DNS Associates Ltd

SSAS

Small Self-Administrated Pension Scheme

Duties and Responsibilities of Scheme Administrator

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Role of Scheme Administrator

To be registered by HMRC, a pension scheme must have a scheme administrator. This is the person or persons appointed to carry out the scheme administrator's functions under tax law. HMRC generally communicates with the scheme administrator on pension scheme matters. The scheme administrator is responsible for providing information/returns to HMRC (and others) and is liable to pay certain tax charges.

Since 6 April 2006, to become a scheme administrator of a registered pension scheme, you need to make certain declarations to HMRC. For most schemes, the Scheme Administrator(s) will also be a trustee(s) of the scheme. The scheme administrator is ultimately responsible for running the SSAS.

The Scheme Administrator(s) is responsible for fulfilling certain functions including

- registering the pension scheme with HMRC
- operating tax relief on contributions under the relief at source system
- reporting events relating to the scheme and the Scheme Administrator to HMRC
- making returns of information to HMRC
- providing information to scheme members, and others, regarding the lifetime allowance, benefits and transfers
- paying certain tax charges

The scheme administrator could be:

- an individual
- several individuals, acting jointly and severally as administrators
- a corporate body (we, **DNS Associates Ltd,** act as administrator for majority of our clients)
- a public sector body.

Where the scheme administrator is or includes a corporate body (**DNS Associates Ltd** in our case), HMRC will consider whether the directors or those controlling the management of the body are fit and proper persons.

A scheme administrator can authorise a practitioner to act on their behalf in relation to some of these duties.

Fit and Proper Person Criteria

With effect from the 1st September 2014, HM Revenue & Customs (HMRC)) may refuse to register or may de-register a pension scheme where they believe the Scheme Administrator is not a fit and proper person to be a Scheme Administrator.

HMRC introduced the fit and proper person legislation to make it harder for sham arrangements and pension schemes to be set up, and for tax avoiders and fraudsters to set up and run registered pension schemes with a view to misusing the tax relieved funds and abusing pension tax reliefs. It intends to ensure that the tax relieved funds in these schemes are used for their intended purpose of providing pension benefits.

Factors that **may** lead to HMRC deciding that the scheme administrator is **not** a fit and proper person include, but are not limited to, where it appears to HMRC that the scheme administrator:

- does not have sufficient working knowledge of the pensions and pensions tax legislation to be fully aware and capable of assuming the significant duties and liabilities of the scheme administrator, or does not employ an adviser with this knowledge;
- has previously been involved in pension liberation;
- has previously been the scheme administrator of, or otherwise involved with, a pension scheme which has been de - registered by HMRC;
- has been involved in tax fraud, abuse of tax repayment systems or other fraudulent behaviour including misrepresentation and/or identity theft;
- has a criminal conviction relating to finance, corporate bodies or dishonesty;
- has been the subject of adverse civil proceedings relating to finance, corporate bodies or dishonesty/misconduct;
- has participated in or been connected with designing and/or marketing tax avoidance schemes;
- employs as an adviser a person who has been involved in pension liberation or tax avoidance;
- has been removed from acting as a trustee of a pension scheme by the Pensions Regulator or a Court, or has otherwise seriously contravened the pensions regulatory system, or the regulatory system of any other professional/governmental regulatory body; and/or
- has been disqualified from acting as a company director or are bankrupt.

HMRC assumes that all those appointed as scheme administrators are fit and proper persons unless HMRC holds information to question that assumption.

If HMRC considers that the scheme administrator is not a fit and proper person to be a scheme administrator, we may de-register the pension scheme. There is right of appeal against any decision to de-register a pension scheme.

Duties of Scheme Administrator

Under tax law, the scheme administrator is the person or persons responsible for fulfilling certain functions specified in that legislation in connection with a registered pension scheme.
The scheme administrator's duties include:

1. Completing a declaration for HMRC for each scheme that they are the Scheme Administrator of
2. Registering the pension scheme with HMRC
3. Operating tax relief on contributions under the relief at source system
4. Reporting events relating to the scheme and the scheme administrator to HMRC
5. Making returns of information to HMRC

    - Annual Event Report
    - Quarterly Accounting for Tax Return
    - Notifying they have ceased to be a Scheme Administrator (required within 30 days of ceasing)
    - Notifying the Pension Scheme has wound--up (required within 3 months of the date of its wind-up)

    HMRC may serve a notice on a Scheme Administrator to provide the following

    - Annual Registered Pension Scheme Return
    - Annual Audited Accounts
    - Documents and other information relating to the scheme.

6. Providing information to scheme members, and others, regarding the annual allowance, the lifetime allowance, benefits and transfers.

7. The Scheme Administrator is required to provide certain information to members and other parties including
    - to the member about the amount of their benefits taken
    - to the member on certain tax charges they are liable for
    - to other Scheme Administrators in connection with some transfers
    - to the member's personal representative where the member has died

8. The Scheme Administrator is required to keep certain documents for six years. These relate to any
    - monies received by or owing to the scheme
    - investments or assets held by the scheme
    - payments made by the scheme
    - contracts to purchase a lifetime annuity in respect of a member of the scheme, and
    - the administration of the scheme.

9. The Scheme Administrator is liable to penalties if they
    - fail to provide information required by a notice or the legislation
    - provide incorrect information
    - do something specifically forbidden by the legislation
    - fail to keep records

10. The Scheme Administrator may also be liable to a tax charge if the pension scheme makes an unauthorised payment.

Day to Day Running

There is certain day to day business of running scheme that is carried out Scheme Administrator. The following is not an exhaustive list.

- **Record Keeping** – Full records of all members, contributions, investments, pension and/or death benefit payments and pension transfers must be kept. This includes obtaining and providing valuations to the pension scheme members as and when required, and maintaining a record of transactions.
- **Contribution levels** – These must be monitored to ensure they do not exceed HM RC limits and that they qualify as allowable payments. Where they exceed limits this must be reported and tax charges paid.
- **Tax relief** – pension arrangement s benefit from tax exemptions. Tax reclaims have to be submitted to obtain refunds.
- **Investments and transactions** – All pension investments and transactions must be checked to ensure they are not "Taxable Investments", and that funds are transferred as necessary to ensure transactions are carried out in a timely fashion. The Trustees must act in the best interests of the membership at all times.
- **Transfers** – these can only be "Permitted Transfers"" under regulation. This must be determined and transfers processed to ensure HM RC limits are not breached.
- **Money Laundering** – the pension scheme must comply with the Criminal Justice Act 1993 and Money Laundering Regulations of the Financial Services and Markets Act 2000.
- **The Pensions Regulator** – Occupational pension arrangements with two or more members must register with the Pensions Regulator, renew the registration every year and pay the required levy. Occupational pension schemes are regulated by the Pensions Regulator and must comply with its rules. Returns must be submitted to the Pensions Regulator every three years and schemes can be subject to inspection and audit.
- **HM Revenue & Customs** – All pension schemes are subject to regulation by HM RC and must comply with its rules. Schemes can be subject to inspection and audit.
- **Data Protection** – Pension schemes must register with the Information Commissioner for Data Protection purposes, renew the registration every year and pay the required levy.

Fines and Penalties

There is a range of fines and penalties which can be imposed by HMRC on the Scheme Administrator for not performing the above duties correctly. The following list is by no means definitive, but helps to explain the importance of being confident that your pension scheme administration is being handled effectively.

Breach	Penalty
Failure to provide information requested	£300 plus £60 a day
Negligent or fraudulent provision of incorrect information	up to £3,000
Failure to keep records and documents	up to £3,000
Failure to submit a Pension Scheme Return	£100 plus £60 a day
Negligent or fraudulent submission of an incorrect Pension Scheme Return	up to £3,000
Failure to produce documents requested	£300 plus £60 a day
Negligent or fraudulent production of incorrect documents	up to £3,000
Failure to submit an accounting for tax form	£100 per quarter for each ten reportable individuals
Negligent or fraudulent production of an incorrect Accounting for Tax Return	the unpaid tax due
Serious breaches of regulations resulting in penalties imposed by HMRC Tribunal	40% of the value of the fund, withdrawal of the pension scheme's Registered status and the fund becomes fully taxable

Money Laundering – An unlimited fine can be imposed by HMRC and a jail term up to 14 years.

Data Protection – On the making of a complaint to the Information Commissioner regarding the pension scheme Administrator as "Data Controller", the Information Commissioner will reach a decision on how the situation should be rectified. This can include compensation for any loss or suffering caused of up to £5500,000.

The Pension Regulator – Has power to impose fines of up to £550,000 at its discretion where breach of regulations has occurred. In addition, The Regulator has powers to request other action to rectify a breach.
These fines and penalties are payable from the pension fund or by you unless they are imposed as a result of us acting either negligently or fraudulently.

This guideline is based on our understanding of current law and HMRC practice, which are subject to change. We advise to visit www.gov.uk for comprehensive and latest information.

October 2017

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