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European Parliament approves new Directive for supplementary pension rights

Pensions – free movement of persons – directive

On April 15, 2014, the European Parliament approved an EU Directive designed to improve the acquisition and preservation of supplementary pension rights. Current rules only ensured the portability of statutory pension rights (state or social security benefits) and were considered inadequate to safeguard supplementary pension rights (built up during an employment with usually a pension fund) thus, constituting a barrier to worker mobility between EU Member States.The new rules will help to remove current obstacles to free movement, such as the requirement for very long periods of employment to acquire these rights, "vesting period", or the risk of the rights being lost when leaving a pension scheme.

Background

In 2005 the EU Commission proposed an EU Directive to improve the portability of supplementary pension rights of persons moving within the EU. The existing rules were considered deficient in particular as regards the conditions under which an individual acquires pension rights, and the conditions under which those rights

are treated once an individual has changed jobs. In 2007 the European Parliament proposed amendments to the draft Directive that resulted in the focus being shifted to the acquisition and preservation of dormant rights, and the deletion of proposals regarding transfers of supplementary pension rights.

Compromise text approved

A compromise text was agreed between the European Parliament Council of the EU last November and was approved by the Council in December. This amended proposal has now also been formally approved by the European Parliament. This effectively concludes the legislative process.

Key elements of the new Directive

Under the new legislation, EU workers may now enjoy full international portability of pension rights when moving abroad.

Conditions governing the acquisition of pension rights are strengthened to the effect that, where a vesting period and/or a waiting period is applied, the total combined period shall not exceed three years. The minimum age for vesting shall not exceed 21 years.

National measures should ensure that the vested pension rights of outgoing workers can remain in the scheme in which they vested.

However, schemes also have the option of paying the worker a capital sum up to a certain nationally established threshold and with the worker's informed consent, including as regards applicable charges.

Outgoing workers' and their survivors' dormant pension rights or their values should be treated in line with the value of the rights of active scheme members, or the development of pension benefits currently in payment, or by other means which are considered fair treatment.

The new Directive also improves the information rights of active scheme members as well as deferred beneficiaries and survivors.

Timing

The new rules must be implemented by EU Member States within four years.

EU Tax Centre Comment

This is clearly an important development for many individuals moving to work in a different EU Member State. It will be of particular relevance where the new employment state now only allows vesting above the new minimum age, or, generally, imposes

a longer vesting period than three years.

Should you require further assistance in this matter, please contact the EU Tax Centre or, as appropriate, your local KPMG tax advisor.

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