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Introduction of 0.6% pa pension levy … confiscation of private savings

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They can gloss it up anyway they want. But putting a 0.6% pa levy on private pension funds is confiscation by the State of private savings. It's a desperate measure from a desperate country.

And don't be fooled by its association with a Jobs Package. The levy is just general taxation revenue; it's as valid to say that the new levy on private pension funds will be used to pay Bertie Aherne's €150,000 pa pension, as it is to say it's funding the Jobs Package. It's just spin to associate the levy with the Jobs Package, to make you feel better about paying it and guilty about objecting to it.

Given the introduction of the pension levy four things are likely in time:

- **The levy will last for at least a decade.** A 'temporary' levy on life assurance & pension premiums introduced in July 1984 lasted 8½ years. So don't be fooled by suggestions that it is a 'temporary' levy ending in 2014. It might if we discover oil before 2014.
- **The rate of levy will go up.** The 1980's levy started at 1.67% and jumped to 3% after just 2 years. Once the outflow pipe has been connected from private pension funds to the Exchequer, expect the valve to be opened up on many occasions when the Government needs funds in a hurry. There may even be occasional once off 'bullet' levies, to 'pay' for further jobs initiatives, or particular infrastructure projects.
- **Private pension funds will become subject to various statutory 'directed' investment requirements.** There have already been suggestions that private pension funds would be 'required' to invest at least 5% of their assets in Irish SMEs. Expect many more such 'innovative' 'outside the box' suggestions on how to invest other people's pension savings.
- **There will be no levy on public service pensions.** Apparently all public service benefits and pensions are 'untouchable' by this Government. If you don't believe me, see this.

How the new pension levy will work

The new pension levy will work in a similar way to the once off pension levy introduced back in 1988.

- The new 0.6% pa levy will be applied to the market value of assets under management in:
  - Occupational pension schemes
  - Retirement annuities, and

- PRSAs.

It looks like the levy will *not* apply to ARFs, but we will have to await the precise legislation on this point.

- the levy will be imposed on the *trustees* or the *administrator* of the arrangement. In the case of insured arrangements, this will presumably be the life company. The levy is NOT imposed directly on the member or the member's fund.

> ***"People from bad areas steal your phone.***
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> ***People from good areas steal your pension"***
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> *Ad for Spectator Magazine, FT Weekend Magazine, 7th May 2011*

- The 2011 levy will be calculated based on the market value of funds at 1st January 2011, or 'on the last day of the accounting period ending in 2010'. Not clear what accounting period is being referred to?

- The levy will be payable in two tranches each year, so presumably the first 2011 'tranche' payment may be due very quickly on 1st July 2011?

- The levy will not apply to occupational pension schemes where the trustees have passed a resolution before 10th May 2011 to wind up the scheme *and* the employer is insolvent and no longer in business.

- The insurer/administrator will be given an *option* to recover the levy from the pension assets they held, but are not obliged to do so. E.g. in relation to insurers, the 1988 pension levy legislation said in respect of recovery of the levy: *'the insurer may adjust accordingly any benefits under the contract'.* Something similar is expected this time.

Uncertainties and difficulties re operation of levy

There are a number of practical uncertainties and difficulties with the operation of the new pension levy:

- If it is to apply to PRSAs but not to ARFs, will vested PRSAs be exempt from the levy? If not, it puts vested PRSAs at a disadvantage to ARFs in relation to the levy.

- Is there a levy liability in respect of funds which have been drawn on or transferred to another provider between 1st January 2011 and 10th May 2011? If so the administrator or life company may have a levy liability in 2011 but no assets now to recover it from?

- The pension arrangement may have no liquid funds, e.g. an SP Personal Pension Plan or BOB which invested solely in units of an exempt unit trust, which in turn is invested in an illiquid geared property investment that is under water. There may therefore be no funds for the administrator or life company to recover the levy from.

- What about cases where members have notified before 10th May 2011 their intention to take retirement benefits and the processing of the retirement claim is ongoing?

So there are circumstances in which the levy may 'stick' with the administrator or life company.

Will insurers pick up part of the pension levy tab?

As outlined above there will be no obligation on the insurer to recover in full the levy from its pension funds. They have an *option* to recover if they can do, but are not obliged to do so.

It will be interesting to see whether insurers will recover the new pension levy in full from its customers pension funds, or whether some insurer will be willing to make a 'contribution' to the nation's difficulties by absorbing part or all of the levy for its customers. E.g. would any insurer decide to absorb the levy for small DC funds under €5,000?

If one insurer decided to pay part or all of the levy for a period at least, then competitive pressures might lead others to do the same.

Pension tax reliefs have already been cut

The Stability Programme Update April 2011 records the fact that significant cuts have already been made to private pension fund tax reliefs, *before* the levy:

> *"Tax relief associated with private pension provision has been considerably reduced"*[1]

The table lists the various cuts in private pension tax reliefs made since 2009, and the estimated tax savings:

Measure	Annualised tax saving €m pa
2009[2]	
Reduction in pensions earning limit from €275,239 to €150,000 Cessation of indexation of Personal & Standard Fund Thresholds	100
2011[3]	
Removal of PRSI/USC relief on employee pension contributions	60
Reduction in the earnings cap from €150,000 to €115,000, both for 2011 and for backdated (to 2010) 2011 contributions	55

[1] *Ireland – Stability Programme Update April 2011, page 33*

[2] *Summary of 2009 Budget Measures, B13*

[3] *Summary of 2011 Budget Measures, page B10-B12*

Measure	Annualised tax saving €m pa
Removal of 50% *employer* PRSI relief on employee pension contributions	90
Reduction in Standard Fund Threshold to €2.3m	20
Increase in ARF deemed distribution rate to 5% pa, from 3% pa	5
Reduction in limit on tax free lump sums to €200k, with next €375k taxable @ standard rate	5
Extension of 'flexible' retirement options (i.e. ARF option) to DC members	- 2
	333

The remaining 50% *employer* PRSI relief on employee pension contributions is likely to go next year, generating another €90m pa of tax savings, which will be pushing total tax savings from cuts in pension tax reliefs to well over €400m pa.... *before* the levy. Now they want another €470m pa from the pension levy, or some €900m pa in total from private pensions.

And the €900m pa is an underestimate, as the estimated savings do not include the '**deterrent'** tax relief savings arising from the measures, i.e. the various cuts and restrictions and levy put people off making further discretionary pension contributions and so the cost of the pension tax reliefs falls even further. Indeed one suspects part of the pension levy plan is to do just that, i.e. discourage people from making fresh pension contributions and so further reduce the cost of pension tax reliefs. A virtuous circle from the Exchequer's point of view.

Is pension tax relief at top rate now safe?

You would be a fool to believe that it is. The Stability Programme Update April 2001 includes this curious statement:

Tax relief for contributions to existing occupational and personal pension arrangements currently based on a contributor's marginal rate of tax will be replaced with a State contribution equal to 33 per cent tax relief. This will promote simplicity and equity and ensure that similar options are available to all groups of employees.

This seems like a reference to the original tax credit suggestion in the National Pensions Framework for a €1 tax credit per every €2 pension contribution, which is curious as most people felt that this particular idea was dead in the water, given the current economic circumstances. However the Stability Programme Update makes no reference to the pensions levy, so it's hard to know what's going on.

The Minister for Finance's statement of 10th May 2011 does not fill one with confidence that there will be no further cut in pension tax reliefs:

"I am aware that the pensions sector is also concerned, given the temporary levy, about the commitment in our agreement with the EU/IMF to reduce the tax relief on pension contributions starting next year. I will examine this issue in the context of the results of the Comprehensive Review of Expenditure currently being undertaken by the Minister for Public Expenditure and Reform, and any resulting scope for fiscally neutral changes to the EU/IMF agreement."

Doesn't sound like a NO to further cuts in pension tax relief, to me.

Of course note that the effective top rate of tax relief on pension contributions has already been reduced to 30%, i.e. 41% tax relief less 11% disallowance for PRSI/USC = 30%., which makes the reference to 33% in the Stability Programme Update bizarre.