

Association of Professional Pension Trustees
First Floor (129)
40 Gracechurch Street
London EC3V 0BT

secretariat@appt.org.uk

www.appt.org.uk



20 January 2025

By email to: ihonpensions@hmrc.gov.uk

Assets, Residence and Valuation team
HM Revenue and Customs
100 Parliament Street
London
SW1A 2BQ

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

At Autumn Budget 2024, the government announced several measures to reform Inheritance Tax. This included a measure to bring most unused pension funds and death benefits within the value of a person's estate for Inheritance Tax purposes from 6 April 2027.

As part of these changes, pension scheme administrators (PSAs) will become liable for reporting and paying any Inheritance Tax due on unused pension funds and death benefits.

I am writing on behalf of the **Association of Professional Pension Trustees (APPT)** in response to the above technical consultation.

The Association of Professional Pension Trustees acts as the representative body for trustees of occupational pension schemes who fall within the Pension Regulator's description of professional trustee as set out in its August 2017 policy document.

The APPT acts as the collective voice of the profession. Our members sit on many trustee boards for defined benefit (DB) and defined contribution (DC) schemes including DC master trusts. Our members each typically work on multiple appointments and, across DB and DC are in total responsible for managing schemes with assets of over £1,200bn.

Our responses to specific questions are set out in the appendix to this letter.

Our principal concern – shared by many other respondents – is that the proposals place a very significant burden on not only Pension Scheme Administrators (PSAs) generally and on Third Party Administrators (TPAs) in particular at a time when there is already a huge resource and capacity stress on the sector due to other ongoing government-led reforms. The impact is and will be felt most harshly by smaller schemes and smaller employer sponsors, adding further costs and anti-growth administrative obligations upon them.

We further believe that some of the obligations it is proposed to place on PSAs are unreasonable and not appropriate – we outline these in our response below.

Our final comment is that however this policy is implemented, the process for PSAs, TPAs and beneficiaries should in the end be as streamlined as possible and operate to timescales that are both realistic and sympathetic to those affected.

Please see the attached appendix for further comments.

We hope that you find the contents of this letter of assistance. We would be happy to discuss them further if that is helpful. In that event, please contact Vassos Vassou, APPT Vice Chair and Chair of our Legislation and Regulation Sub-Committee at Vassos_Vassou@dalriadatrustees.co.uk

Yours sincerely

Rachel Croft

Chair

On behalf of the

Association of Professional Pension Trustees

Rachel.Croft@weareigg.com

M: +44 (0)7387 258538

Appendix – APPT detailed comments on questions

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

Question 1: Do you agree that Pension Scheme Administrators (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?

Yes. Nil responses will be unhelpful and cause a burden on schemes. This way minimises reporting.

Additional points to note:

- Whilst PSAs are responsible it will typically be third party administrators (TPAs) that will carry out the processes.*
- We would note that given the potential complexity for a small proportion of members, there may be cross-subsidies in the membership (be that cost or resources) depending on the TPA and/or scheme set-up.*

Question 2: How are PSAs likely to respond if they have not received all the relevant information from the personal representatives for the deceased's estate (PRs) to pay any Inheritance Tax due on a pension by the 6-month payment deadline?

PSAs (and/or TPAs) will need prompt information to enable the payments to be made within the six months and there does not appear to be any time limit for the PR.

The APPT and professional trustees are approaching this consultation from the member perspective. All the following may cause issues:

- Identifying PRs and getting timely and detailed responses from them*
- Late notification of deaths is common (we note that it is time from death, not notification thereof)*
- PRs needing to deal with potentially many parties/schemes/assets (for allowances)*
- Provisional figures needing updating*
- Knowledge of what to do given most PRs will come from a lay perspective on IHT*
- PRs will also be starting in a state of grief, and an initial delay would not be unusual*

Not every case will be straightforward and there is more chance of those that do come into scope for IHT being the most complex to deal with. The case studies make the process appear more straightforward than they will be in reality.

We believe the likelihood of cases crossing six months is high. If that happens then PSAs may need to inform PRs that late payments/interest may be deducted from benefit amounts.

See Q9. for expansion on alternative scenarios.

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?

PSAs are reliant on PRs. Clear guidance and communications including simple step throughs on government websites so PRs can get started without delay. Could a guide be provided with the death certificate? Make the tools very user friendly.

Extend the six months. Given two years is an existing deadline in terms of estate reconciliation, why not align the ultimate timescale with this?

The relationship (or lack thereof) between the parties must also be clear as there is potential for the beneficiary to be neither a beneficiary in the will or a member of the pension scheme. This has the potential to give rise to further complexity.

In addition, although there are arguably some similarities to the tax payments made by schemes under the Lifetime Allowance framework, that is a simpler process that does not require the same extent of collecting information from third parties.

See Q9. for expansion on alternative scenarios.

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?

Paying via AFT itself is nothing new and TPAs will be familiar with the process. We do not think a new system is needed. If certain schemes are currently out of scope but now brought in (e.g. life assurance schemes) then they might need to be registered.

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?

It is an unusual framework to make the PSA joint and severely liable after the payment has been made where it should be the responsibility of the beneficiary once they are in receipt of the assets. There needs to be further consideration on when the PSA is liable. If it is after payment has been made to the beneficiary, the PSA has no access to those assets and so any additional IHT would need to be funded from other assets.

The analogy here is a PAYE system. Once paid, it is the recipient that takes the responsibility for any correction, not the payer (subject to the payer paying accurately).

12 months means that as envisaged, there is payment within six months, then a gap of six months (or more) where the beneficiary is not liable.

Liability, therefore, needs to pivot on the payment and not an arbitrary timescale.

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?

Assuming all the benefits have been distributed by the PSA, this should become a matter for the PR, beneficiaries, and HMRC to resolve. The PSA should have no further involvement or liability. Regardless of the requirements, it would be usual practice for PSAs (via TPAs) to keep payment

information for a period in line with their data retention policies. It would be appropriate for these details to be kept. It should be considered what details HMRC needs to be provided with in relation to an IHT payment so as to prevent the need to generate a request for information. The AFT should allow for all necessary data to be provided up front.

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

It seems to place a significant burden on both PRs and TPAs (acting for PSAs) at a time the industry is facing material administration resourcing and capacity issues as well as the associated costs of this work.

See response to Q2.

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

Often a PSA becomes aware of a death significantly after the event or via a tracing service. The six-month deadline may already have expired.

Sometimes it is a difficult, protracted process to identify a PR, especially, but not limited to small benefits accrued many decades ago. There will also be situations where no one is acting in this regard if there is no will/probate, etc. Whilst these cases may be less likely to attract an IHT charge, the position still needs to be assessed.

Both of these could be addressed by starting the clock from the notification/PR contact.

However, we also recognise a further risk that may arise from a potentially longer timeline. As we have already flagged in our response to Q3, the beneficiary may not, and indeed is unlikely, to be a member of the pension scheme and their investment needs may be quite different to those of the deceased member. If there is a short period of time between death and distribution, this is a lesser issue, but over a longer time period the trustees (who will probably be the PSA) of a pension scheme could be challenged for not recognising the beneficiary's needs. The realisation of investments to meet the IHT liability could similarly be challenged by the beneficiary if there was to be an in-specie transfer of the post IHT funds.

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?

Suggested alternative 1 – Net payment based on the maximum charge

Once it has been determined that the benefits are in scope for IHT and some proportion will be charged, then the PSA could pay a flat rate of 40% to HMRC and the balance to the beneficiaries. The responsibility is then with the beneficiary, PR and HMRC to resolve for any nil-rate band allowance. The beneficiary could reclaim some of the tax as relevant. This is not an usual process for HMRC as other reclaims of overpayment of tax happen (e.g. Self Assessment, P53/P50Z forms etc.)

This alternative can speed up the process and passes the responsibility to the PR/beneficiaries. It would assist the PSA meet the deadlines. This could be implemented after a period for the PR to provide the accurate information, after which the PSA/TPA could pay the net payment at maximum charge, notifying the PR/beneficiaries.

Suggested alternative 2 – Exempt an IHT payment from income tax and go straight to beneficiaries.

We understand from the consultation that the driver for the PSA's role is navigate income tax issues, but the issues could be resolved by exempting such funds from income tax if IHT is being paid. That way the beneficiary can be liable for the payment. The PR/beneficiary can deal with it directly and that cuts the information flows to the PSA being required. This method probably needs some safeguards such as notification of payment so this can be followed up by HMRC and clear information to the beneficiary that tax is still due.

Other considerations:

- Clarity is required on whether group/excepted life assurance schemes are/are not covered by the scope of the changes. The appendix wording "All life policy products purchased with pension funds or alongside them as part of a pension package offered by an employer are not in scope of the changes in this consultation document" is open to interpretation.*
- Would PSAs be able to provide an interim payment to help meet funeral costs (or similar) if matters are taking some time to resolve?*
- There is the potential for schemes to adapt to reduce the burden of the process. For example, practice may evolve to make payments non-discretionary (i.e. to the estate or nominated individuals) to avoid the additional administrative burden and risk of complaints. This may impact some individuals who may have received payments as a result of a discretionary decision (for example financial dependents/unmarried partners might not receive a payment if no will or will/nominations out of date).*
- A rise in complaints is inevitable due to the delays and requests for extra information – this will be a further drain on precious TPA resources and potentially damage the public perception of pension schemes.*
- DB dependants' pensions are not in scope but DC dependants' annuities are. How will the annuity be valued and how will it be paid if there is no fund to pay it from, i.e. if it is an insurance product?*
- The extension of the spousal IHT exemption to pensions is a gearing up of the disparity between married and co-habiting couples. The wider social impacts of this should be considered.*
- Some payments may be subject to IHT and LSDBA charge, how will this be calculated/interact?*

Some of the following could be considered as exemptions to mitigate the impact:

- All death-in-service payments (i.e. when linked to a legitimate employment).*
- Payments to spouses/civil partners (no IHT will be payable anyway so payments should be permitted with no information from PR required).*
- Pension protection lump sum death benefit (e.g. 5-year guarantee) and DC annuity equivalent – maybe subject to a time limit, e.g. 5 years.*
- Death payments consisting solely of a return of contributions (plus interest).*

- *Trivial commutation lump sum death benefit.*
- *Dependants' annuity (DC) as well as DB Dependants scheme pensions.*

Produced by:

Association of Professional Pension Trustees

First Floor (129)

40 Gracechurch Street

London EC3V 0BT

secretariat@appt.org.uk

www.appt.org.uk