



TECHNICAL BULLETIN

FORTHCOMING PENSION LEGISLATION CHANGES

Introduction

The Coalition Government has introduced major changes to pension legislation since coming into office. The amount that can be paid into a pension is reducing and the rules around taking benefits are being revised.

We have set out below a summary of the changes together with the implementation date. If you have any questions about these changes and how they may affect you please contact your financial adviser.

Annual allowance changes

Amount of annual allowance

With effect from the 2011/12 tax year the annual allowance will be reduced from £255,000 to £50,000. It will remain at that level up to and including tax year 2015/16 at which point it will be reviewed.

Pension input periods

Each scheme under which you accrue benefits has a pension input period and it will be the aggregate value of your pension contributions ending in the tax year concerned that will be set against your annual allowance limit for that tax year.

In normal circumstances your pension input period starts on the date you first paid a contribution and runs for a 12 month period from that date. This means that any contribution that you have paid since 6 April 2010 will be treated as paid in the 2011/2012 tax year unless you have asked us to end your pension input period early.

If you have paid a contribution in excess of £50,000 since 6 April 2010 please contact your financial adviser to discuss whether you will be liable to a tax charge.

Carry forward

If the annual allowance is exceeded in a tax year, it will be possible to use any unused annual allowance in respect of the three immediately preceding tax years.

Where carry forward is used, the unused annual allowance will be taken in respect of the earliest tax year first. Carry forward will be available in respect of tax years 2008/09, 2009/10 and 2010/11, but the maximum annual allowance in each of these years will be deemed to be £50,000, not the higher annual allowance that applied at the time.

Exemptions from annual allowance

Individuals will have no pension input under an arrangement to which the annual allowance applies in a tax year in which he/she:

- Dies
- Retires on the grounds of serious ill-health (i.e. where the expectation of life is one year or less) from that arrangement

Transitional provisions

The Government will include special transitional provisions for the assessment of an individual's pension savings against the annual allowance where:

- those pension savings were made in a pension input period, which started before 14 October 2010, and which ends in tax year 2011/12, and
- some or all of those pension savings arose from contributions/pension accrual in that pension input period on or before 13 October 2010. If the above criteria are met:
- the maximum tax relievable pension savings will be £50,000 in respect of any such savings made on or after 14 October 2010.
- subject to this proviso, the maximum tax relievable pension savings in the complete pension input period will be £255,000.

Notifying HMRC

Where your pension contributions exceed the annual allowance and a tax charge is due you will be responsible for notifying HMRC via your self assessment tax return.

You can ask us to provide you with a 'pension savings statement' detailing the contributions you have paid in the current and any of the three preceding tax years. We will provide you with this statement within three months after receiving your request.

Where you make contributions in excess of the annual allowance, we will provide you with a statement of your pension contributions in that tax year, and the three immediately preceding tax years, no later than 6 months after the end of the relevant tax year.

Payment of tax

The Government recognises that in a few cases, large tax charges could arise. In such cases the Government is prepared to consider options for those individuals to pay the charge out of their pension entitlement rather than current income.

The Government will publicise its decision on the chosen approach shortly.

The lifetime allowance changes

Amount of lifetime allowance

With effect from tax year 2012/13 the standard lifetime allowance (SLA) will be reduced from £1.8 million to £1.5 million.

Transitional rules

The Government has indicated that individuals with existing forms of protection will not face retrospective charges as a result of the reduction in the SLA. In particular, it has indicated that:

- The current 'personalised lifetime allowances' of those with primary protection are not reduced due to the reduction in the SLA.
- The triviality limit, which is currently 1% of the SLA, will be delinked from the SLA and set at £18,000.

Removal of the requirement to annuitise by age 75

These changes will come into effect on the 6 April 2011.

Uncrystallised Funds

From April 2011 there will no longer be a specific date by which members of registered pension schemes must crystallise or otherwise secure their benefits.

Pension Commencement Lump Sum (PCLS or tax free lump sum)

Under the existing rules a PCLS must be taken by age 75 otherwise that option is lost. From April a PCLS will be permitted at any age. The maximum PCLS will continue, in most circumstances, to be the lower of:

- 25% of the fund value, and
- 25% of the Lifetime Allowance.

Capped drawdown

“Capped drawdown” will replace the existing unsecured pension (USP) and alternatively secured pension (ASP) rules.

There will be no minimum income requirement before or after age 75. The maximum income will be 100% of the annuity determined on rate tables provided to HMRC by the GAD.

The statutory review period will be reduced from five years to three years for individuals aged under 75, and an annual review period will apply where the member is aged 75 or over. The three year reviews will apply until the end of the drawdown year in which the member reaches age 75, after which the annual reviews will commence.

Clients currently receiving Unsecured Pension

If you are currently in receipt of an Unsecured Pension then you will become subject to the new capped drawdown rules. However, the new maximum withdrawal limit, and the new three yearly review applicable to capped drawdown, will only be applied at your next review of the income limits. This will be the earliest of the following events after 5 April 2011:

- The fifth anniversary of the most recent USP review;
- Following a 75th birthday: the first anniversary of the most recent review; or
- Following a transfer to another drawdown provider: the first anniversary of the most recent review.

Where you are between age 75 and 77 and in receipt of USP benefits as a result of the transitional provisions the change to the new 100% maximum withdrawal will be made in respect of the drawdown year commencing immediately after the drawdown year which included 6 April 2011.

Clients currently receiving an Alternatively Secured Pension

All existing ASP members will become subject to the new capped drawdown rules with effect from 6 April 2011, when ASP will cease to exist.

If you would like to alter the amount of income you are currently taking from your ASP fund please contact your financial adviser to discuss your options.

Flexible drawdown

From April if you are aged 55 or over you can opt to move from capped drawdown to flexible drawdown, if you wish to take a higher amount of income than that available under capped drawdown. You will then be able to draw down unlimited amounts – taxable as income – from your pension fund. This option is only available if you can demonstrate that you have secured a sufficient pension income to meet the Minimum Income Requirement (MIR).

Minimum Income Requirement

There are three conditions which must be met:

1. You must have a minimum pension income for the tax year concerned of at least £20,000 per annum; **and**
2. No contributions have been (or will be) made to any money purchase scheme during the tax year concerned; **and**
3. You must have ceased being an active member of any defined benefit or cash balance scheme.

The minimum income test will only take account of secured pension income, including dependant's pensions and state pensions, in payment and no other forms of income.

Once you have opted for flexible withdrawals then any new pension savings will be subject to an annual allowance tax charge.

Lump sum death benefits

From 6 April 2011 an uncrystallised funds lump sum death benefit can be paid from the scheme if you die on or after your 75th birthday.

An uncrystallised funds lump sum death benefit paid where you die before age 75 will not suffer a tax charge.

Any lump sum death benefit, other than that mentioned above, will be subject to an automatic recovery charge of 55%. This will apply to any lump sum death benefit paid where you are taking a capped/flexible drawdown benefit as well as to any uncrystallised funds lump sum death benefit where you die on or after age 75.

Value protected annuities

It will be possible to pay a lump sum on your death if you are in receipt of a value protected annuity/pension even where you die on or after age 75. Any such lump sum will also be subject to an automatic tax charge of 55%.

Dependant's benefits

There is neither a 55% tax charge, nor any IHT charge for any part of the death benefit used to provide a pension to your dependants.

Inheritance tax

There will be no inheritance tax on lump sum death benefits, irrespective of whether they are in respect of uncrystallised or crystallised benefits and irrespective of whether you die before or after age 75. This will be subject to meeting other requirements for benefits to be paid inheritance tax free (e.g. the need for the benefits to be paid at the discretion of the scheme trustee).

Benefit Limits and Tax Relief

Benefit tests will continue to be undertaken at age 75 in respect of uncrystallised funds and drawdown benefits at that date.

Tax Relief on Member Contributions

Tax relief will only continue to be available on member contributions where these are paid prior to the member's 75th birthday.