IMPROVING FLEXIBILITY IN RETIREMENT

A users' guide published by the Comptroller of Income Tax

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THIS GUIDE IS PUBLISHED ON THE SAME DAY AS THE ENABLING LEGISLATION IS LODGED BY THE FINANCE AND ECONOMICS COMMITTEE. WHETHER THAT LEGISLATION IS ENACTED IS ENTIRELY A MATTER FOR THE STATES ASSEMBLY WHO WILL DEBATE THE SUBJECT DURING THE FIRST WEEK OF DECEMBER, 2002. THIS GUIDE SHOULD BE READ ACCORDINGLY.

PREFACE

Every care has been taken to ensure that this publication correctly reflects the changes made to the Income Tax Law by means of the Income Tax (Amendment No.22) (Jersey) Law 200

However, it is not intended to be a precise exposition of that Law. It is intended to be an easy reference guide for people who might wish to consider taking advantage of the new flexible pension arrangements and for those who will advise them.

Nothing contained within this publication can set aside the provisions of the Income Tax Law and it should be read accordingly.

EXPLANATORY NOTE

Throughout this guide the word '*pensioner*' is used to mean a person eligible, or potentially eligible, to enter into these new pension arrangements.

All references to 'the Income Tax Law' 'the Law', 'tax legislation' or similar are references to the Income Tax (Jersey) Law 1961 as amended.

An explanation of unusual terms is contained in Section 11.

CONTENTS

1. INTRODUCTION

-a history of the changes

1.1 In recent times people approaching, or entering into, retirement have been expressing concern about the means by which they are able to use their pension funds.

1.2 Much media attention has been focused on this matter. The main concern is that under current tax legislation, a person is forced to use the majority of his pension funds to buy an annuity. Annuity rates are very low at the moment. Typically, they are less than two-thirds of what they were ten years ago. Jersey residents face the added problem that very few annuity providers are active in the local market.

1.3 The Fiscal Review Working Group set up to consider all aspects of the Island's taxation system noted these problems in its report to the States in 1999. As a result, a working party called the Retirement Options Working Group was established to report on the present system, to identify its advantages and disadvantages and to propose solutions for the consideration of the Finance and Economics Committee.

1.4 The first report of the Retirement Options Working Group was presented to the Finance and Economics Committee in July, 2001. It was endorsed by that Committee which authorised its release as a consultation document. The consultation process was finalised in the early part of 2002 and the Retirement Options Working Group presented its final report to the Finance and Economics Committee in June, 2002.

1.5 The conclusions of the Retirement Options Working Group's final report were radical and wide-ranging suggesting fundamental changes to current law and practice. They were all approved by the Finance and Economics Committee and were brought into effect for 2003 and subsequent years by the Income Tax (Amendment No. 22) Law 200- which was passed by the States in December, 2002.

1.6 Details of how the new system will work are given in the following sections.

One important point to be made at this stage is that nothing in the new system compels people to change. All those who wish to remain within the traditional system may do so.

In other words, there is now a greater choice. But there is no compulsion. No-one who wishes to remain in his existing arrangements will be forced to change.

2. A BROAD OUTLINE OF THE NEW SYSTEM

2.1 Anyone (called '*the Pensioner'* from now on) who satisfies certain conditions (which are explained in section 3) with pension savings in:

(i) Occupational Pension Schemes approved under Article 131 of the Income Tax Law
(ii) Personal Pension Plans approved under Article 131B of the Income Tax Law

may, instead of using those funds to buy an annuity, transfer them to an investment manager for the purposes of creating an Approved Drawdown Contract. Provided, of course, that the rules of those Schemes or Plans allow him to transfer.

2.2 The investment manager (or 'drawdown manager' from now on) must be a properly qualified and regulated person (see section 3)

2.3 The investment income earned by the drawdown manager while he has control of the funds will be free of income tax

2.4 The pensioner may draw on those funds how he pleases. There is no minimum or maximum amount he must draw in any year but everything he does draw will be part of his income chargeable to income tax

2.5 Any funds left unused on the death of the pensioner will be distributed to his estate and charged to income tax.

2.6 Any tax payable by the pensioner, or his estate, will be calculated by including the withdrawals or distributions in his total income for the year in question. However, in the first instance, the drawdown manager will be responsible for deducting tax at the source from the withdrawals or distributions

1 There is one exception to that. Sums withdrawn to buy a lifetime annuity from an unconnected authorised insurance company payable to the pensioner, or payable, on his

death, to his spouse or dependent are not charged to tax.

2 APPROVAL OF DRAWDOWN CONTRACTS

-conditions to be satisfied before approval may be given

3.1 **The pensioner must:**

˜ (i) have pension savings in a pension scheme approved under Article 131 or 131B of the Income Tax Law.

˜ (ii) have reached the earliest age at which the pension payable out of those savings could have been paid under the rules of that scheme (usually 50)

(iii) have irrevocably forfeited any right to receive a lump sum by way of commutation of those funds

(iv) possess, from other sources, a guaranteed lifetime income of not less than the prescribed amount of Minimum Retirement Income

Minimum Retirement Income is an essential element of these new arrangements. It is explained in Section 5.

3.2 **The Drawdown Manager must**:

˜ (i) be resident in Jersey

˜ (ii) not be connected with the pensioner

(iii) either,

˜ (a) hold a permit under the Collective Investment Funds (Jersey) Law 1988

˜ (b) be registered under the Banking Business (Jersey) Law 1991 (or under the Depositors and Investors (Prevention of Fraud) (Jersey) Law 1967

˜ (c) hold a permit under the Insurance Business (Jersey) Law 1996 or be

˜ (d) registered under the Financial Services (Jersey) Law 1998

3.3 **The Contract must**

˜ (i) not allow any funds to be accepted which do not come as direct transfers from Schemes approved under Article 131 or 131B or from Approved Trusts (see Section 4)

˜ (ii) prohibit the manager from investing the funds in anything other than

˜ (a) cash deposits with recognised banks or building societies

˜ (b) securities or financial instruments traded on a recognised stock exchange

˜ (c) units in collective investment funds

˜ (d) long term insurance contracts

(iii) prohibit any payments out other than

˜ (a) to the pensioner or his personal representative

˜ (b) to an authorised unconnected insurance company for the purpose described in 2.7 of this note

˜ (c) fees and commissions properly incurred in administering the contract

˜ (d) income tax

(iv) require the manager to liquidate the investments within three months of the death of the pensioner and pay the whole of the funds (less tax) to the pensioner's personal representative.

1 The Manager's certification and reporting requirements are set out in Sections 8 and 9.

˜ **4. APPROVAL OF TRUSTS**

˜ **-the reason for trusts**

˜ **-the practical considerations**

-conditions to be satisfied before approval may be given

4.1 Approved Trusts are an interim measure to fill the gap where a pensioner

˜ wants to start drawing on his pension funds

˜ satisfies all the conditions mentioned in 3.1 except that he does not yet possess Minimum Retirement Income (MRI for short – see section 5 for an explanation of this term)

˜ but does have a realistic expectation that MRI will arise to him some time in the future (but, at the latest, by the time he reaches 65 years of age) and

˜ given that expectation does not want to irrevocably commit funds to the purchase of MRI

A typical example would be a man aged 62 who knows he will have a full States of Jersey Old Age Pension in three years' time.

4.2 A pensioner in this position would seek advice and his drawdown manager would be responsible for satisfying himself that there was indeed a realistic expectation that MRI would come into payment on or before the date on which the pensioner reached the age of 65 (being the latest date, under current legislation, at which the States Old Age pension is payable).

4.3 If the manager were so satisfied he would be allowed to make the drawdown contract but first would be obliged to arrange for the immediate transfer to an independent Trustee of sufficient funds to produce income of an amount actuarially equivalent to MRI requirement at the time of transfer. (MRI Equivalent)

- ˜ for the meaning of actuarial equivalent see Section 11
- ˜ for the meaning of MRI Equivalent see Section 6

4.4 The Trustee has no choice how he invests the money. It must be invested in UK Government Securities which are not repayable before the date the pensioner anticipates MRI (the '*relevant date*') and the Trustee must be prevented from selling them before that time.

4.5 The Trustee must:

- ˜ (i) be resident in Jersey
- ˜ (ii) not be connected with the pensioner

(iii) registered under the Financial Services (Jersey) Law 1998

4.6 The Trust Instrument must

- ˜ (i) contain the obligations mentioned in 4.4
- ˜ (ii) provide that the whole of the annual income is to be paid to the pensioner after the deduction of tax

(iii) prohibit any payments out of the trust to any person other than the pensioner, his personal representative, or the Comptroller of Income Tax on account of tax deductions. (This means that the Trustees fees and expenses must be met by the pensioner personally).

(iv) prohibit any payments to the pensioner out of the capital of the trust

4.7 When the relevant day arrives (being the date on which the pensioner's MRI was expected to come into payment – see 4.4 above) the trustee must certify that it does in fact exist. If so, the trust may then terminate. On termination (and as an exception to 4.6 (iii) above) the funds may be transferred to the Approved Drawdown Contract or they may be used to buy a lifetime annuity from an authorised unconnected insurance company payable to the pensioner, or payable on his death to his spouse or a dependent.

4.8 If, exceptionally, on the relevant day the pensioner's expectations of MRI are not fulfilled then the Trustee must use the funds to buy an annuity from an authorised unconnected insurance company, payable to the pensioner for the rest of his life. Alternatively the trust may continue until the death of the pensioner on the same basis as before except that the investments must be converted from dated UK gilts to undated UK Gilts and the Trustee must be prevented from selling them.

4.9 On the death of the pensioner the investments held in the Trust must be liquidated (within three months of the date of death) and the whole of the funds paid over to the pensioner's personal representative under the deduction of tax.

1 The Trustee's certification and reporting requirements are set out in Sections 8 and 9.
2 **MINIMUM RETIREMENT INCOME (MRI)**

-the reason why
˜ **-its measure**
˜ **-its meaning**

5.1 The existence of MRI is mandatory before a pensioner may enter into an approved drawdown contract. (The only exception being the circumstances mentioned in the preceding section)

5.2 The measure of MRI is an amount equal to the maximum old age pension payable by the States of Jersey to a single person at the date on which he wishes to enter into a drawdown contract.

5.3 For example, if a person wished to enter into a drawdown contract on 1st June, 2005 he would have to show that on lst June, 2005 he had MRI equal to the States of Jersey old age pension payable to a single person with a full contribution record on that date. If that old age pension were £7,500 per annum then he would need to show MRI of £7,500 per annum.

5.4 The source of MRI must be something which is guaranteed payable for the life of the pensioner and is guaranteed to increase by at least 3% per year.

5.5 The following are deemed to fall within 5.4

˜ (i) the States of Jersey old age pension
˜ (ii) any old age pension payable by another government provided that it is not a fixed amount (i.e. one which does not increase)

(iii) the actuarial equivalent of any lifetime income which is fixed in amount

6. MINIMUM RETIREMENT INCOME EQUIVALENT (MRI EQUIVALENT)

-when it is necessary
-its measure

6.1 MRI equivalent is an interim measure designed to fill the gap where a pensioner does not have MRI but expects to have it in the future and wishes to draw on his pension funds before then (see Section 4).
6.2 There is only one way in which a pensioner may achieve that aim. He must settle sufficient funds on an independent Trustee as will produce MRI Equivalent. The Trustee may only

invest those funds in UK Government Securities which do not fall in for redemption before the date on which the pensioner expects MRI or before his 65th birthday whichever is the sooner.

1 The amount of MRI equivalent is a ratio of true MRI. The difference between them is that MRI equivalent need not be payable for life. It needs to be paid only until true MRI becomes payable. To arrive at the ratio it is necessary to apply a formula to determine how much money needs to be settled on the Trustee. This formula is prescribed by the Finance and Economics Committee by Order.

2 **THE TAX SITUATION**

- approved drawdown contracts
-approved trusts - on the death of the pensioner
-exempt withdrawals.

7.1 **Approved Drawdown Contracts**.

7.1.1 The pensioner may draw as little or as much as he wishes. All withdrawals are chargeable to income tax

7.1.2 In the first instance, the manager will deduct tax at the standard rate from all withdrawals and pay the net amount to the pensioner. The precise amount of any tax payable will not be known until the pensioner's total income (of which the withdrawals form part) for the year is known. Any tax overpaid will be repaid after the end of the year. Any tax underpaid will be collected from the pensioner

7.2 **Approved Trusts**

7.2.1 The trustee must pay over to the pensioner the whole of the income arising on the trust's investments. The whole of this income is chargeable to income tax on the pensioner (but is exempt in the Trustee's hands)

7.2.2. In the first instance, the trustee will deduct tax at the standard rate from all payments and pay the net amount to the pensioner. The precise amount of any tax payable will not be known until the pensioner's total income (of which the withdrawals form part) for the year is known. Any tax overpaid will be repaid after the end of the year. Any tax underpaid will be collected from the pensioner.

7.3 **On The Death of the Pensioner**

7.3.1 On the death of a pensioner the trustee and/or manager must liquidate the investments and pay all the money he has over to the pensioner's personal representative. These payments are chargeable to income tax on the personal representative.

7.3.2 In the first instance, the trustee and/or manager will deduct tax at the standard rate from all payments and pay the net amount to the pensioner's personal representative. The precise amount of any tax payable will not be known until the total income (of which the payments form part) for the year of death is known. Any tax overpaid will be repaid after the end of the year. Any tax underpaid will be collected from the personal representative

7.4 **Exempt withdrawals**

There are two exceptions to the foregoing

7.4.1 Sums withdrawn to buy a lifetime annuity from an unconnected authorised insurance company payable to the pensioner, or payable, on his death, to his spouse or dependent are not charged to tax.

1 Sums transferred from the Trustee back to the drawdown manager (see 4.7) are not charged to tax

˜ **8. CERTIFICATION PROCESS**
˜ **-the manager**
˜ **-the trustee**

-both

8.1 **The Drawdown Manager**

8.1.1 In seeking approval of a drawdown contract the manager must submit a copy of the contract to the Comptroller of Income Tax together with a statement in which he certifies that:

˜ (i) he;
˜ (ii) the pensioner; and

(iii) the contract

satisfy all the conditions laid down in Article 131D of the Income Tax Law (see Section3)

8.1.2 The certificate must also include a section in which the manager identifies the source of the funds and confirms that he has seen evidence that the whole of those funds are being released to him (that is to say that the pensioner has irrevocably given up any right to any lump sum commutation) **N.B. Segmented (or clustered) policies.** Some Personal Pension Plans approved under Article 131B are made up of a number of identical segments. Each segment may be treated as a separate personal pension plan.

8.1.3 Finally, the certificate must include a section in which the manger identifies the source and amount of MRI and in which he certifies that he has evidence to that effect.

8.1.4 The certificate must be signed by the manager and countersigned by the pensioner.

8.2 **The Trustee**

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

˜ (i) he;
˜ (ii) the pensioner: and

(iii) the trust deed,

satisfy all the conditions laid down in Article 131E of the Income Tax Law (see Section 4).

8.2.2 The statement must 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 pensioner will possess, from other sources, Minimum Retirement Income. The statement must show the expected source of MRI, and its amount, together with the identify of the drawdown manager involved.

8.2.3 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 he must certify that he has seen evidence of the existence of MRI and its source and amount should be identified.

8.3 **Both**

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

˜ **9. REPORTING REQUIREMENTS**
˜ **-the manager**
˜ **-the trustee**
˜ **-the pensioner**

9.1 **The Manager and the Trustee**

9.1.1 The reporting requirements of the Manager and the Trustee are the same. At the end of each year each must send the Comptroller of Income Tax a statement showing

˜ (i) the amount of funds invested at the beginning of that year
˜ (ii) the amount of money added to the fund during the year

(iii) the amount of any money paid out during the year, and the reason for payment

(iv) the amount of funds invested at the end of the year and the manner in which they were invested.

9.1.2. The time allowed for doing so is three months after the end of the year or six months after the date of a pensioner's death.

9.2 **The Pensioner (or in the event of death, the Pensioner's personal representative)**

9.2.1. All monies received by a pensioner (or by a pensioner's personal representative) chargeable to income tax must be recorded in his income tax return.

10. **SOME FREQUENTLY ASKED QUESTIONS**

10.1 **Q. These new drawdown arrangements look attractive. Can I take advantage of them?**

A. *Yes. Provided* you *meet certain requirements.*

10.2 **Q. What requirements do I need to meet?**

A. *There are three main ones. Let's take them in turn. Firstly you must have pension funds saved in a traditional pension scheme.*

10.3 **Q. What is a traditional pension scheme?**

A. To be technical: a scheme approved under Article 131or Article 131B of the Income Tax Law. That means a pension scheme arranged by *your employer or a personal pension scheme that you have arranged for yourself*

10.4 **Q. What's the second?**

A. *The second is that you must have reached the earliest age at which your traditional pension scheme allows you to retire. Usually that means 50 years of age.*

10.5 **Q. Does it mean I've got to use that money to buy an annuity?**

A. *No, not at all. These new arrangements never compel you to buy an annuity – you can draw as much or as little as you wish – but there is a strict rule that before you can draw anything you must have MRI*

10.6 **Q. MRI? What does that mean?**

A. *MRI stands for Minimum Retirement Income. It's the third requirement before you qualify. It means an income guaranteed to be payable for the rest of your life and guaranteed to go up each year.*

10.7 **Q. How much is MRI?**

A. *It's an amount equal to the States of Jersey Old Age Pension payable to a single person who has a full contribution record. In November, 2002 that figure was £6,994 per year*

10.8 **Q. So that means I must be entitled to a full Jersey old age pension?**

A. *Not necessarily. But you must have a guaranteed income equal to it. For example, you might have an index-linked pension from a previous job or an old age pension payable by another government. Anything like that can be added together in calculating whether you possess MRI.*

10.9 **Q. I've got some money in the bank. Does the interest qualify as MRI?**

A. *No. The interest is not guaranteed to be payable for the rest of your life. However, if you took the money out and used it to buy an annuity from an insurance company then that annuity would count towards your MRI*

10.10 **Q. I understand that, but what about the pension I'm getting from a previous job which doesn't go up each year. Doesn't that count?**

A. *Fixed incomes do count towards MRI but because they are fixed they don't count in full (don't forget MRI is supposed to go up each year so as to keep its value).*

10.11 **Q. Well, how much do fixed incomes count towards MRI?**

A. *That depends on quite a few things – interest rates, a person's age, how long they are likely to live and so on. These variables change from time to time and are calculated by professional actuaries. As a very broad rule of thumb, for a person aged 65, the ratio is about 1.5 to 1.00. That means that a fixed income of £1,500 = MRI of £1,000. The older the person gets the more that ratio decreases. The converse is true. The younger the person, the greater the ratio.*

10.12 **Q. This is getting a bit technical. I want to know about the tax situation. What tax do I have to pay on withdrawals and so on?**

A. *All the money you invest earns interest tax free. All the money you withdraw is taxed.*

10.13 **Q. Do you really mean all the money I withdraw is taxed? Even the money I set aside for my husband or wife or partner?**

A. *Yes and no. All the money you withdraw from your drawdown fund is taxed except for anything you set aside to provide a pension payable after you die, to your spouse or to anyone dependent on you. A dependent means someone who relies on you to provide the necessities of life.*

10.14 **Q. But what if I get to the stage where I decide that it's all too risky and I want to be certain about how much I will have to live on?**

A. *In that event you would want to fix your income for the rest of your life and that can be done by buying an annuity from an insurance company. Any money you withdraw to buy it will not be taxed*

10.15 **Q. What happens when I do die?**

A. *Anything left in your drawdown funds when you die will be taxed on your estate*.

10.16 **Q. But doesn't that mean that you are taxing the capital gains I have made from investing my retirement funds?**

A. *Nothing has changed. Under the traditional system the insurance company looks after your money. It invests your funds in the hope of making gains. Any gains are added to your pension funds and paid out to you as a pension. The pension is taxed. Under the new system your manager looks after the money, makes the gains adds the money to your account and pays you the drawdowns. The drawdowns are taxed. The essential difference between the two is that under the traditional system, the insurance company gets to keep what's left when you die but under the new system your heirs keep the money. That's good for your heirs and it's good for Jersey too because the money usually stays here*.

10.17 **Q. I would like to take advantage of the tax free lump sum that's available to me under my traditional arrangement. Is that an option under the new drawdown methods?**

A. *No. If you choose the drawdown route you must give up your option to take a tax-free lump sum. But don't forget it's your choice. No-one will force you to choose the drawdown method. If you wish to take advantage of the traditional tax free lump sum then you can do so by simply remaining in your existing arrangements. This is something you will need to discuss with your investment adviser before deciding how to use your money.*

10.18 **Q. In a few years' time I expect to have full MRI from my old age pension but I want to start drawing on my pension funds now. Does that mean that I must use some of them to buy an annuity now? This will cost a lot and the funds will be committed irrevocably.**

A. *Not necessarily. There is an alternative route for people in your position. You can settle some of the funds on an independent trustee. You will need to settle enough to generate income 'actuarially equivalent' to what your MRI needs are at that time (not what they will be when you become entitled to your old age pension) and when you pension does materialise, the trustee can transfer the funds you settled back to the drawdown manager.*

10.19 **Q.** **How do I know whether my adviser is competent to advise me?**

A. *You must make sure that he is regulated by the Jersey Financial Services Commission. The Commission has laid down a strict code of practice that everyone regulated by them must follow when giving advice of this sort.*

10.20 **Q. Where can I find the code of Practice you mention?**

A. *It's published by the Jersey Financial Services Commission on their website at www.jerseyfsc.org.*

10.21 **Q. Do I have to get involved with professional advisers?**

A. *Yes. Only people properly qualified can act for you. These new arrangements need to be viewed with some caution**. Bad advice could lead to your losing all the money you've saved for your retirement**. You need to be very clear about what you are doing.*

10.22 **Q. I am a person qualified to give investment advice. A client has approached me. He has pension savings in a self-administered retirement annuity contract approved under Article 131B. May he transfer those funds to a drawdown contract.**

A. *You must be satisfied that all the conditions are met. If so, your client will need to write to me seeking agreement to the terms of his 131B contract being amended (the contract precludes amendments unless I agree to them). Normally, permission will not be withheld.*

10.23 **Q. A client with a very old 131B contract written by a company which no longer does business in Jersey wishes to transfer his funds to a drawdown contract. This is not allowed under the terms of that contract, and I've been unable to persuade the Insurance Company involved to change those terms. What can be done?**

A. *Write explaining the problem. I will contact the Insurance Company and will usually be able to authorise them to release the funds to you. Whether they wish to do so is, of course a matter for them. I can't compel them to break the terms of the* *contract*.

10.24 **Q. My client's 131B contract is divided into 99 segments. Do I have to treat all these as one pension fund or may each be treated separately?**

A. *For all purposes of this new legislation, your client has 99 separate 131B contracts.*

10.25. **Q. My client doesn't qualify for a drawdown contract because his MRI is less than the laid down amount but its not far short. Is there anything that can be done?**

A. *Possibly, but not yet. Please see the remarks in Section 12*

1 **Q. My client is a member of a final salary occupational pension scheme. Can he transfer his benefits to a drawdown contract?**
2 **EXPLANATION OF TERMS**

Theoretically yes. But it is difficult to envisage any circumstances in which he would be well advised to do so.

10.27 Q. **How and when do I account for the tax deducted from the amounts I pay to my client under the drawdown contract or trust?**

A. *Strictly speaking, Article 87 requires you to account for the tax immediately. In practice I will send you annual return forms on which you will show the full year's tax deductions from all your clients. Provided you co-operate in filing the returns and paying the tax promptly, I will not enforce Article 87 in the letter.*

10.28 Q. **A drawdown manager has approached me as a potential Trustee. He says that his client has a realistic expectation of Minimum Retirement Income sometime in the future. How can I be sure that this is correct?**

A. *The responsibility for establishing the likelihood of MRI in the future is a joint responsibility of the manager and trustee. The manager, in the first instance, would ask the client for evidence. Both the manager and the trustee would then need to be satisfied that the evidence presented was credible and that it stood up to prudent analysis. Only then should they proceed.*

10.29 Q. **I am a Trustee appointed to administer a trust approved under Article 131E. As a professional trustee, I expect to be able to exercise some discretion over how I invest my clients' funds. Am I obliged to buy UK Government Securities?**

A. *Yes. Statute requires that you do. The reason being that you are providing MRI Equivalent. This can only be achieved by buying the appropriate amount of UK gilts. You must pay the whole of the income arising on the gilts (less tax) to the pensioner and you must not sell them before the relevant day (unless the pensioner dies). There is no discretion in this and the Trust Instrument must be worded accordingly.*

11.1 **Actuarial Equivalent**

The relationship which a fixed income would bear to one which increased with index linking. This is found by comparing the cost of a fixed annuity of £x with the amount of an indexed annuity that could be bought for the same money.

11.2 **Approved Drawdown Contract**

An arrangement which allows a pensioner to transfer his pension funds to a drawdown manager and draw as much or as little as he wishes.

11.3 **Approved Trust-**An interim arrangement where an approved drawdown contract would not otherwise be available to a pensioner (due to the temporary absence of MRI). Sufficient pension funds are settled on a trustee as are needed to produce MRI Equivalent. The trustee invests the funds in UK Government Securities and pays the income to the pensioner annually.

11.4 **Authorised Insurance Company**

Is an insurance company permitted to carry on business in Jersey or Guernsey by the regulatory authorities there and which carries on that business through a branch or agency in Jersey or Guernsey. Guernsey's 'protected cell companies' are excluded.

11.5 **Connected and Unconnected**

People are connected if they are blood relations or related by marriage. Companies are connected to the people who control them and to people connected to those people. Unconnected means the opposite of connected. A precise definition is contained in Article 3A of the Income Tax Law.

11.6 **Drawdown Manager**

This is the person who looks after a pensioner's funds. He must be properly qualified and regulated by the Jersey Financial Services Commission.

11.7 **Lifetime Annuity**

An annuity guaranteed to be payable for the rest of the pensioner's life and guaranteed not to reduce in amount

11.8 **Occupational Pension Schemes**

Arrangements put in place by an employer to provide pensions and other benefits for, or in respect of, one or more of his employees on leaving service or on death in service or in retirement.

11.9 **Personal Pension Plans**

Arrangements available to individuals who cannot benefit or who cannot benefit fully from an occupational pension scheme because they are self-employed or because their employer does not provide an occupational pension scheme or because they belong to an occupation scheme but are unable to earn maximum benefits from it.

11.10 **Relevant Day**

The relevant date is a date in the future on which the drawdown manager and trustee are satisfied that the pensioner will have income which is Minimum Retirement Income

11.11 **Traditional**

This word is used throughout this guide to refer to the existing arrangements for approved pension schemes

11.12 **Trustee**

This is the person who holds funds on behalf of a pensioner who isn't yet able to have unfettered access to his pension funds. The Trustee must be properly qualified and regulated by the Jersey Financial Services Commission and he can only deal with the pensioner's funds in accordance with the Trust Instrument.

11.13 **Trust Instrument**

This is a legal document which sets out the terms of the responsibilities of the Trustee. The Law requires that the Trust Instrument can only allow the Trustee to invest the pensioner's funds in UK Government Securities which are not redeemable before the relevant day and in certain other circumstances, which are not redeemable at all.

12. **CONCESSIONS AND CONTACTS**

The new legislation is in its first stages of evolution.

Individuals, being individuals, will sometimes fall outside the precise conditions laid down in the Law. It is not the intention of the legislators to deny those people the advantages available to others whose circumstances are exactly covered by statute.

To that end the Comptroller of Income Tax has a certain degree of discretion in administering the Law. He will do so when administering these new provisions but does not anticipate doing so in these first stages. For at least twelve months, the law will be applied as it stands. During that period The Comptroller will take careful note of any concerns expressed by individuals who feel disadvantaged. At the end of that time he will

incorporate any appropriate concessions in his published list of concessions and apply them subsequently but not, other than in exceptional circumstances, retrospectively.

Interested parties should write to:

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