

BUDGET 2007 - CONSULTATION PAPER

TAX RELIEF FOR PENSIONS: INHERITING TAX-RELIEVED PENSION SAVINGS

Introduction

1. The Government made clear in the December 2006 Pre Budget Report that steps will be taken to prevent pension savings being used other than as intended. The clear purpose of tax privileged pension savings is to produce an income in retirement and is not a mechanism to accumulate tax relieved capital that can be passed down on death. Chapter 5 of the document "The Annuities Market" published on 6th December 2006 clearly sets out what the Government regards as an improper use of tax privileged pension savings.
2. PBR Note 13 published on 6th December 2006 announced that measures would be introduced to ensure that scheme pensions and annuities cannot be used as a means to pass on tax-relieved pension savings. HMRC have discussed these announcements with representatives of the pensions industry. This document is a continuation of the PBR consultation, and sets out more detail on the proposed measures on which the Government is now consulting. These further discussions will be on the details of the measure rather than the principles.
3. These measures are covered by the partial RIA '*Tax Relief for Pensions – 2006 Pre-Budget Report Reforms*' published on 6th December 2006, and the full RIA '*Budget 2007: Regulatory Impact Assessment – Tax Relief for Pensions*' published on 21st March 2007. Should this further consultation result in further legislation an appendix to that full RIA will be published.

Problem

4. Alternatively Secured Pensions (ASPs) have been introduced to meet the needs of those with principled religious objections to annuitisation. To ensure practice is brought into line with the policy intention that tax-relieved pension saving is used to secure an income in retirement, the Government is introducing changes to the ASP rules. Scheme pensions and annuities are mainstream products, which operate on a risk pooling basis to provide a secure income in retirement for scheme members. The Government does not want to impose any burdens on the vast majority of schemes and their members where tax relief is being used as intended to provide an income in retirement for members and their dependants. However, it has become clear that some in the industry are looking to design products to enable inheritance of tax relieved capital and the Government plans to introduce measures to prevent such products from being used to pass down tax-relieved pension savings. The principles that the Government will apply in designing measures to prevent avoidance of the ASP charges are set out below. The Government invites representations on the detail of how these measures can be operated in practice, set in the context of these principles.

Objective

5. As set out by the Economic Secretary to the Treasury in his speech to the National Association of Pension Funds on 15th March 2007, pensions tax relief is provided by Government to support pension saving to produce an income in retirement. The Government will not allow the pension tax rules to be used by schemes to design arrangements that are intended to support asset accumulation and to allow the inheritance of tax-relieved pension savings. The Government has acted to prevent this for ASPs by bringing the left-over ASP funds within the IHT framework in Finance Act 2006 and through the pension tax charges to be introduced in Finance Bill 2007. If Government did not act schemes and individuals would be able to avoid the ASP rules preventing this by using scheme pensions and annuities to pass down tax relieved pension saving on death.
6. The Government intends introducing measures that will impose pension tax and IHT charges on such arrangements to closely reflect those that will apply to ASP funds that remain on the death of a member. In particular, the Government does not consider it an appropriate use of tax-relieved pension savings in circumstances where:
 - a member dies with a scheme pension or annuity in payment;
 - arrangements have been put in place that seek to increase the rights of another person as a consequence of the death of a member (or a dependant), except in the form of authorised dependants' benefits; and
 - the other person that benefits from the increase in rights was connected with the deceased.
7. The Government considers that it is appropriate for tax-relieved pension savings to be pooled in order to ensure that a secure stream of income (in the form of a scheme pension or annuity) may be paid to the member and their dependants. And it is not the intention that tax charges should be introduced where through the normal working of large scale pooling arrangements funds are used to secure the rights of unconnected members in the scheme.
8. It is intended that provisions will apply to all existing arrangements that have been put in place that will enable capital to be passed on death to connected persons. It is not intended that these changes would affect arrangements where the member or dependant died before the introduction of the measures.

Areas for representation

9. The Government would welcome representations on the following questions:

Q1 - Are there schemes with longstanding arrangements, which existed before 6th April 2006, that are paying scheme pensions and will be adversely affected by charges being introduced in circumstances set out at paragraph 6 above? Please provide details.

Q2 - Measures will apply where rights of a person connected to the deceased are increased (except as authorised benefits). Are there any easements to this rule that would help with the administration of schemes where it would be onerous to find out information about connected persons from members or their survivors, but

which do not provide a route to avoid the rule in circumstances where it is intended to apply?

Q3 - These measures will be introduced at the earliest opportunity. Are there any cases where there would need to be an interval between the date the legislation was published to the date it becomes effective to allow individuals to reorganise their arrangements? If so, please give specific details.

Q4 - Are there any circumstances in which schemes would currently increase the pension rights of connected persons in schemes where a member with a scheme pension died **before** age 75? If so, please give specific details.

Q5 - Would charges that applied in circumstances outlined at paragraph 6 above affect the administration by insurance companies of annuities, where the funds backing those annuities are pooled across a large group of individuals? If so, are there any easements to the rules which would help the administration, but which do not provide a route to avoid the rule in circumstances where it is intended to apply?

How to respond

10. All responses to this consultation should be sent by 13 June 2007, by email if possible, to:

pensionsconsult@hmrc.gsi.gov.uk

Or by post to:

Pensions Consultation (Tax Relief for Pensions)
Pensions Policy Team (Room G66)
HM Revenue and Customs
100 Parliament Street
London SW1 2BQ

Confidentiality disclosure

11. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

12. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

13. The Department will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

14. If you have any queries under the FOIA, please contact the above.

About the consultation process

15. Unless otherwise stated this consultation has been conducted in accordance with the consultation criteria in the Cabinet Office Code of Practice. If you wish to access the full version of the Code, you can obtain it at:

www.cabinet-office.gov.uk/regulation/Consultation/Code.htm

16. If you feel that the consultation does not satisfy these criteria, or if you have any complaints about the process, please contact:

Duncan Calloway

Better Regulation Unit

020 7147 2389 or duncan.calloway1@hmrc.gsi.gov.uk