grounds for the residential property and which is used or intended for use for a purpose connected with the enjoyment of the building;
- (iv) Any building or structure on such related land;
- (v) Any property that provides accommodation rights such as a timeshare. Timeshare accommodation is residential whether it relates to a separate property such as a self-contained flat, or it is in relation to part of a hotel. It covers both rights to use specific accommodation and rights that are attached to specific accommodation that allow use of that or other accommodation

Ground rents that are held in relation to residential property are also included as residential property.

Land which is in the process of development becomes residential property from the point when it first becomes suitable for use as a dwelling.

The restriction applies to all residential property **in any location** (i.e. in Jersey or overseas).

The only exception to the prohibition on residential property is where a residential property forms a small part of a fund value which is being transferred to a Jersey approved scheme from an equivalent scheme established outside Jersey the existing fund holds a small element of non-Jersey residential property, which is integral to a commercial property held in the fund and was purchased in accordance with the rules in the existing jurisdiction. In these circumstances the scheme manager may seek exemption to this rule from the Comptroller.

Property bought by a pension scheme becomes the asset of the scheme. In some cases the property will have to be sold before the pension can be drawn as an income in retirement. *In specie* transfers of assets between the pension holder and the scheme are prohibited, and it follows that a property could not be transferred from the scheme to the pension holder when benefits are due to commence, nor can the property be sold to a connected party.

Prohibited Investments – Tangible Moveable Property

These include things that can be touched or moved. Tangible moveable property includes works of art, jewellery, gems, antiques, wine, boats and yachts, furniture, vehicles including classic and vintage cars, stamp collections, autographs, bank notes and rare books.

An exception is gold and silver bullion which is of investment grade; on condition that the investment is purchased through a regulated bullion company and stored in independent, fully insured allocated storage.

Prohibited Investments – Loans

Loans to pension holders (or any person connected to pension holders) are not permitted.

Loans made to third parties must be genuine investments of the scheme. They must be prudent, secure and on a commercial basis.

Loans to a third party where a corresponding loan is made to the pension holder or a connected party, with the purpose to provide the pension holder, or any person connected to the pension holder, with access to funds from the pension scheme, will not be deemed a genuine investment of the scheme.

Prohibition on Assurance Products

There is a prohibition on investing in insurance contracts such as life insurance, critical illness and permanent health insurance.

Borrowing by pension schemes

Where permitted by the rules of the scheme, the borrowing of an approved Jersey scheme may not exceed 50% of the fund value immediately before the borrowing has taken place. (Note: self-administered retirement annuity contracts are expressly prohibited from borrowing¹¹.) The value of the asset being purchased using the borrowing must therefore not be taken into account when calculating the value of the fund.

All investments must be made in the name of the company and are not permitted to be in the individual's name.

¹¹ See paragraph 6.13 of these Guidance Notes.

Appendix 3: Reporting requirements

Article 131 approved Jersey occupational pension schemes

An approved Jersey occupational pension scheme must notify the Comptroller immediately and in writing of any changes to the rules, constitution, objects or conditions of the scheme after an application for approval has been made. The notification to the Comptroller must be made in writing and confirm that the scheme manager will continue to comply and administer the scheme in accordance with Part 19 of the Income Tax (Jersey) Law 1961, the Income Tax (Jersey occupational pension schemes) (Jersey) Order 2014, and the tax guidance notes for pension scheme administrators. No objection will be made if the notification of the changes are submitted to the Comptroller by the Trustees or legal advisers of the pension scheme.

The amending documentation should not be submitted to Revenue Jersey but should be available on the request of the Comptroller if required

The Income Tax (Jersey Occupational Pension Schemes)(Jersey) Order 2014 can be viewed at the link at the start of this publication

Completing the superannuation funds and pension schemes return (11SF)

The Comptroller will require an annual income tax return to be completed which contains the following information:

- ✓ The name and place of residence of every person in receipt of an income for life from the scheme, and the amount of the income for life paid to each such person and the tax deducted from the payment where applicable;
- ✓ The amount of employee contributions, including interest, refunded to a member who has ceased to be employed by the employer and details of the tax deducted from the payment;
- ✓ The amount of employer contributions, including interest, refunded to the employer including the date that the Comptroller approved the refund to the employer;
- ✓ Each amount transferred from the scheme to another scheme or contract, the details of the scheme or contract to which the transfer was made and the name of the pension holder who elected for the transfer;
- ✓ The funds transferred to an insurance company to purchase an annuity in an individual's own name;
- ✓ The funds transferred into the scheme from another scheme or contract, to include the pension holder's name, the date of the transfer received, the amount of the transfer, the name of the scheme or contract from which it was transferred,

the jurisdiction in which that scheme is established and whether benefits have commenced from the scheme

- ✓ Sums paid in commutation or in lieu of pension on the grounds of triviality, to include the pension holder's details and details of the tax deducted from the payment
- ✓ Very small pension funds (i.e. small pots) commuted to include the pension holder's details and the amount paid;
- ✓ Sums paid in commutation of the fund on the grounds of serious ill health;
- ✓ Death in service payments;
- ✓ Any other lump sum payments;
- ✓ The contributions made by the employer and the employees to the scheme; and
- ✓ The amount and constituent parts of the scheme's income for the year

In the case where a multi-employer scheme has been approved, a schedule must also be provided outlining the contributions paid by each relevant employer.

[Completing the superannuation funds and pension scheme return \(form 11SF\)](#)

The Comptroller may also request the scheme manager to provide a copy of the most recent accounts of the scheme.

The Comptroller may also request such other information and particulars as the Comptroller reasonably requires for the purposes of Part 19 of the Income Tax Law.

Article 131A Occupational pension schemes for overseas employees

Any subsequent changes to the scheme rules, constitution, objects or conditions of the scheme must be notified to the Comptroller in writing. The notification must include confirmation that the changes made meet the requirements of Article 131A and are in accordance with the relevant sections in these guidance notes

The amending documentation should not be submitted to Revenue Jersey but must be available on the request of the Comptroller if required.

[Article 131B Jersey retirement annuity contracts](#)

Accounts of the company, incorporating the annuity fund, must be made up to 31 December each year and must be prepared and signed by an independent qualified accountant, not connected to the annuitant and acceptable to the Comptroller. The annual accounts must be filed as soon as possible following the relevant year end

If employer contributions are paid into a Jersey retirement annuity contract the financial statements must identify separately the employer contributions and member contributions. The notes to the accounts should identify the name of the employer making the employer contributions

Fees can only be deducted if they are a true reflection of costs properly incurred for the administration of the contract

Where multiple contracts have been entered between the annuity company and the individual, a summary reflecting the funds in each contract must be included with the annual accounts.

Where an annuity company holds contracts for an individual and a separate contract for their spouse/civil partner, the annual accounts of the company must include a report of the funds held in each contract.

Full details of all transfers in / out of the contract must be reported immediately to include details of the origin and destination of the funds transferred, the date and amount of the transfer, together with the member's full name and whether benefits have commenced from that scheme

Withdrawals

One off withdrawals which must be reported immediately:

- ✓ any transfers to other schemes (subject to preapproval in certain circumstances);
- ✓ the purchase of a traditional annuity;
- ✓ a qualifying commutation of the fund on the grounds of triviality;

- ✓ a commutation on the grounds of serious ill health; and
- ✓ payments following the death of the primary beneficiary

Any changes to the contract must be agreed in advance by the Comptroller.

Article 131C Retirement annuity contracts for overseas residents

Any subsequent changes to the scheme rules, constitution, objects or conditions of the scheme must be notified to the Comptroller in writing. The notification must include confirmation that the changes made meet the requirements of Article 131C and are in accordance with the relevant sections in these guidance notes.

The amending documentation should not be submitted to Revenue Jersey but must be available on the request of the Comptroller if required.

Article 131CA Jersey retirement trust scheme (“Jersey RTS”)

The trustees are responsible for reporting to the Comptroller as follows and within the set timeframes:

Establishment of sub-trusts

Where a Jersey RTS has been approved involving a master trust, the trustees must immediately notify the Comptroller of the establishment of each underlying sub-trust, using the published Retirement Trust Scheme: Establishment Certificate. A separate certificate must be used for each sub-trust.

[Click here to open the RTS establishment certificate template](#)

Withdrawals

One off withdrawals – i.e.

- ✓ any transfers to other schemes (subject to preapproval in certain circumstances);
- ✓ the purchase of a traditional annuity;
- ✓ a qualifying commutation of the fund on the grounds of triviality;
- ✓ ~~an election to tax free cash~~; *(requirement removed with effect from 12 October 2020)*
- ✓ a commutation on the grounds of serious ill health; and
- ✓ payments following the death of the primary beneficiary

must be reported immediately.

Fees can only be deducted if they are a true reflection of costs properly incurred for the administration of the trust.

Annual accounts

The annual accounts of the RTS must be made up to 31 December each year and submitted to the Comptroller, including the additional information required, within a reasonable timeframe.

Where a RTS has been approved involving a master trust, the following minimum information must also be included, for each sub-trust and returned in an electronic format agreed with the Comptroller:

- (i) Primary beneficiary’s full name and address;
- (ii) Primary beneficiary’s tax reference;
- (iii) Tax status of the sub-trust (i.e. pre-commencement of benefits, post-commencement of benefits or making annuity equivalent payment);
- (iv) Primary beneficiary’s contributions to the scheme in the year of assessment;
- (v) Employer’s contribution to the scheme in the year of assessment to include the amount paid in the year and details of the name of the employer who made the contributions;

- (vi) Payments from the scheme in the year of assessment, separately identified, including:
- ✓ Transfers out, to include details of the scheme to which the transfer was made/from;
 - ✓ The amounts paid by way of tax free cash elections;
 - ✓ The amounts paid by way of annuity equivalent payments;
 - ✓ Trivial commutation elections paid in the year;
 - ✓ Small fund (pot) commutations paid in the year;
 - ✓ Payments made on the grounds of serious ill health;
 - ✓ Payments made on death;
 - ✓ Details of the tax deducted by the trustee from each payment
- (vii) Transfers into the scheme to identify transfers in from Jersey approved schemes and separately transfers in from equivalent schemes from outside Jersey.

The following must be reported as an attachment to the annual accounts in respect of transfers received into the Scheme:-

- ✓ The individual's name
 - ✓ The individual's tax reference number (if known)
 - ✓ The date of the transfer was received
 - ✓ The amount of the transfer
 - ✓ The name of the scheme from which it was transferred
 - ✓ The jurisdiction in which that scheme is established
 - ✓ The status of the fund ie whether benefits have commenced from that scheme
- (viii) A tax schedule to include full details of all payments from which tax has been deducted in the year

[Article 131D and Article 131E – Approved drawdown contracts and approved trusts](#)

The reporting requirements of the Manager and the Trustee are the same.

At the end of each year each must send the Comptroller a statement showing:

- ✓ The funds invested at the beginning of the year or, if the contract commenced during the year the funds invested at the start of the contract;
- ✓ Monies received during the year;
- ✓ All monies paid out during the year;
- ✓ The funds invested at the end of the year, or at the date of death of the individual; and
- ✓ The manner of the investment of the funds

The time allowed to report the information is three months after the end of the year of assessment, or six months after the date of the individual's death.

All monies received by an individual (or by the individual's personal representative) is chargeable to income tax and must be reported in their annual income tax return.

Appendix 4: Triviality

A scheme may allow an individual under Article 131CE(1) to commute the whole of the fund if at the time the election is made the individual meets the following criteria:

- (i) The pension holder has attained the age of 60;
- (ii) The aggregate of the following amounts does not exceed £35,000
 - ✓ The fund value
 - ✓ All lump sums that the pension holder has previously commuted either under the current or previous legislation relating to trivial pension funds

Example 1: Individual has three pension schemes with a fund value of:

- ✓ £5,000
- ✓ £10,000
- ✓ £3,000

Maximum commutation possible under Article 131CE(1) is £35,000, so in such a scenario the individual can commute all three schemes. Under Article 131L 30% of the each commutation will be tax free (i.e. £5,400 will be tax free), while the remaining £12,600 will be subject to tax at 10% (that tax be charged on the scheme manager and deducted before the resulting lump sums are paid).

Note: this example assumes the individual has not made any previous commutations under Article 131CE(1) (or the preceding legislation); if s/he has then that amount would need to be taken into account when considering whether the £35,000 limit has been exceeded.

Example 2: Individual has three pension schemes with a fund value of:

- ✓ £16,000
- ✓ £11,000
- ✓ £10,000

Maximum commutation possible under Article 131CE(1) is £35,000 so in such a scenario the individual cannot commute all three schemes.

Any two of the schemes can be commuted under Article 131CE(1) – what the individual cannot do is commute (say) the first two schemes and then take a balance from the third scheme to make the commutation up to £35,000 (i.e. there can be no partial commutation). For the avoidance of doubt, the individual would still be permitted to commute 30% of the fund value of the third scheme under Art 131CF.

Note: this example assumes the individual has not made any previous commutations under Article 131CE(1) (or the preceding legislation); if s/he has

then that amount would need to be taken into account when considering whether the £35,000 limit has been exceeded.

Small Pots Commutation

A scheme may allow an individual, under Article 131CE(3), to commute the whole of the fund value if, at the time of the election is made-

- (a) The value of the fund to be commuted does not exceed £19,000; and
- (b) The aggregate of all the lump sums that the pension holder has previously commuted under Article 131CE(3) does not exceed £50,000.

It must be noted that commutations of fund values commuted under the small pots provisions are treated as income of the member, as income paid from an approved Jersey scheme (see section 14.14). These must be declared by the member on their annual tax return.

Appendix 5: 30% tax free commutation

Article 131CF is the Article under which approved Jersey schemes are permitted to allow pension holders to commute up to 30% of their pension fund. A commutation of a pension fund under Article 131CF is tax free for the recipient under the exemption outlined in Article 131L(3)(c).

The legislation contains a calculation which seeks to allow pension holders to elect to commute 30% of their entire pension savings in a tax free lump sum, irrespective of when pension contributions were made and whether previous commutations have been taken under Article 131CF. This is achieved through the calculation of what is known as the pension holder's "net fund value" (Article 131CF(2)).

The lump sum must be in cash and cannot be made as an in-specie transfer

The calculation process under Article 131CF(2) differs depending on whether it is:

- (i) The first election for a commutation under Article 131CF; or
- (ii) A subsequent election for a commutation under Article 131CF

Calculation process for first commutation under Article 131CF¹²

In this situation the calculation process is as follows:

Step 1: identify the "fund value" on the day that the election under Article 131CF is made – the term "fund value" is defined in Article 130B¹³

Step 2: multiply the identified "fund value" by 30%

This calculates the maximum amount that the pension holder can commute at the time of the first commutation under Article 131CF.

¹² Please note, for the purpose of this section of the guidance notes it is assumed that no pension fund transfer under Article 131CG has been received by the pension scheme involved in the commutation, pension fund transfers are considered further below

¹³ For the purposes of this Part 'fund value' means, at any time –

- (a) in relation to a member of an occupational pension scheme that is a defined contribution scheme, or, following the death of the member, his or her estate or any person entitled to a payment from the scheme, as permitted by Article 131(9), the aggregate, at that time, of the amounts accumulated in the scheme for the benefit of the member or of his or her estate or any person, as the case requires;
- (b) in relation to a member of an occupational pension scheme that is a defined benefit scheme or, following the death of the member, his or her estate or any person entitled to a payment from the scheme, as permitted by Article 131(9), the capital value of the benefits to which the member, or his or her estate or any person, as the case requires, is entitled at that time, calculated by an actuary;
- (c) in relation to an individual who has made a retirement annuity contract or the primary beneficiary of a retirement trust scheme or, following the death of the individual or primary beneficiary, his or her estate or any person entitled to a payment from the contract or scheme, as permitted by Article 131B(7) or 131CA(6), the fund accumulated under the contract or trust at that time.

Example 3: defined contribution scheme, first election for commutation

Mr X reaches the age of 50 and has £100,000 in his RTS. He wishes to take the maximum lump sum available immediately.

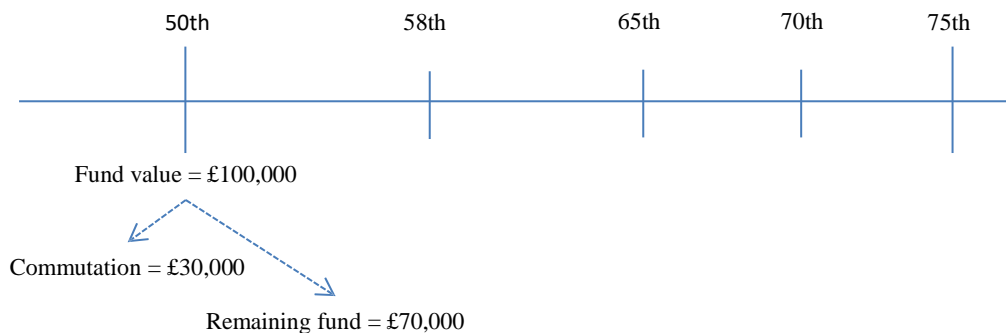
Under Article 131CF(1) the RTS is permitted to allow Mr X to commute 30% of the “net fund value”.

Step 1: the “fund value” on the date of the election = £100,000

Step 2: multiply £100,000 by 30% = £30,000

Therefore the RTS is permitted to allow Mr X to commute up to £30,000 (£100,000 x 30%) from his pension scheme. The amount commuted will be tax free for Mr X under Article 131L(3)(c).

The remaining pension fund of £70,000, and any subsequent growth in that remaining pension fund, can only be used to pay Mr X an annuity equivalent.



Calculation process for second (and subsequent) commutations under Article 131CF

In this situation the calculation process is as follows:

Step 1: identify the “fund value” on the day that the election under Article 131CF is made

Step 2: identify each amount (i.e. there could be multiple amounts identified) previously commuted either under Article 131CF or under any of the similar commutation provisions that applied prior to 1 January 2015

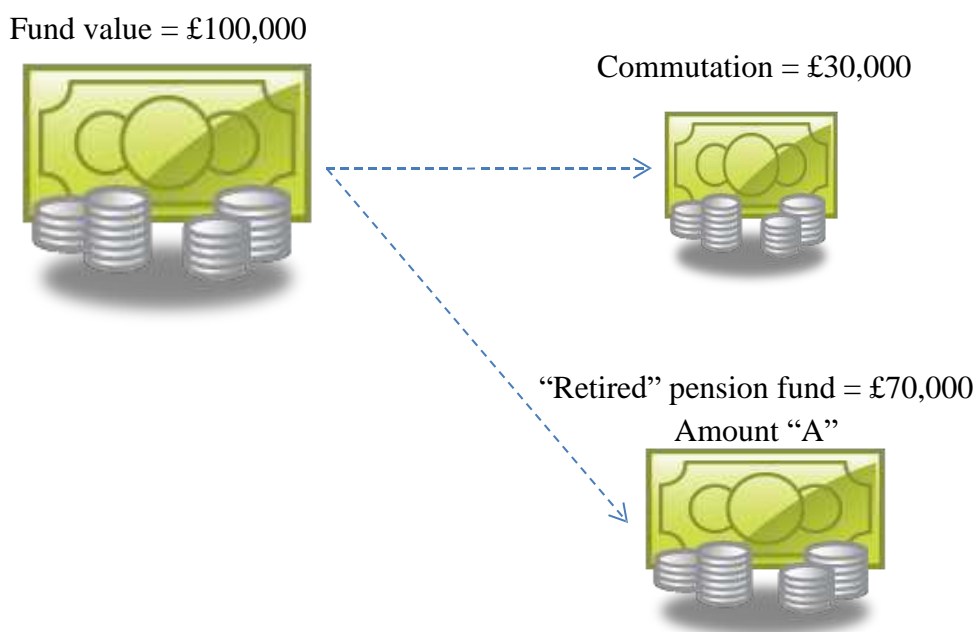
Step 3: take each amount identified in Step 2, firstly multiply each amount by 7 and then divide the answer by 3 – in Article 131CF(2) this is known as amount “A”

The purpose of Step 3 is to identify the amount of the pension fund that would have had to be “retired” in order to pay the commutation identified in Step 2

Example 4

An amount of £30,000 is identified at Step 2. £30,000 is 30% of £100,000 (i.e. a pension holder would need a fund value of £100,000¹⁴ in order for a 30% commutation to be £30,000). After the £30,000 has been commuted, the remaining fund value is £70,000 (£100,000 - £30,000). This is equal to $(£30,000 \times 7)/3$.

This remaining fund value (amount “A”) cannot be used to pay any further commutations and hence has been “retired”. This “retired” amount, and any subsequent growth in it, can only be used to pay an income for life to the pension holder.



Step 4: identify how much of the changes in the fund value between the date of the original election and the current election is attributable to amount “A”, please note the change in the fund value can be either positive or negative – in Article 131CF(2) this is known as amount “B”

Step 5: subtract from the “fund value” the amounts of “A” and “B” (if there are multiple amounts of “A” and “B”, subtract each of them) to calculate the “net fund value”

Step 6: multiply the remaining “net fund value” by 30%

Example 5: continuation of example 3, second election for commutation, no additional contributions

¹⁴ Note: the “fund value” of the pension scheme could be greater than £100,000, this is the amount required, at 30%, to pay a commutation of £100,000. If the “fund value” of the pension scheme was greater than £100,000, the amount in excess would be treated as “unretired”.

Post the age of 50 Mr X decides to make no further contributions to his RTS and does not commence the payment of an annuity equivalent. Over the next 8 years the funds remaining in his RTS grow by 20%.

As Mr X commuted the maximum £30,000 available on his 50th birthday, the pension fund remaining in the scheme immediately following the first commutation would have been £70,000. Therefore by Mr X's 58th birthday the remaining pension fund would have grown to £84,000 (£70,000 x 20%).

Step 1: the "fund value" on Mr X's 58th birthday = £84,000

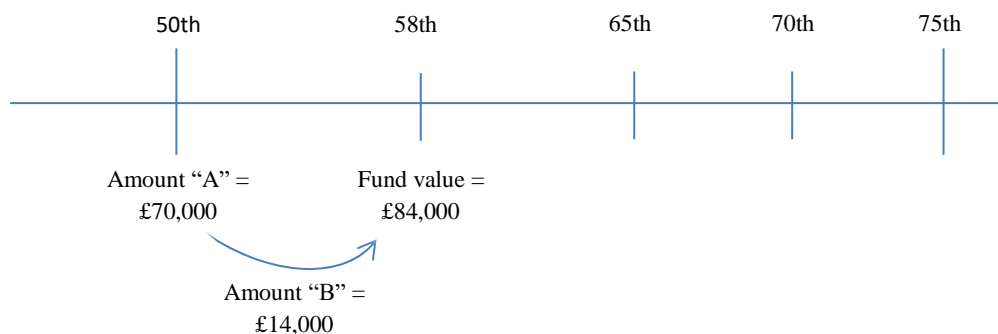
Step 2: £30,000 has been previously commuted under Article 131CF (on Mr X's 50th birthday)

Step 3: $(£30,000 \times 7) / 3 = £70,000$ – this is amount "A"

Step 4: all of the subsequent growth in the fund value between Mr X's 50th and 58th birthday is attributable to "A" (there being no contributions to the pension scheme following Mr X's 50th birthday and no "unretired" fund) and hence the value of "B" is £14,000 (£84,000 - £70,000).

Step 5: £84,000 (current "fund value") - £70,000 (amount "A") - £14,000 (amount "B") = Nil

Step 6: therefore Mr X cannot make a further commutation from his RTS on his 58th birthday; he has already taken the maximum commutation permitted under Article 131CF



Example 6: continuation of example 5, third election for commutation, additional contributions

Post his 58th birthday Mr X decides to make some further contribution to his RTS. Between his 58th birthday and his 65th birthday Mr X contributes a further £15,000.

The growth achieved in the pre-existing £84,000 increases the value of that part of the fund to £100,800. While the growth achieved in the £15,000 of further contributions takes the value of that part of the fund to £16,500.

Step 1: the "fund value" on Mr X's 65th birthday is £117,300 (£100,800 + £16,500)

Step 2: £30,000 has been previously commuted under Article 131CF (on Mr X's 50th birthday)

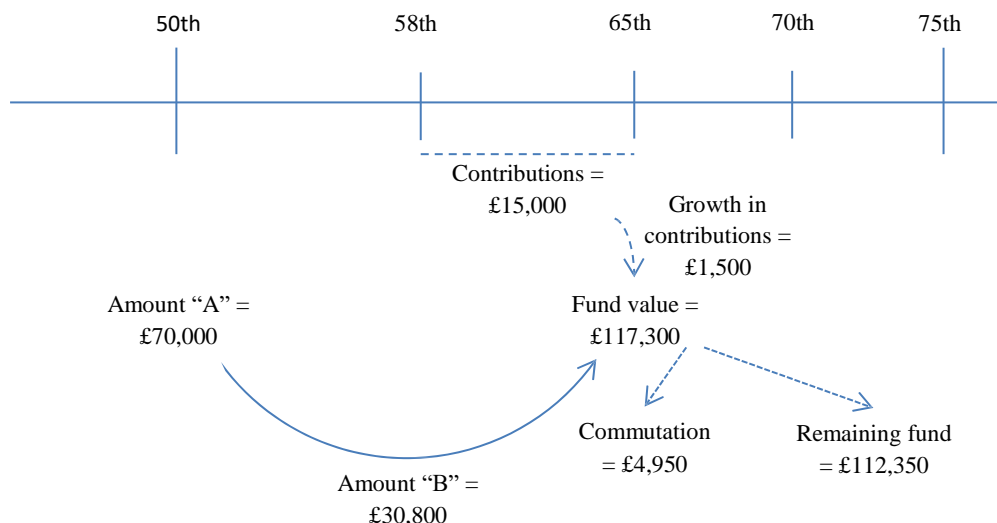
Step 3: $(£30,000 \times 7) / 3 = £70,000$ – this is amount "A"

Step 4: the subsequent growth in this part of the fund between Mr X's 50th and 65th birthday is attributable to "A" and hence the value of "B" is £30,800 (£100,800 - £70,000).

Step 5: $£117,300$ (current "fund value") - $£70,000$ (amount "A") - $£30,800$ (amount "B") = $£16,500$ ¹⁵

Step 6: multiply £16,500 by 30% = £4,950

Therefore Mr X can make a further commutation from his RTS on his 65th birthday of £4,950; this will be tax free under Article 131L.



Example 7: continuation of example 6, fourth election for commutation, additional contributions

¹⁵ Note: this is equal to the value of the contributions made post Mr X's 58th birthday plus the growth in those contributions.

Assuming Mr X takes the full commutation available on his 65th birthday, Mr X's fund value on his 65th birthday was £112,350 (£117,300 - £4,950).

Post his 65th birthday Mr X decides to make some further contribution to his RTS. Between his 65th birthday and his 70th birthday Mr X contributes a further £10,000.

The growth achieved in the existing £112,350 increases the value of that part of the fund to £123,585. While the growth achieved in the £10,000 of further contributions takes the value of that part of the fund to £10,500.

Step 1: the "fund value" on Mr X's 70th birthday is £134,085 (£123,585 + £10,500)

Step 2: £30,000 has been previously commuted under Article 131CF on Mr X's 50th birthday and £4,950 has been previously commuted under Article 131CF on Mr X's 65th birthday

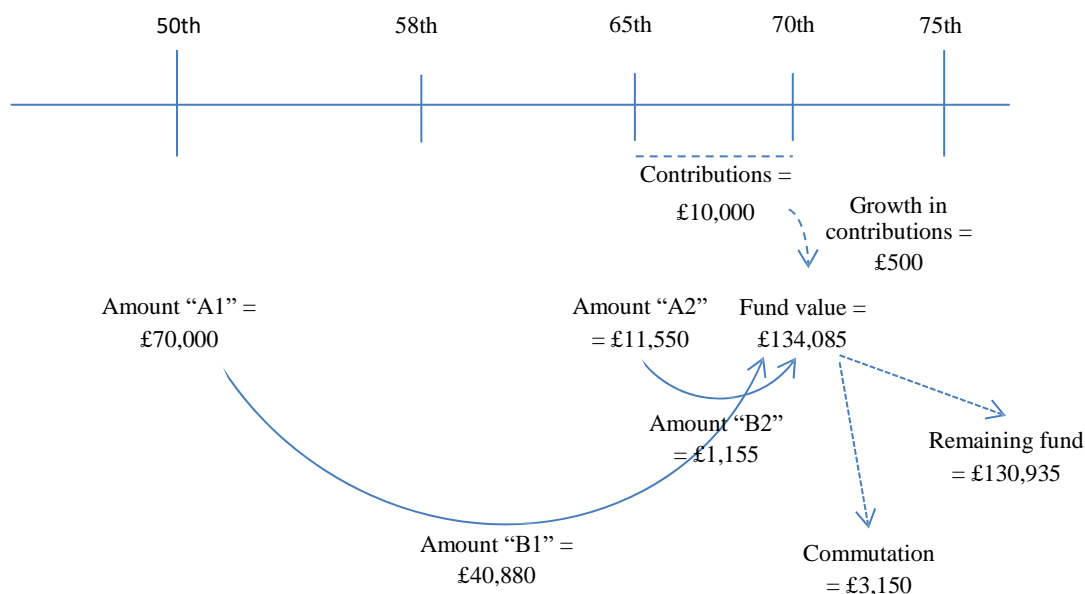
Step 3: therefore there are two values for "A", "A1" from the commutation which took place on Mr X's 50th birthday $(£30,000 \times 7)/3 = £70,000$; and "A2" from the commutation which took place on Mr X's 65th birthday $(£4,950 \times 7)/3 = £11,550$

Step 4: the subsequent growth attributable to "A1" between Mr X's 50th and 70th birthdays, and hence the value of "B1", is £40,800. The subsequent growth attributable to "A2" between Mr X's 65th and 70th birthdays, and hence the value of "B2", is £1,155.

Step 5: £134,085 ("fund value") - £70,000 (amount "A1") - £40,880 (amount "B1") - £11,550 (amount "A2") - £1,155 (amount "B2") = £10,500

Step 6: multiply £10,500 by 30% = £3,150

Therefore Mr X can elect for a further commutation from his RTS on his 70th birthday of £3,150; this will be tax free under Article 131L.



Application in context of defined benefit schemes

The rules outlined in Article 131CF apply equally to pension schemes which are structured as defined benefit schemes¹⁶.

Calculation process for first commutation under Article 131CF¹⁷

Although there is no restriction in the tax rules on the number of commutations that may be taken from defined benefit schemes, it is anticipated that the vast majority of such schemes will only allow pension holders one commutation under Article 131CF.

In this situation the calculation process is as follows:

Step 1: identify the "fund value" on the day that the election under Article 131CF is made – the term "fund value" in this context is defined in Article 130B(1)(b) and requires the scheme manager to take appropriate advice from an actuary

Step 2: multiply the identified "fund value" by 30%

This calculates the maximum amount that the pension holder can commute at the time of the commutation under Article 131CF.

¹⁶ Defined in Article 130B(2)

¹⁷ Please note, for the purpose of this section of the guidance notes it is assumed that no pension fund transfer under Article 131CG has been received by the pension scheme involved in the commutation, pension fund transfers are considered further below

Calculation process for second (and subsequent) commutations under Article 131CF

If a defined benefit scheme does allow pension holders subsequent commutations under Article 131CF, the scheme manager should seek appropriate actuarial advice to allow them to calculate amount “B” (i.e. the change in the “fund value” between the date of the original election and the current election that is attributable to amount “A”) and then contact Revenue Jersey to discuss and agree the proposed approach.

[Consideration is being given to allow pension holders who have a DB and DC scheme with the same employer the ability to combine their schemes for the purposes of Article 131CF; allowing them to take the lump sum payment wholly from the DC scheme and leaving more funds in the DB scheme.]

Fund transfers

Without specific rules, the limits on the amount that can be commuted under Article 131CF could be circumvented through fund transfers. Therefore where a pension scheme has received a transfer in under Article 131CG, an adjustment to the “net fund value” may be required.

If no tax free commutation has been taken from the scheme from which the transfer has been made, no adjustment to the “net fund value” is required.

Example [x]: pension scheme receiving a transfer from another pension scheme from which no commutation has occurred

Mr X has two pension schemes, a RTS and a retirement annuity contract. Before taking a commutation under Article 131CF, Mr X decides to consolidate his pension savings, transferring the funds in his retirement annuity contract into his RTS.

Because no commutation has previously been taken from the retirement annuity contract, no adjustment is required to the “net fund value” in the RTS for the transfer in.

Where a pension scheme receives a fund transfer from another scheme and a commutation has been taken from that scheme, an adjustment to the “net fund value” in the receiving pension scheme is required. The “net fund value” has to be reduced by:

- (a) the amount transferred in from the other scheme; and
- (b) the growth in the fund that is attributable to the amount transferred in

For the avoidance of doubt, it is irrelevant whether the maximum amount possible was previously commuted; it is the fact that a commutation has taken place which means that an adjustment has to be made for the whole amount transferred.

However in respect of a transfer from another approved Jersey scheme, where the receiving scheme manager has received full details of the previous elections from the previous scheme manager and is satisfied of their accuracy, then an adjustment can be made to take the

previous elections into account when calculation subsequent elections, rather than discounting the whole of the funds transferred in being discounted from the calculation, where the full 30% election had not previously been made. Full details must be obtained of the dates and amounts of any previous elections. Any elections made based on this paragraph must notify the Comptroller in writing of the details before the payment is made.

Calculation process

In this situation the calculation process is as follows:

Step 1: identify the “fund value” on the day that the election under Article 131CF is made

Step 2: identify each “relevant amount previously transferred into the scheme” – this term is defined in Article 131CF(4) and includes any fund transfer from a pension scheme from which a tax free commutation has been taken – this amount is known as amount “C” in Article 131CF(2)

Step 3: identify how much of the changes in the fund value between the date of the transfer and the election is attributable to amount “C”, please note this change in the fund value can be either positive or negative – in Article 131CF(2) this is known as amount “D”

Step 4: subtract from the “fund value” the amounts of “C” and “D” (if there are multiple amounts of “C” and “D”, subtract each of them)

Step 5: Multiply the remaining “net fund value” by 30%

Example 8: transfer from scheme from which a commutation under Article 131CF has already taken place

Mr X has two pension schemes, a RTS and a retirement annuity contract. On his 50th birthday the “fund value” of the RTS is £100,000 and the retirement annuity contract is £50,000.

Mr X decides to take the maximum possible commutation under Article 131CF from the retirement annuity contract of £15,000. He then decides to consolidate his pension savings by transferring the remaining amount (£35,000) into his RTS.

He then decides to immediately commute the maximum amount possible from his RTS. The maximum commutation possible is calculated as follows:

Step 1: identify the “fund value” on the day that the election is made = £135,000 (£100,000 + £35,000)

Step 2: identify each “relevant amount previously transferred into the scheme” = £35,000 (this is amount “C”)

Step 3: identify how much of the change in the fund value between the date of the transfer and the election is attributable to amount "C" = there has been no change in the fund value since the date of the transfer and hence the value of "D" is nil

Step 4: subtract from the "fund value" the amounts of "C" and "D" = £100,000 (£135,000 - £35,000)

Step 5: multiply the remaining "net fund value" by 30% = £30,000

Therefore the maximum possible commutation that Mr X can take from his RTS under Article 131CF is £30,000.

Note, when calculating the amount that can be commuted from the receiving scheme, it is irrelevant whether the maximum amount was commuted in the transferring scheme. This is best explained through a small amendment to example 8:

Example 9: transfer from scheme from which a commutation under Article 131CF has taken place

Mr X has two pension schemes, a RTS and a retirement annuity contract. On his 50th birthday the "fund value" of the RTS is £100,000 and the retirement annuity contract is £50,000.

Mr X decides to take half of the maximum possible commutation under Article 131CF from the retirement annuity contract, a commutation of £7,500. He then decides to consolidate his pension savings by transferring the remaining amount (£42,500) into his RTS.

He then decides to immediately commute the maximum amount possible from his RTS. The maximum commutation possible is calculated as follows:

Step 1: identify the "fund value" on the day that the election is made = £142,500 (£100,000 + £42,500)

Step 2: identify each "relevant amount previously transferred into the scheme" = £42,500 (this is amount "C")

Step 3: identify how much of the changes in the fund value between the date of the fund transfer and the election is attributable to amount "C" = there has been no change in the fund value since the date of the transfer and hence the value of "D" is nil

Step 4: subtract from the fund value the amounts of "C" and "D" = £100,000 (£142,500 - £42,500)

Step 5: multiply the remaining "net fund value" by 30% = £30,000

Therefore Mr X the maximum possible commutation that Mr X can take from his RTS under Article 131CF is £30,000. This is the same as in example 8, but overall Mr X has had taken a smaller amount as a commutation when looking across the two schemes.

Non-Jersey schemes

Under Article 131CG transfers into Jersey schemes can be made from “equivalent schemes” located outside of Jersey. The same adjustment to “net fund value” applies in the context of transfers in from equivalent schemes. Wherever part of the fund from which the transfer has taken place has been commuted tax free, an adjustment for the amount transferred in is required.

Example 10: pension scheme receiving a transfer from a non-Jersey approved scheme from which a tax free commutation has taken place

Mr X has two pension schemes, a Jersey RTS and a Guernsey retirement annuity contract. On his 50th birthday the fund value of the Jersey RTS is £100,000 and the Guernsey retirement annuity contract is £50,000.

Mr X decides to take a tax free commutation from his Guernsey retirement annuity contract of £10,000 (assuming that this is permitted under the applicable rules in Guernsey). He then decides to consolidate his pension savings by transferring the remaining amount (£40,000) into his Jersey RTS.

He then decides to immediately commute the maximum amount possible from his Jersey RTS. The maximum commutation possible is calculated as follows:

Step 1: identify the “fund value” on the day that the election is made = £140,000 (£100,000 + £40,000)

Step 2: identify each “relevant amount previously transferred into the scheme” = £40,000 (this amount “C”)

Step 3: identify how much of the change in the “fund value” between the date of the fund transfer and the election is attributable to amount “C” = there has been no change in the “fund value” since the date of the transfer and hence the value of “D” is nil

Step 4: subtract from the “fund value” the amounts of “C” and “D” = £100,000 (£140,000 - £40,000)

Step 5: multiply the remaining “net fund value” by 30% = £30,000

Therefore the maximum possible commutation that Mr X can take from his Jersey RTS is £30,000.

Transfers out

When there is a transfer out from a pension scheme, this will be reflected in a reduction of the “fund value” and hence no further adjustment is required in respect of transfers out of a pension scheme.

“Increase/decrease in fund value that is attributable to...”

In calculating amounts “B” and “D” it is necessary to identify the increase or decrease in “fund value” that is attributable to amounts “A” or “B” as appropriate. The Income Tax Law does not prescribe how this increase/decrease should be identified. Therefore the Comptroller will accept any reasonable approach to the identification of this increase or decrease.

For example, on each commutation under Article 131CF the scheme manager can calculate the amount that needs to be “retired” as a consequence of the commutation¹⁸, the scheme manager can then separately identify the change in the value of this “retired” fund. This approach could be particularly useful when different investment strategies are applied to different parts of the pension fund. For the avoidance of doubt, it is not necessary to formally segment the pension fund in order to adopt this approach; it will be sufficient to maintain records that show the change in the value of that part of the fund.

¹⁸ i.e. amount “A” - the amount from which no further commutations under Article 131CF can be paid – see above

Appendix 6: Annuity equivalent

Introduction

The rules applying to approved Jersey retirement trust schemes (“Jersey RTS”) provide for the trustees to pay an annuity equivalent directly from the scheme, rather than a traditional annuity contract, purchased from an insurance company.

Qualification

Members of a Jersey RTS, who have attained the minimum pension age, as defined under Article 131CB of the Income Tax Law, may receive pension income directly from their scheme. The amount and frequency of this pension income has been determined with reference to the UK Government Actuary’s Department (“GAD”) published tables.

Method of calculation

The following 7 stage calculation is to be used by trustees to determine the basis calculation for the maximum amount of annuity equivalent that the trustees can pay annually, from the primary beneficiary’s fund.

Step 1

Establish the date of election, which is the date that the primary beneficiary or, as the case may be, the secondary beneficiary decides that the annuity equivalent calculation payments are to commence. This is referred to as the “point of calculation”.

Determine the age, in complete years, of the primary (or secondary) beneficiary, this is the age attained at the end of the calendar month prior to the point of calculation.

Step 2

Obtain the gross redemption yield on UK Gilts (15 year) from the FTSE UK Gilts Indices, as published in the Financial Times (companies and markets section) for the last working day of the calendar month before the calendar month in which the point of calculation falls. Should the 15 year UK Gilts gross redemption yield be below 2%, the trustees can opt to apply the 2% rate or apply the prevailing rate if lower

If the dependant has not obtained the age of 23 the gross redemption yield on the 5 year UK Gilts from the FTSE UK Gilts Indices should be used.

Step 3

Round this yield down to the nearest 0.25%. For example, 5.34% is rounded down to 5.25%. If the yield obtained is an exact multiple of 0.25% then no rounding is required.

Step 4

Refer to the GAD table published on the UK government’s website:

[Click here to go to the drawdown pension tables on the UK government website](#)

Note: the 2011 GAD tables must be used as the basis of calculation.

Table 1 is to be used if the member or dependant is aged 23 or over

Table 2 is to be used if the dependant is aged under 23

Step 5

Determine the fund value, as at the end of the most recent calendar month and after any tax free cash has been commuted.

Step 6

Determine the basis amount of income withdrawal per £1,000 of fund value from table 1 by extracting the relevant figure applicable to the member's age (step 1) and yield (steps 2 and 3). This is known as the Annuity Equivalent Factor ("AEF").

Step 7

The basis of the calculation of the income withdrawal is then calculated as:

Valuation (step 5) / £1,000 multiplied by the AEF (step 6)

With effect from 21 May 2014 the maximum annual permissible income withdrawal is calculated on the basis calculation x 150%

Members attaining the age of 75

From the age of 75 an annuity equivalent must be paid to the primary beneficiary. The minimum and maximum levels of income to be taken are based on a percentage of the basis calculation in accordance with steps 1 to 7 above.

In step 1 the age is based on the actual age in the GAD tables

The minimum level of annual income withdrawal is 55% of the basis calculation

The maximum level of annual income withdrawal is 150% of the basis calculation

Also it is a requirement from the age of 75 that the annuity equivalent calculation is subject to an annual review on 1 January of each subsequent year

Responsibilities

The trustees of the Jersey RTS are responsible for calculating the individual's maximum annuity equivalent. The Comptroller may request evidence of the calculations to verify that the payments are being paid in accordance with this Appendix.

In order to ensure that the annuity equivalent remains appropriate for the primary beneficiary or their dependant throughout their life, the trustees must recalculate the maximum rate, as prescribed, no later than the beginning of the 4th tax year following the date of the prior calculation this allows a RTS Trustee to re-calculate the annuity equivalent for its members as at the 31st December of the 3rd tax year following establishment and every 3rd year end

thereafter. The trustees must then adjust the income payments to the annuitant, if appropriate. The maximum permissible amount to be based on January to December tax year.

If a subsequent tax free cash election is made the maximum AE rate must be recalculated immediately to reflect the new fund value.

If a subsequent transfer is received into an existing fund value (including where more than one fund values are amalgamated) the maximum AE rate must be recalculated immediately to reflect the new fund value.

On the death of the primary beneficiary and where the scheme provides for the payment of an annuity equivalent to a secondary beneficiary the annuity equivalent calculation must be re-calculated within six months of the primary beneficiary's death.

On the death of the primary beneficiary the calculation for AE for the secondary beneficiary must use that secondary beneficiary's age in the calculation of the new AE. For the avoidance of doubt an AE for a secondary beneficiary can commence prior to the age of 50.

Appendix 7: RTS Establishment Certificate

RETIREMENT TRUST SCHEME - ESTABLISHMENT CERTIFICATE

Name of Trust:

Trust Reference: (as approved):

1. Full name of primary beneficiary:

2. Full postal address (do not abbreviate)

.....

.....

..... Postcode:

3. Income Tax reference number of primary beneficiary:

4. Date of birth:

DECLARATION:

By signing this certificate as Trustee or Administrator I am confirming that the above details of the primary beneficiary are correct.

Trustee or Administrator's signature:

Print name:

Date:

Appendix 8: Definitions

Approved drawdown contract means a contract approved under Article 131D.

Approved Jersey occupational pension scheme means a scheme approved under Article 131.

Approved Jersey retirement annuity contract means a contract approved under Article 131B.

Approved Jersey retirement trust scheme means a scheme approved under Article 131CA.

Approved Jersey scheme means:

- An approved Jersey occupational pension scheme
- An approved Jersey retirement annuity contract
- An approved Jersey retirement trust scheme

Approved trust means a trust approved under Article 131E.

Commencement of benefits means in relation to a pension a reference to whichever is the earlier of:

- (i) an election by the pension holder to receive a lump sum by way of commutation of part of the fund value,
- (ii) the day from which income is paid to the pension holder, whether or not the pension holder actually receives a payment on that day
- (iii) the pension holder has attained the age of 75

Defined benefit scheme means a scheme where the scheme rules define the benefit independently of the contributions payable and benefits are not directly related to the investments of the scheme

Defined contribution scheme means a scheme where the benefits of a member under the scheme are determined by reference to contributions paid into the scheme in respect of that member, usually increased by an amount based on profits and gains arising from those contributions.

Dependant - A person is a dependant of a pension holder if s/he was married to or the civil partner of, the pension holder at the date of the pension holder's death; or if the rules of an occupational pension scheme, retirement annuity contract or retirement trust scheme so provide, on the date when the pension holder first became entitled to a pension under the scheme or contract. A child of a pension holder is a dependant of the pension holder if the child has not attained the age of 23; or has attained that age and, in the opinion of the scheme

manager, was at the date of the pension holder's death dependant on the pension holder because of physical or mental impairment.

A person who was not married to, or a civil partner of, a pension holder at the date of the pension holder's death and is not a child of the pension holder is a dependent of the pension holder if, in the opinion of the scheme manager, at the date of the pension holder's death the person was financially dependant on the pension holder or the person's financial relationship with the pension holder was one of mutual dependence or the person was dependant on the pension holder because of physical or mental impairment.

"Former Benefit Limit Rules" means the limits imposed on the maximum pension income that a scheme could pay as at 31 December 2014 without prejudicing approval of that scheme under Article 131 as more specifically set out in the paragraphs numbered 14, 15, 16, 17, 19, 22, 30, 31, 32, 33, 42 and 46 of the "Occupational superannuation funds and pension schemes practice notes" which was published by the Comptroller and in effect on 31 December 2014.

[Pre 2015 Occupational scheme benefit limit rules](#)

Fund value means, at any time in respect of –

(i) An occupational pension scheme that is a defined contribution scheme, or, following the death of the member, his or her estate or any person entitled to a payment from the scheme, as permitted by Article 131(9)¹⁹, the aggregate, at that time, of the amounts accumulated in the scheme for the benefit of the member or of his or her estate or any person as the case requires. Additionally, the capital value of the benefits to which the member, or his or her estate or any person, as the case requires, is entitled at that time, calculated by an actuary;²⁰

A retirement annuity contract or the primary beneficiary of a Retirement Trust Scheme or, following the death of the individual or primary beneficiary, his or her estate or any person entitled to a payment from the contract or scheme, as permitted by Article 131B(7)²¹ or 131CA(6)²², the fund accumulated under the contract or trust at that time.

¹⁹ an income for life to one or more of the member's dependants; or a lump sum to the member's estate or to any person

²⁰ actuary" means a person who is or a body of persons each of whom is a Fellow of the Institute and Faculty of Actuaries;

²¹ an annuity to one or more of the individual's dependants, for the life of the dependant; or a lump sum commuting the whole of the fund value, to be paid to the individual's estate or to any person.

²² for the payment of a sum by way of annuity equivalent to one or more secondary beneficiaries; or for the payment of a lump sum commuting the whole of the fund value to the primary beneficiary's estate or to any person.

Ill health - A pension holder is in ill health if a medical practitioner has, in writing, provided evidence to the scheme manager that the pension holder is, and will continue to be, incapable of carrying on his or her occupation because of physical or mental impairment, and the pension holder has in fact ceased to carry on his or her occupation.

Pension holder means – in relation to an approved Jersey occupational pension scheme, a member of the scheme, as described in Article 131;

- in relation to an approved Jersey retirement annuity contract, the individual by whom the contract was made;
- in relation to an approved Jersey retirement trust scheme, the primary beneficiary;

Pension income means –in relation to an occupational pension scheme, an income paid for the life of the recipient;

- in relation to a retirement annuity contract, any annuity payable under the contract;
- in relation to a retirement trust scheme, sums payable under the scheme by way of annuity equivalent;

Pensionable age has the same meaning as in the Social Security (Jersey) Law 1974

Prescribed means prescribed by Order of the Minister;

Primary beneficiary, in relation to a retirement trust scheme means the individual for whose benefit the trust is primarily established

Relevant earnings - means, in relation to an individual, any of his or her income assessed to tax being income arising in respect of emoluments (these do not include pension income) from an office or employment held by the individual; or income which is charged under Schedule D and is immediately derived by the individual from the carrying on or exercise by the individual of his or her trade, profession or vocation, either as an individual or, in the case of a partnership, as a partner personally acting in the partnership. To be clear a spouse B's relevant earnings shall not be treated as spouse A's relevant earnings, notwithstanding that spouse B's income chargeable to tax is treated as spouse A' income; nor are civil partner B's relevant earnings shall not be treated as the civil partner A's relevant earnings, notwithstanding that civil partner B's income chargeable to tax is treated as civil partner A's income.

Scheme manager means – in the case of an occupational pension scheme that is established as a trust, or in the case of a retirement trust scheme, the trustees;

- in the case of an occupational pension scheme that is established otherwise than as a trust, the person having management of the scheme;
- in the case of a retirement annuity contract, the person having control of the fund;

✓ in the case of a drawdown contract, the manager;

Secondary beneficiary in relation to a retirement trust scheme means a dependant of the primary beneficiary

Serious ill health - A pension holder is in serious ill health if a medical practitioner has, in writing, provided evidence to the scheme manager that the pension holder is expected to live for less than one year.

Appendix 9 Guidance on the level of abatement under Article131P

Determining issues and principles

The purpose of any compliance regime is to ensure that those who break the rules are not better off than those who stay within them. This principle underpins the way in which we intend penalties to be applied to those who breach pension scheme rules. Because these schemes typically attract certain tax advantages the penalties regime is intended to be punitive. Starting from the statutory value of the penalty, being 50% of the value of the fund involved – an abatement may be applied on a sliding scale from 0% for the most heinous breach to 100% for the most insignificant, innocent breach.

Determining the final level of the abatement, and hence the value of the penalty, is a matter of judgement, taking into account all the factors involved in the breach. Such factors include (but are not limited to):

- The degree to which the behaviour was deliberate or reckless, with repeat offences carrying a higher penalty
- The nature and extent of the potential or actual benefit to the individual as a direct consequence of the breach
- The actual or potential loss to the Treasurer
- Whether the breach was voluntarily disclosed or not
- The extent of cooperation with Revenue Jersey in dealing with the consequences of the breach
- Whether the breach has been quickly remedied
- The size of the pension fund and the proportion of the funds involved in the breach, as well as the absolute value of the amount involved
- Whether or not the breach was caused by an individual who has detailed pension knowledge

Examples of breaches and level of penalty that might be applied

Low net penalty	Medium net penalty	High net penalty
Minor investment in prohibited tangible moveable assets or unintended use of assets for private benefit	Partial unapproved withdrawals (but not for personal use)	Deliberate withdrawal of funds for personal use or enjoyment of funds in kind
Minor breach incurred in year or voluntarily (and/ or expeditiously) rectified	Significant funds used for investment in non-approved direct or indirect holding	Total unpermitted withdrawal of funds
	Accounts not submitted for 2 years	Accounts not submitted for 3 years or more
Minor incorrect calculations e.g. of commutations or valuations	Significant irregularities in administration and /or accounting	Deliberate intention to present false accounting
No pre-clearance sought of qualifying transfer to overseas scheme	In specie transfer of assets between individual and pension vehicle	Unapproved and unpermitted transfer of wholesale pension value / fund overseas

Appendix 10 Related issues

Group life insurance schemes

A group life insurance scheme is not a scheme to which Article 131 of the Income Tax Law applies because such a scheme is not a superannuation fund or pension scheme. Therefore, no approval can be given to group life insurance schemes under Article 131.

However, if the death benefits payable under such a scheme do not exceed five times the emoluments received by the deceased employee during the year immediately preceding his or her death then the Comptroller may deem the scheme to be “satisfactory for income tax purposes”.

In this case, group life insurance scheme premiums paid by the employer will be eligible for income tax relief as an expense of the business where they meet the conditions set out in Article 70D(2) of the Income Tax Law after also having regard to Concession and Practice B23.

Under the benefit in kind exemption provisions the directors and employees are exempt from income tax on the premiums paid by the employer into the scheme.

Appendix 11 Additional guidance notes for drawdown managers

Updated Actuarial Equivalent Order and Minimum Retirement Capital Order Guidance Notes for Drawdown Managers

Introduction

1. On the 23 December 2017 the Income Tax (Actuarial Equivalent) Order 2017²³ (Actuarial Equivalent Order 2017) and the Income Tax (Minimum Retirement Capital) Order 2017 (MRC Order 2017)²⁴ came into force. The following guidance notes have been drafted to assist drawdown contract managers to understand the impact of and apply these new Orders.

Income Tax (Actuarial Equivalent) Order 2017 Actuarial equivalent income under Art 131F(3)(d)

2. Under Art 131F of the Income Tax (Jersey) Law 1961 (“the Income Tax Law”) an individual is entitled to Minimum Retirement Income (“MRI”) if, on the day that for which entitlement is to be determined, the individual is in receipt of **relevant income** which is not less than the standard States old age pension payable to a single person.
3. **Relevant income** is defined in Art 131F(3) of the Income Tax Law as including:
 - the States old age pension;
 - an old age pension payable by another government, other than a pension for which the income is fixed for the life of the individual;
 - any income not falling within the two bullets above which:
 - shall be paid for the remainder of the life of the individual, and
 - is guaranteed to increase by not less than 3% per annum; and
 - the “actuarial equivalent” of any income not falling within the three bullets above which shall be paid for the remainder of the life of the individual
4. The key factor in order for an income source to be **relevant income** is that it is guaranteed to be paid for the remainder of the individual’s life.
5. Historically focus has been placed on the guaranteed 3% per annum increase threshold contained in the third bullet above. However this focus ignores sources of income which fall within the fourth bullet above.
6. This fourth bullet point covers all other income sources which are guaranteed to be paid for the remainder of the individual’s life *irrespective* of the fact that they will not increase by a guaranteed 3% per annum. Income which falls within the fourth bullet point is however subject to an “actuarial equivalent” calculation to determine the amount of that income that can be brought into account when determining the individual’s **relevant income** at a particular point in time.

²³ See: <https://www.jerseylaw.je/laws/enacted/Pages/RO-137-2017.aspx>

²⁴ See: <https://www.jerseylaw.je/laws/enacted/Pages/RO-138-2017.aspx>

7. In other words, an income source payable for the remainder of an individual's life does not have to be guaranteed to increase by 3% per annum in order to be taken into account when determining the individual's **relevant income**, however where it is not guaranteed to increase by 3% per annum the amount of income will be reduced by an **actuarial equivalent** calculation when determining the individual's **relevant income**.
8. Where an income source is paid/received in a foreign currency, the conversion into sterling should be carried out in accordance with the exchange rates published by HMRC for VAT/customs purposes²⁵.

Standard rules for determining the actuarial equivalent

9. This **actuarial equivalent** calculation is outlined in paragraph 3 of the Actuarial Equivalents Order 2017.
10. The **actuarial equivalent** of an income source is calculated by multiplying the current annual amount of income received from the source by the **adjusting percentage** determined through the table in paragraph 3²⁶ by cross-referencing the current age of the individual and the amount by which the income is guaranteed to increase each year.
11. For example, a 67 year old individual is in receipt of a lifetime annuity which is guaranteed to increase by 2% per annum; the annuity is currently paying £5,000 per annum. When calculating the individual's **relevant income** the £5,000 of annuity income must be subject to the **actuarial equivalent** calculation because it is not guaranteed to increase by at least 3% per annum. Cross referencing the individual's age (67) and the annual guaranteed rate of increase in the income (2%) results in an **adjusting percentage** of 88%. Therefore the individual's **relevant income** in respect of this annuity income is £4,400 (£5,000 x 88%).
12. It is acknowledged that the table in paragraph 3 only specifies the **adjusting percentage** to be applied when income is guaranteed to increase by 0% (i.e. the income is fixed for the remainder of the individual's life), 1%, 2%, 2.5% or 3% per annum. Where a source of income is guaranteed to increase by a different percentage between 0% - 3% per annum, the **adjusting percentage** is to be determined by interpolation between the **adjusting percentages** shown in the table.
13. For the avoidance of doubt, where an income stream is payable for the remainder of the individual's life and is guaranteed to increase by 3% (or more) per annum, 100% of the amount of income from that source can be included in the calculation of **relevant income**.

²⁵ See: <https://www.gov.uk/government/collections/exchange-rates-for-customs-and-vat>

²⁶ The table in paragraph 3 has been reproduced in Appendix A.

Special rules applying to pensions payable from a defined benefit scheme

14. Special rules apply for determining the **adjusting percentage** when the income source is a pension payable from a **defined benefit scheme**.
15. For these purposes a **defined benefit scheme** is defined in Art 130B(2) of the Income Tax Law as: “a scheme where the scheme rules define the benefit independently of the contributions payable and benefits are not directly related to the investments of the scheme”.
16. There is no requirement for the **defined benefit scheme** paying the pension to be approved by the Comptroller; however where it is not so approved, in order for a pension to be subject to these special rules the pension scheme paying it has to have the characteristics that means it is capable of being approved under Art 131A. This approach means that pensions payable by defined benefit schemes with no Jersey connection²⁷ can be subject to these special rules.
17. Consistent with the standard rules, where a pension payable by a **defined benefit scheme** is guaranteed to increase by a set percentage each year, the pension shall be deemed to be guaranteed to increase by that set percentage for the purposes of determining the **adjusting percentage**.
18. Under the standard rules where an income stream is guaranteed to increase by inflation, when determining the **adjusting percentage** the income is treated as if it is guaranteed to increase by 0% per annum. However under these special rules where a pension payable by a **defined benefit scheme** is guaranteed to increase with (or above) inflation each year²⁸, the pension shall be deemed to be guaranteed to increase by 3% per annum for the purposes of determining the **adjusting percentage**.
19. Under these special rules where a pension payable by a **defined benefit scheme** is guaranteed to increase with inflation but subject to a cap which is less than 3% per annum, the pension shall be deemed to be guaranteed to increase by the amount of the cap for the purposes of determining the **adjusting percentage**.

Special rules applying to an annuity from an authorized insurance company

20. Special rules apply when determining the **adjusting percentage** when the income source is an annuity payable from an **authorized insurance company**.
21. For these purposes an **authorized insurance company** is defined in Art 3 of the Income Tax Law.
22. Consistent with the standard rules, where an annuity payable by an **authorized insurance company** is guaranteed to increase by a set percentage each year, the

²⁷ Other than the fact that the pension holder is resident in Jersey.

²⁸ The inflation rate that can be used in this context is either Jersey or the UK.

annuity shall be deemed to be guaranteed to increase by that set percentage for the purposes of determining the **adjusting percentage**.

23. Under the standard rules where an annuity is guaranteed to increase by inflation when determining the **adjusting percentage** the income is treated as if it is guaranteed to increase by 0% per annum. However under these special rules where an annuity payable by an **authorized insurance company** is guaranteed to increase with (or above) inflation each year, the pension shall be deemed to be guaranteed to increase by 3% per annum for the purposes of determining the **adjusting percentage**.
24. Under these special rules where a pension payable by an **authorized insurance company** is guaranteed to increase with inflation but subject to a cap which is less than 3% per annum, the pension shall be deemed to be guaranteed to increase by the amount of the cap for the purposes of determining the **adjusting percentage**.

Income Tax (Actuarial Equivalent) Order 2017

Actuarial equivalent of income from securities under Art 131E(4)(a)(i)

25. Where an individual does not have MRI nor MRC they may still be able to enter into an approved drawdown contract under the provisions of Art 131D(3)(b). Under Art 131D(3)(b) where the individual does not have MRI nor MRC the drawdown contract manager can either:
- ✓ Purchase from an **authorized insurance company**²⁹ a lifetime annuity payable to the individual sufficient to secure that, on that day, the individual is entitled to MRI; or
 - ✓ Transfer sufficient funds to a trustee for the establishment of an approved trust
26. Article Art 131E creates the concept of an **approved trust**. In order for a trust to be an **approved trust** it must meet the conditions outlined in Art 131E.
27. Under Art 131E(4)(a)(i) the trustees of an **approved trust** must show that they have purchased sufficient securities issued by the UK Government “yielding an income having an **actuarial equivalent** ... as will secure that, on the day that the trust is established, the individual is entitled to an income which, taking into account the **actuarial equivalent** of the income from those securities into consideration and disregarding the fact that the income from them ceases on or after the relevant day, is Minimum Retirement Income”.
28. The calculation of the **actuarial equivalent** of the income required for the purposes of Art 131E(4)(a)(i) is outlined in paragraph 2 of the Actuarial Equivalents Order 2017.
29. The calculation in paragraph 2 is as follows:
(MRI – RI) x income multiplier

²⁹ Authorized insurance company is defined in Art 3 of the Income Tax Law.

30. **MRI** in this context is the annual amount of minimum retirement income on the day the approved trust is established.
31. **RI** in this context is the individual's **relevant income** on the day the approved trust is established.
32. The **income multiplier** is determined by reference to the table contained within paragraph 2³⁰.
33. For example, an individual on his 60th birthday with relevant income of £10,000 wishes to enter into an approved drawdown contract, however he has insufficient **relevant income** in order to have **MRI**. The individual will have **MRI** on their 63rd birthday (the relevant day for these purposes) and hence seeks to enter into an **approved trust** during the interim 3 year period.
34. To calculate the amount of UK Government securities that need to be purchased, the trustees need to follow the calculation in paragraph 2 of the Actuarial Equivalents Order 2017.
35. **MRI** today, the day on which the **approved trust** is being established, is £11,385.92³¹, whilst the individual's **relevant income** today is £10,000, finally the **income multiplier** from the table is 1.046 (reflecting the three year gap between today, the day on which the **approved trust** is being established, and the date on which the individual will have **MRI**).
36. The calculation in this example is therefore:
 $(£11,385.92 - £10,000) \times 1.046 = £1,449.67$
37. Therefore today, the day on which the **approved trust** is established, the trustees must purchase sufficient UK Government securities in order to yield an annual income of at least £1,449.67.
38. For the avoidance of doubt, where the time gap between the day that the **approved trust** is established and the **relevant day** is not an exact number of years, the **income multiplier** that should be applied should be calculated by interpolation between the relevant figures shown in the table in paragraph 2.

³⁰ The table in paragraph 2 has been reproduced in Appendix B.

³¹ As at the time of writing – March 2019. The trustees must continue to acquaint themselves with the maximum States old age pension payable to a single person on the date that the individual seeks to enter into an approved trust.

Income Tax (Minimum Retirement Capital) Order 2017

Calculation of “MRC threshold” and determination of “relevant capital”

Introduction and responsibilities of drawdown contract managers

39. A number of individuals are unable to access an approved drawdown contact (“ADC”) because they do not have sufficient **relevant income** from the sources specified in Art 131F(3) of the Income Tax Law to achieve MRI; this includes a cohort of individuals with significant wealth. In response the concept of Minimum Retirement Capital (“MRC”) was introduced in the 2017 Budget. Under this approach an individual will have MRC³² and hence be able to enter into an ADC provided that, on the day they seek to enter into the ADC, they own a minimum amount of certain assets (**relevant capital**) which exceeds that individual’s **MRC threshold**.
40. Under Art 131D(2)(b) of the Income Tax Law it is the responsibility of the drawdown contract manager³³ to certify that the individual owns **relevant capital** in excess of that individual’s **MRC threshold** and hence has **MRC**.
41. When making a certification under Art 131D(2) of the Income Tax Law the drawdown contract manager is expected to comply with the requirements in both the Income Tax (Minimum Retirement Capital) Order 2017 and these guidance notes; producing and maintaining appropriate records and documents to support the certification made.
42. These records and documents should not be submitted to Revenue Jersey as part of the certification process under Art 131D(2) of the Income Tax Law.
43. Revenue Jersey will audit a number of certifications made; requesting and reviewing copies of the records and documents from the drawdown contract manager that supported the certification made.
44. Revenue Jersey accepts that drawdown contract managers may adopt a risk based approach when making certifications (e.g. where it is abundantly clear that an individual has **relevant capital** clearly in excess of their **MRC threshold** the need to identify all of the assets owned by the individual is less pressing). Revenue Jersey expects drawdown contract managers to be particularly focussed on those circumstances where there is a small differential between an individual’s **relevant capital** and their **MRC threshold**.
45. Where a certification has been made fraudulently or negligently by a drawdown contract manager Revenue Jersey will consider raising penalty tax assessments under Art 131P of the Income Tax Law. Under Art 131P penalty tax can be levied on the drawdown contract manager amongst others.

³² Minimum Retirement Capital is defined in Art 131FA of the Income Tax Law.

³³ The requirements in order to be a drawdown contract manager are contained in Art 131D(4) of the Income Tax Law.

Calculation of MRC threshold

46. An individual's **MRC threshold** is calculated utilising the following formula:

$$\text{MRC threshold} = \text{MRI} \times \text{MRC Factor} \times \text{Coefficient}$$

47. **MRI** is defined in Art 131F of the Income Tax Law. **MRI** is equal to the maximum States old age pension payable on that day to an individual who has never been married. At the date of writing this version of the guidance notes, the current maximum States old age pension payable to a single person is £11,385.92³⁴. Future increases in the States old age pension are determined in accordance with the Social Security Law.

48. The **MRC Factor** is determined by reference to the individual's age on the date that they are seeking to determine their **MRC threshold**. A table showing the **MRC Factor** at all ages between 50 and 85 is shown in Appendix C. There is no requirement to interpolate between ages.

49. The **Coefficient** is 2.25.

50. The following table and graph outlines the **MRC threshold** at various ages based on a current maximum States old age pension payable to a single person is £11,385.92:

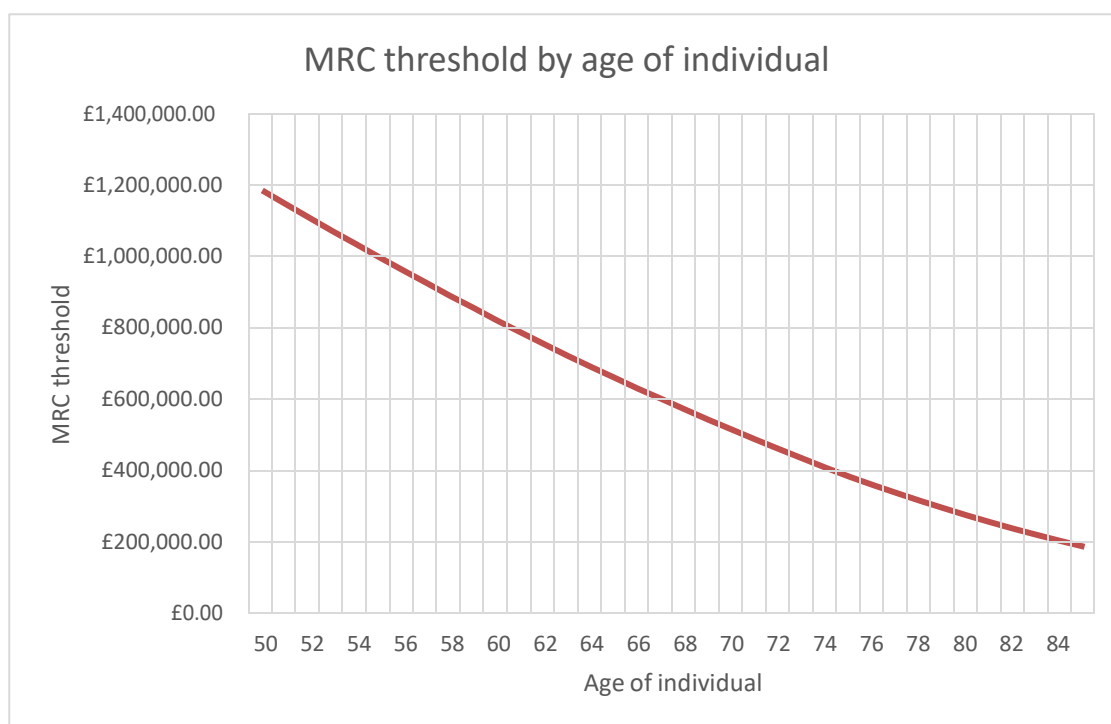
Table 1: MRC threshold at various ages

Age	MRC threshold
50	£1,183,771
55	£995,784
60	£819,402
65	£658,237
70	£513,519
75	£381,944

Source: Revenue Jersey calculations

³⁴ As at the time of writing – March 2019. Drawdown contract managers must continue to acquaint themselves with the maximum States old age pension payable to a single person on the date that the individual seeks to enter into the ADC and amend the calculation of the individual's MRC threshold as appropriate.

Graph 1: MRC threshold by age of individual (50 to 85)



Source: Revenue Jersey calculations

51. Therefore, for example, an individual aged 65 will need **relevant capital** in excess of their **MRC threshold** £658,237 in order to enter into an ADC.

Calculation of relevant capital

52. The process of establishing an individual's **relevant capital** on the day that the ADC is to be made is as follows:

- ✓ **Step 1:** identify and list all the assets owned directly by the individual.
- ✓ **Step 2:** remove from the list any **excluded assets**.
- ✓ **Step 3:** identify the open market value of the assets remaining on the list (including identifying the value of any **excluded assets** owned indirectly).
- ✓ **Step 4:** identify and list all the loans/borrowings/similar obligations entered into by the individual, including where the individual is the guarantor (or equivalent) for a loan/borrowing/similar obligation entered into by another person.
- ✓ **Step 5:** remove from the list any loan/borrowing/similar obligations which was taken out to purchase the individual's **only or main residence**.
- ✓ **Step 6:** identify the outstanding value of all the loans/borrowing/similar obligations remaining on the list.
- ✓ **Step 7:** subtract the figure identified in Step 6 from the figure identified in Step 3 to calculate the individual's **relevant capital**.

Step 1: listing of individual's assets

53. For an asset to be included on the list at Step 1 the individual must own the asset directly. Assets owned indirectly are not to be included on this list. For example, an individual owns 100% of the shares in a company, that company owns a portfolio of listed investments; the asset to be included on the list is the shares in the company, not the indirectly held portfolio of listed investments.
54. Assets held on trust for the benefit of the individual (other than bare trust) may not be included on the list.
55. An individual's pension savings³⁵ can be included on the list even where those pension savings are held on trust for the individual.
56. Where an asset is owned jointly with another person (including their spouse/civil partner), only the proportion of the asset owned by the individual may be included on the list.

Step 2: removal of "excluded assets"

57. **Excluded assets** must be removed from the list prepared in Step 1. **Excluded assets** are as follows:
 - ✓ any tangible, moveable property (this would exclude assets such as cars, art works, antiques, etc. and is a well-recognised taxation term);
 - ✓ the individual's **only or main residence**³⁶;
 - ✓ the capital value of any life assurance policies taken out on the individual's life
58. Tangible, moveable property is primarily excluded due to the challenges from a valuation perspective – the valuation of tangible, moveable property ordinarily being much more subjective and fluctuating.
59. The individual's **only or main residence** is excluded due to the fact that the individual is *prima facie* unable to monetise that asset whilst living in it.
60. Where an individual owns a single residential property, that property will be treated as their **only or main residence** and hence an **excluded asset** even where they do not live in that property on the day that the ADC is to be made.
61. Where an individual owns multiple residential properties it will be necessary to establish which property is the individual's "main residence". The "main residence" will be an **excluded asset**, all other residential properties owned by the individual can remain on the list prepared in Step 1.

³⁵ Including any pension fund that the individual ultimately wishes to transfer into an ADC.

³⁶ The term "only or main residence" is defined by reference to Art 90AA of the Income Tax Law.

Step 3: open market valuations

62. The open market value of the assets remaining on the list must then be determined in sterling.
63. Where an asset is traded on a recognized stock exchange³⁷, the value of that asset is determined by reference to the closing bid price on the trading day immediately before the day that the ADC is to be made.
64. Where an asset does not fall within the paragraph above, the individual should ordinarily obtain an independent, professional valuation for the asset. The valuation date must be no earlier than 3 months prior to the day that the ADC is to be made. If more than 3 months have elapsed, the individual will need to obtain an updated independent, professional valuation for the asset.
65. In this context Revenue Jersey reiterates the risk based approach expected of drawdown contract managers (as outlined in paragraph 44) and expects drawdown contract managers to adopt a practical approach. The type of the valuation obtained should reflect the nature of the asset owned. For assets which are hard to value (e.g. shares in a trading company) Revenue Jersey would expect drawdown contract managers to obtain a full independent, professional valuation of those shares, particularly where the individual is reliant on the value of those shares to have **MRC**. However where, for example, an individual owns shares in an investment holding company which in turn solely owns assets which are traded on a recognized stock exchange an independent valuation may not be required.
66. Where an individual owns an **excluded asset** indirectly (e.g. the individual owns 100% of the shares of a company which in turn owns tangible, moveable property) when valuing the asset owned directly by the individual (i.e. in this example the shares in the company), the valuation must be adjusted downwards by the open market value of the **excluded assets**. This approach seeks to prevent individuals circumventing the removal of the **excluded assets** in Step 2.
67. Where the asset to be valued is pension savings³⁸ the **fund value** must be calculated in accordance with Art 130B of the Income Tax Law. The **fund value** must then be reduced by 20%, reflecting that Jersey income tax will *prima facie* be paid on amounts withdrawn from the pension schemes. For example, if an individual has a fund value of £500,000 in a retirement trust scheme approved under Art 131CA of the Income Tax Law, the value of this asset for the purposes of Step 3 is £400,000 (£500,000 x 80%).

³⁷ “Recognized stock exchange” is defined in Art 3(1) of the Income Tax Law.

³⁸ “Pension savings” is given a broad definition in this context and includes savings under both “approved Jersey schemes” as defined in Art 130(1) of the Income Tax Law and “overseas schemes” as defined in Art 131OA(1) of the Income Tax Law.

68. Where an asset is valued in a foreign currency, the conversion into sterling should be carried out in accordance with the exchange rates published by HMRC for VAT/customs purposes³⁹.

Step 4: listing of individual's loans/borrowings/similar obligations

69. The individual is then required to list all loans/borrowings/similar obligations that the individual has entered into, including where the individual is the guarantor (or equivalent) for a loan/borrowing/similar obligation entered into by another person. The purpose of Step 4 is to prevent an individual borrowing in order to acquire assets in an attempt to increase their **relevant capital**.

Step 5: removal of any loan/borrowing/similar obligations which was taken out to purchase the individual's "only or main residence".

70. The only loan that can be removed from the list prepared at Step 4 is any loan that was taken out by the individual in order to acquire their **only or main residence**.
71. A loan secured on the individual's **only or main residence** but not taken out for the purposes of acquiring that property (e.g. equity release type arrangements) must not be removed from the list.
72. The test for determining whether a loan should be removed from the list is whether the loan falls within the purposes outlined in Art 90AA(2)(a)-(c) of the Income Tax Law. If the full amount of the loan falls within those purposes, then the full amount of the loan can be removed; if only part of the loan falls within those purposes, then only the part of the loan that falls within can be removed.

Step 6: identify the outstanding value of all the loans/borrowing/similar obligations remaining on the list

73. The outstanding value of all the loans/borrowings/similar obligations remaining on the list prepared at Step 4 must then be established and a total figure calculated.
74. Where a loan/borrowing/similar obligation is valued in a foreign currency, the conversion into sterling should be carried out in accordance with the exchange rates published by HMRC for VAT/customs purposes⁴⁰.

Step 7: subtract the figure identified in Step 6 from the figure identified in Step 3 to calculate the individual's "relevant capital".

75. The final Step in the process is to subtract the figure identified in Step 6 (the outstanding value of all the loans/borrowing/similar obligations remaining on the list) from the figure identified in Step 3 (the total open market valuation of the assets remaining on the list). The figure calculated is the individual's **relevant capital**.

³⁹ See: <https://www.gov.uk/government/collections/exchange-rates-for-customs-and-vat>

⁴⁰ See: <https://www.gov.uk/government/collections/exchange-rates-for-customs-and-vat>

Individual has neither MRI nor MRC

76. It is acknowledged that circumstances could arise where an individual's **relevant income** falls short of MRI and their **relevant capital** falls short of their **MRC threshold**. Without additional rules the individual in these circumstances would *prima facie* be prevented from entering into an ADC.
77. To address this situation the Income Tax Law allows an individual to take into account a mixture of both **relevant income** and **relevant capital** when determining whether they can enter into an ADC.
78. This is achieved by converting an individual's **relevant capital** (as calculated above) into an equivalent amount of **relevant income** and subtracting that amount from MRI⁴¹; effectively making it easier for the individual to achieve MRI.
79. The conversion of relevant capital is achieved through the mechanism of a **relevant capital factor**. This **relevant capital factor** is outlined in Para 4 of the MRC Order as follows:
Relevant capital factor = relevant capital ÷ MRC Factor ÷ Coefficient
80. **Relevant capital** is as calculated in paragraphs 52 to 75 above.
81. The **MRC Factor** is determined by reference to the individual's age on the relevant date. A table showing the **MRC Factor** at all ages between 50 and 85 is shown in Appendix C. There is no requirement to interpolate between ages.
82. The **Coefficient** is 2.25.
83. The relevant capital factor calculated through this formula is then subtracted from MRI to determine an **adjusted MRI figure**.
84. The individual should then compare their **relevant income** against their **adjusted MRI figure** to determine whether they have adjusted MRI. Provided that their **relevant income** exceeds their **adjusted MRI figure** they will be able to enter into an ADC.
85. When making a certification under Art 131D(1) of the Income Tax Law in relation to adjusted MRI, the drawdown contract manager is expected to comply with the requirements in both the Income Tax (Minimum Retirement Capital) Order 2017 and these guidance notes; producing and maintaining appropriate records and documents to support the certification made.

⁴¹ See Art 131FB of the Income Tax Law.

Appendix A – table of adjusting percentages

Age	Percentage adjustment for guaranteed rate of pension increase				
	0% pa	1% pa	2% pa	2.5% pa	3% pa or higher
50	56	67	81	90	100
51	57	68	82	90	100
52	57	68	82	90	100
53	58	69	82	91	100
54	59	70	83	91	100
55	60	70	83	91	100
56	61	71	84	91	100
57	62	72	84	92	100
58	62	72	85	92	100
59	63	73	85	92	100
60	64	74	86	92	100
61	65	74	86	93	100
62	66	75	86	93	100
63	67	76	87	93	100
64	68	77	87	93	100
65	69	77	88	94	100
66	69	78	88	94	100
67	70	79	88	94	100
68	71	79	89	94	100
69	72	80	89	94	100
70	73	81	90	95	100
71	74	82	90	95	100
72	75	82	91	95	100
73	76	83	91	95	100
74	77	84	91	96	100

Appendix B – table of income multipliers contained in paragraph 2 of Actuarial Equivalents Order 2017

<p style="text-align: center;">Period between the day that the approved trust is established and the relevant day described in Art 131E(3)(a) (Years)</p>	<p style="text-align: center;">Income Multiplier</p>
1	1.015
2	1.030
3	1.046
4	1.061
5	1.077
6	1.093
7	1.109
8	1.126
9	1.143
10	1.160
11	1.177
12	1.194
13	1.212
14	1.229
15	1.248
16	1.266
17	1.284

Appendix C – Table of MRC Factors at ages between 50 and 85.

Age of the individual on the day that the individual seeks to determine their MRC threshold	MRC factor
50	46.208
51	44.699
52	43.211
53	41.745
54	40.299
55	38.870
56	37.458
57	36.061
58	34.682
59	33.323
60	31.985
61	30.669
62	29.378
63	28.116
64	26.888
65	25.694
66	24.529
67	23.385
68	22.256
69	21.142
70	20.045
71	18.968
72	17.912
73	16.879
74	15.876
75	14.909
76	13.983
77	13.101
78	12.258
79	11.450
80	10.671
81	9.920
82	9.200
83	8.511
84	7.854
85	7.229