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Technical consultation - Inheritance Tax on pensions: liability, reporting and payment

Response to Technical consultation - Inheritance Tax on pensions: liability, reporting and payment

ShareSoc is the voice of the UK's 11+ million individual investors. You may publish our response on any website and you may reproduce it, in whole or in part. ShareSoc is pleased to respond to this HMRC consultation.

The principal author of this response has significant experience of pension scheme administration and was previously chair of the Association of Consulting Actuaries Pensions scheme committee.

IHT on pensions will be a bureaucratic nightmare for grieving families and pension scheme administrators. It will inevitably slow down payments to inheritors or beneficiaries and will make for a considerably more complex tax system. If extra tax has to be collected from unused funds remaining in a pension scheme on the death of a member, we consider this is best done by a separate tax on the pension fund rather than one linked to an estate's inheritance liability with inevitable administrative delays.

The investment in a pension scheme is subject to tax relief which was designed to encourage people to make their own provision for retirement as the state pension scheme is totally inadequate to support most pensioners in retirement at an acceptable living standard. Including any residual pension fund in an estate for IHT purposes serves to disincentivise making pension provision.

Historically, until pension freedoms the main death benefits provided by pension schemes were payable only on death pre-retirement. Practice and tax law meant schemes could pay these benefits quickly to any dependants of the deceased a short time after death when the rest of the estate may be frozen. Such payments have offered families a much-needed financial lifeline and a very sad consequence of the current proposals is that the delays that will be introduced, this valuable lifeline will be lost. As a minimum we consider that death in service benefits payable before an age say State Pension Age should be exempt from the IHT proposals.

We now turn to the specific questions asked in the consultation

Question 1: Do you agree that PSAs should only be required to report unused pension funds or death benefits of scheme members to HMRC when there is an Inheritance Tax liability on those funds or death benefits?

No. PSAs do not have the information about the situation of a deceased's estate to know whether there will be an Inheritance Tax liability and Personal representatives may not be able to provide the full picture to a PSA until many months after a deceased's death. We believe it would be a far better system if death benefits paid from pensions schemes prior to say State Pension age remained outside the IHT regime. If the concern is pension tax reliefs and funds should not be used for estate planning then any death benefits or unused funds paid after state pension age could again became subject to a separate independent tax from IHT that clawed back some of the tax relief given on contributions and income say at the rate of 35%. Such an arrangement would be administratively far simpler than what is currently proposed. It would aid stress that pension tax reliefs are there to encourage pension provision.

Question 2: How are PSAs likely to respond if they have not received all the relevant information from the PR to pay any Inheritance Tax due on a pension by the 6-month payment deadline?

The only option for PSA's will be to chase Personal Representatives for the missing information.

Question 3: What action, if any, could government take to ensure that PSAs can fulfil their Inheritance Tax liabilities before the Inheritance Tax payment deadline while also meeting their separate obligations to beneficiaries?

Unfortunately, we believe there is no such action that is likely to remove the inevitable delays introduced by this measure.

Question 4: Do you have any views on PSAs reporting and paying Inheritance Tax and late payment interest charges via the Accounting for Tax return?

We support the use of one return covering all matters if possible but recognise that reporting would need to be about the payments whose details have been finalised during the period of the form rather than actual events/deaths occurring during the period

Question 5: Do you agree that 12 months after end of the month in which the member died is the appropriate point for their beneficiaries to become jointly and severally liable for the payment of Inheritance Tax?

No. Due to the administrative delays this change would introduce, 12 months is far too short. We consider something like 3 or 4 years maybe more appropriate or realistic

Question 6: What is the most appropriate means of identifying or contacting beneficiaries if either the PR or HMRC realises that an amendment is needed after Inheritance Tax has been paid? Should PSAs be required to retain the details of beneficiaries for a certain period?

Yes, for probably six years or more.

Question 7: What are your views on the process and information sharing requirements set out above?

Our view is as stated at the beginning of this response, i.e. the administrative complications caused by trying to collect a tax on a remaining pension fund that is related to a deceased estate should mean another approach of separation of any tax from inheritance tax should be adopted.

Question 8: Are there any scenarios which would not fit neatly into the typical process outlined above? How might we address these?

There are many and as we have stated above, this is best addressed by the fundamental change in approach we suggest of delinking of any tax on residual unused pension fund from inheritance tax

Question 9: Do you have any other views on the proposal to make PSAs liable for reporting details of unused pension funds and death benefits directly to HMRC and paying any Inheritance Tax due on those benefits? Are there any feasible alternatives to this model?

We believe as stated above delinking any tax due from the inheritance tax calculation on the estate is preferable.

Appendix B additional comment we would like to make

In addition to our answers to the specific questions, we would also like to take the opportunity to comment on some of the information provided in Appendix B to the consultation document. Appendix B states whether the value of a particular type of benefit should be included in an estate for the purposes of inheritance tax. There is no explanation of how the answers stated have been achieved. What is more income to a recipient seems to end up in or out of the estate depending on the financial method of provision. We believe monies used to provide income to the spouse of the deceased should fall outside the estate irrespective of whether they are provided by a pension, an annuity or by continued drawdown. Similarly, any lump sum death benefit to the spouse of the deceased should fall outside the state irrespective of the financial instrument providing it.