

Instructions

Cash payouts of vested benefits for occupational pension plans

This leaflet contains only a brief overview of cash payouts of vested pension benefits. In actual cases, the legal provisions and the orders issued by the supervisory authority apply exclusively. The FMA is available for any further questions.

1. Principle

Upon termination of an employment relationship and the associated withdrawal from a pension scheme, vested pension benefits shall in principle continue to be used to fund the pension of the employee withdrawing from the insurance. For this purpose, the vested pension benefits are transferred to the pension scheme of the new employer. If this cannot be done, the benefits are to be deposited into a premium-free pension policy with an insurance undertaking licensed in Liechtenstein or into an account blocked for pension purposes with a Liechtenstein bank. The vested pension benefits may therefore in principle not be paid out in cash. This applies both to compulsory pensions and to above-compulsory pensions (art. 12 para. 1 of the Occupational Pension Act, OPA).

2. Exceptions to the prohibition of cash payouts

There are exceptions to the prohibition of cash payouts. They are listed exhaustively in the OPA. Upon request, sufficient evidence must be provided that the prerequisites for cash payouts are met. To receive a cash payout, the applicant must document the applicable reason to the extent possible (contracts, official documents). Applications for cash payout may be submitted to the FMA or to the institutions maintaining the pension accounts or policies. They then verify whether the prerequisites for cash payout are fulfilled and decide on the payment.

Cash payouts to married claimants are only permissible if the spouse consents in writing.

Cash payouts are possible in the following cases upon the express request of the employee:

- The vested pension benefits are less than the employee contribution for one year (point 2.1);
- The applicant is permanently leaving Liechtenstein and Switzerland, unless he/she is leaving for a country in the European Economic Area in which he/she will continue to be covered by compulsory pension insurance against the risks of old age, death, and disability (point 2.2);

- ❑ The applicant is entering self-employment, unless he/she is leaving for a country in the European Economic Area in which he/she will continue to be covered by compulsory pension insurance against the risks of old age, death, and disability (point 2.3).

2.1 The vested pension benefits are less than the employee contribution for one year

The vested pension benefits are paid out in cash if they are less than the contribution paid by the withdrawing employee for one year. The calculation only includes the employee contributions for risks and old-age benefits.

2.2 The applicant is permanently leaving Liechtenstein and Switzerland, unless he/she is leaving for a country in the European Economic Area in which he/she will continue to be covered by compulsory pension insurance against the risks of old age, death, and disability

The applicant must intend to permanently leave Liechtenstein and Switzerland; a foreign stay that is only temporary (e.g., for studies) is insufficient. The applicant's immigration status is used as a guide. Proof may be brought through certification of departure by Liechtenstein authorities or of registration with foreign authorities, certification of employment abroad, rental contracts for apartments or purchase contracts for real estate abroad, etc. If the employee moves to a country in the European Economic Area (EU States, Norway, or Iceland), the FMA additionally requires a confirmation by the responsible foreign authority that the applicant is not subject to compulsory pension insurance against the risks of old age, death, and disability.

2.3 The applicant is entering self-employment, unless he/she is leaving for a country in the European Economic Area in which he/she will continue to be covered by compulsory pension insurance against the risks of old age, death, and disability

In principle, entering self-employment means that the applicant will in the future assume his/her own entrepreneurial risk. In such cases, the law has decided to benefit the establishment of self-employment at the expense of occupational pensions. The vested pension benefits should be useable as start-up capital. The employee requesting cash payout must provide evidence that he/she will in fact become self-employed (which includes a leading position in a limited company of which he/she is a shareholder and where he/she functions as an employer). Such evidence includes trade licenses, deeds of partnership, and extracts from the commercial register. If the employee moves to a country in the European Economic Area (EU States, Norway, or Iceland), the FMA additionally requires a confirmation by the responsible foreign authority that the applicant is not subject to compulsory pension insurance against the risks of old age, death, and disability.

3. Improper application for cash payout

Applications for cash payouts are sometimes improperly used to circumvent the legal prohibition of cash payouts. With the application for release of the blocked pension fund account, the employee declares that the facts presented in the application are truthful. Improper circumvention of the prohibition of cash payouts is punished by the Court of Justice in accordance with article 25, paragraph 2 of the Occupational Pension Act as an administrative offense with a fine of up to CHF 5,000 or, if the fine is not paid, with up to one month imprisonment.

4. Legal foundations

Law of 20 October 1987 on Occupational Pensions (Occupational Pension Act, OPA), Liechtenstein Law Gazette LGBl. 1988 No. 12, as amended as of 25 November 2005, LGBl. 2005 No. 276.

This law gazette and other legal texts are available from the Government Chancellery, 9490 Vaduz (Government Building, Tel. +423 / 236 60 30, Fax +423 / 236 65 97) or at www.gesetze.li.

Insurance and Pension Funds Supervision

Direct line: +423 236 73 77

E-mail: stefanie.walser@fma-li.li

Updated: 1 September 2006